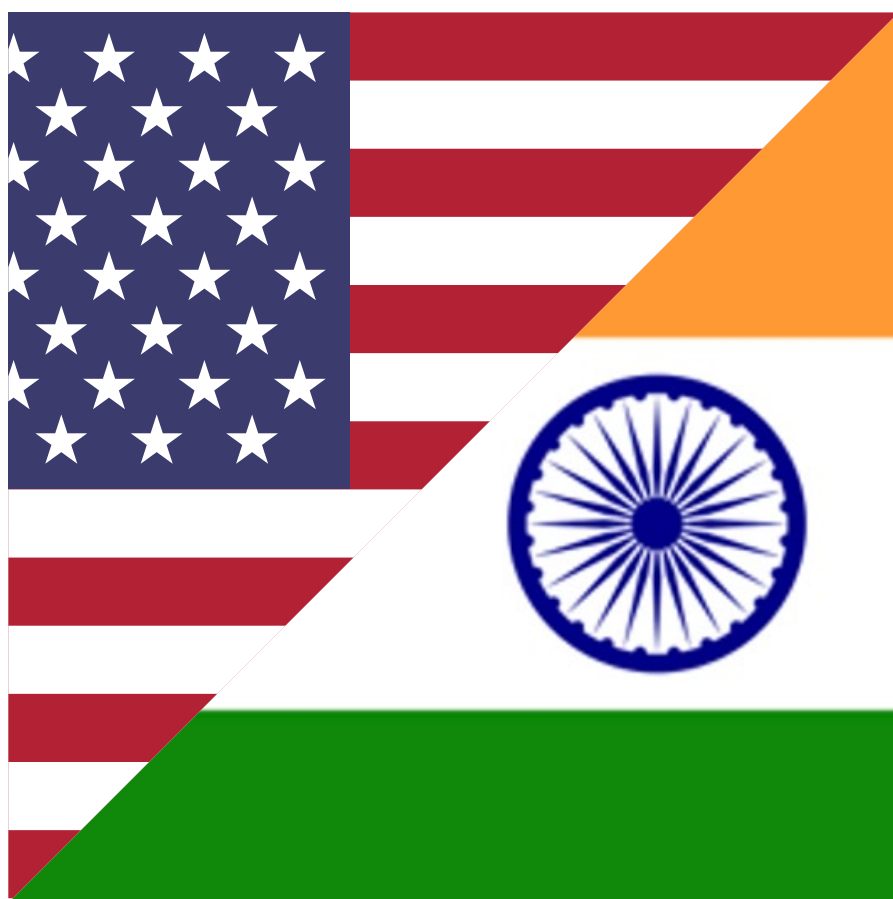


The Case for a US-India Digital Handshake



A Report of the Atlantic Council
US-India Digital Economy Task Force

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A Letter from the Co-Chairs

June 2022

The United States and India are two of the world's leading digital powers, bound together by convergent interests, growing digital commerce, and common aspirations. Both countries recognize that the digital domain is vital to their collective future, but they lack a shared vision for the modern digital economy and the rules and regulations that should govern it. The result is that digital policy often serves as a point of friction in the US-India relationship, rather than a conduit for deepening strategic and commercial ties.

As the co-chairs of the Atlantic Council's US-India Digital Economy Task Force, we believe that this must change. Washington and New Delhi must transform digital cooperation into a central pillar of their bilateral relationship. