



STRENGTHENING THE U.S.-INDIA RELATIONSHIP

BY RICHARD J. ELLINGS
PRESIDENT, THE NATIONAL BUREAU OF ASIAN RESEARCH

While the United States remains predominant in taking on global responsibilities, challenges around the world and at home seem to be growing. Continuing security crises in the Middle East, tensions over disputed territories in Eastern Europe and Asia, and fundamental changes in the very structure of international relations due to rising and re-emerging powers and the United States' own fiscal and political constraints make it more difficult for the global leader to project power and influence. Accordingly, the United States is reaching out in new ways to strengthen its partnerships with countries that share its democratic values and desire for international stability and prosperity.

From the perspective of emerging countries, much of this outreach is welcome, albeit with a wary eye. Emerging nations face both positive and negative challenges. Rapid growth in some countries means that the United States holds a less dominant position but is still an essential partner. In other cases, developing powers are leveraging their newfound wealth to challenge the rules of the system. Economics and trade offer perhaps the most room for convergence in views about the world order, and thus more opportunity for collaborative action.

India—already the world's largest democracy and on track to overtake China as the most populous nation—is one of those countries that presents opportunities for cooperation. Yet while the United States and India share strategic views on many issues, there remain obstacles to a deep strategic partnership. Those hindrances are primarily on the economic front, albeit with important political implications. They involve fundamental issues of property, global trade rules, and the role of the state in economic affairs. Despite the progress made in strengthening bilateral ties after India opened up its economy in the 1990s and the two countries signed the 123 civilian nuclear agreement

in 2005, Indian economic and investment policies are limiting bilateral relations. Points of contention include retrospective tax policies, FDI restrictions in various sectors, a range of issues related to intellectual property rights (IPR), and domestic content requirements in clean-tech fields like solar. For its part, India's concerns with the United States include visa and investment restrictions and controls on technology transfer. The dynamics of transparency, corruption, and how the U.S. Foreign Corrupt Practices Act is enforced are also issues.

If these challenges are addressed in ways that enhance each nation's interests in economic development, the United States and India are positioned to collaborate more effectively on a broader set of international political and security questions. But to do so, there first needs to be a policy context for understanding and framing the impasses on economic and trade issues in ways that can lead to fundamental breakthroughs.

To provide this context and to strengthen the U.S.-India partnership in the process, it is imperative that both sides engage in constructive dialogue on areas of concern. For instance, India's inability to move forward with nuclear liability legislation after the conclusion of the landmark civilian nuclear deal soured many in the United States. Other Indian policy decisions on issues

If these challenges are addressed in ways that enhance each nation's interests in economic development, the United States and India are positioned to collaborate more effectively on a broader set of international political and security questions.

such as the above-mentioned domestic content requirements, caps on FDI, and IPR protection have raised concerns about the country's business climate. India has its own concerns with investment in the United States and other U.S. trade policies. Resolving such issues will help prevent the sort of diplomatic spats that followed the arrest of the Indian deputy counsel in New York last year. These events can dominate the entire bilateral agenda in unhelpful ways and push aside necessary cooperation on a broad array of issues.

Of particular concern has been the protection of IPR, so necessary for the development of innovative economies. Focusing in particular on the nexus of trade and security, the National Bureau of Asian Research has worked on a range of projects on IPR, tech standards, and national innovation policies since the mid-1990s. Last year I served as Executive Director to the independent Commission on the Theft of American Intellectual Property, co-chaired by Governor Jon Huntsman and Admiral Dennis Blair. The IP Commission estimated the annual cost to the American economy of IP theft to be \$300 billion, which is nearly the value of all U.S. exports to Asia in any given year. Moreover, the commission concluded that a significant majority of the problem was Chinese in origin, either as the result of independent actors or state-sponsored cyber theft. (See my recent

commentary on this issue.)¹ The commission concluded that in order to deal with the massive loss of American IP the cost-benefit calculus of offending states, corporate actors, and individuals had to be changed through a variety of means, including new and tougher laws, more effective enforcement at U.S. borders, and the leveraging of the U.S. market and financial systems against IP violators.

The IP challenge from India, while not as significant in scope or scale as that from China, has its own worrisome components. The unpredictable use of compulsory licenses is particularly nettlesome for affected U.S. sectors, especially pharmaceuticals, where two-thirds of patented drugs are on a list of potential compulsory licenses. There is also concern that the compulsory licensing approach could be applied to new technology sectors, such as clean tech. And unease is building that using government policy to advantage national champions (companies that benefit from preferential national policies to develop their own export strategies) might be a model adopted by other emerging economies. Whereas India and the United States ought to be collaborating to build and strengthen the international system, they are often at odds over differing interpretations of obligations to the World Trade Organization and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

The IP challenge from India, while not as significant in scope or scale as that from China, has its own worrisome components.

India's new prime minister, Narendra Modi, ran a masterful electoral campaign that emphasized growth and development, resulting in victory in the general election by a decisive margin. As chief minister for twelve years, Modi brought great prosperity and growth to the state of Gujarat, whose GDP more than tripled in a decade. He has been elected by India's voters to lead the country with the expectation that his government will replicate the "Gujarat model" of growth and development on the national level, assuming he can maintain his decisive margin of control.

The "open for business and investment" signals that the Modi government has broadcast suggest a window of opportunity may be opening to make important progress in the U.S.-India relationship. The new government has placed great emphasis on pursuing a foreign policy rooted in economic diplomacy. Modi's acceptance of President Barack Obama's invitation to visit the United States, despite having been denied a visa to visit the United States for almost nine years, suggests the prospect of a new beginning. There also may be a newfound willingness on the part of the Indian government, rooted in Modi's commanding electoral victory, to address the issues hindering U.S.-India ties.

For its part, the United States kept India on the "priority watch list" as determined by the Office of the U.S. Trade Representative (USTR) in its Special 301 Report. The annual report highlights

¹ Richard J. Ellings, "Five Chinese Military Officers Indicted. Now What?" May 22, 2014, <http://www.nbr.org/research/activity.aspx?id=453>.

countries whose IP protections (copyrights, trademarks, and patents) serve as trade barriers for U.S. companies. The 2014 edition did not downgrade India to “priority foreign country” status, despite strong internal pressures to do so from affected industries and trade associations such as the U.S. Chamber of Commerce and the National Association of Manufacturers. In not classifying India in the category of most egregious violators of IPR, the Obama administration explicitly linked its decision to India’s changing political landscape and the prospect for a new beginning with the Modi government. While the administration has announced an out-of-cycle review of India’s IP protections and policies, the USTR maintains that this process is a tool for enhanced engagement on contentious issues. The Modi administration ought to take the Obama administration at its word. (Of the many out-of-cycle reviews conducted to date, not one has resulted in a downgraded status for the target country.)

One way to kick-start the U.S.-India economic relationship and address some of the challenging issues that face both countries would be to sign and implement a comprehensive bilateral investment treaty (BIT), which would facilitate investment flows in both directions. During the third U.S.-India Strategic Dialogue in 2012, the two sides agreed to move forward “expeditiously” toward the signing of a BIT. Although two years

have elapsed without much progress, with a new business-friendly government in power in India, the timing seems ideal for both sides to finally sign and ratify a treaty. Vice President Joe Biden has argued that a BIT would help increase the trade relationship from \$100 billion to \$500 billion. Additionally, both sides should move rapidly to re-establish dialogues such as the Trade Policy Forum, which is a bilateral venue to address

economic policy and trade issues, including IP protections, that did not meet for the last several years of the Singh administration. The election manifesto of Modi’s Bharatiya Janata Party (BJP) indicates a commitment to innovation and protection of IP, which bodes well for reforms. Now that the Modi government’s first budget was released on July 10, Indian officials are freed up to make plans for the various initiatives promoted in the party manifesto.

Resolving the economic policy issues in the relationship would create opportunities for greater

engagement on other international challenges—including those posed by Iran, Pakistan, China, and Russia—that beg for U.S.-Indian cooperation or policy harmonization. A recent positive step was Secretary of State John Kerry’s offer to return very soon to New Delhi, instead of Washington, D.C., for the next bilateral Strategic Dialogue. The U.S.-India Strategic Dialogue, now set for July 31, 2014, presents an opportunity to make immediate

Resolving the economic policy issues in the relationship would create opportunities for greater engagement on other international challenges—including those posed by Iran, Pakistan, China, and Russia—that beg for U.S.-Indian cooperation or policy harmonization.

progress on bilateral issues Moreover, Secretary of Defense Chuck Hagel, at the Shangri-La Dialogue in Singapore in early June, pledged that he would play a more “active and very personal role” in the U.S.-India Defense Trade and Technology Initiative, demonstrating the Obama administration’s desire to further advance U.S.-India defense ties.

The time is right to move the relationship forward, but achieving significant progress will require effective management of bilateral trade and economic policy issues, accompanied by strategic engagement on security and foreign policy fronts. The meeting of the Strategic Dialogue and Modi’s upcoming visit to Washington in September are the near-term venues to take the steps that will help get this critically important relationship back on track. ◆

RICHARD J. ELLINGS *is President of the National Bureau of Asian Research.*

THE NATIONAL BUREAU OF ASIAN RESEARCH (NBR) *is a nonprofit, nonpartisan research institution headquartered in Seattle, Washington, with a second office in Washington, D.C. For information on NBR’s programs, please visit www.nbr.org.*

Media inquiries may be directed to Amanda Keverkamp at media@nbr.org or (206) 632-7370.

Facebook.com/NBRnews Twitter: @NBRnews

THE NATIONAL BUREAU OF ASIAN RESEARCH • SEATTLE AND WASHINGTON, D.C. • NBR@NBR.ORG, WWW.NBR.ORG



1414 NE 42ND STREET, SUITE 300
SEATTLE, WASHINGTON 98105 USA
PHONE 206-632-7370, FAX 206-632-7487

1301 PENNSYLVANIA AVENUE NW, SUITE 305
WASHINGTON, D.C. 20004 USA
PHONE 202-347-9767, FAX 202-347-9766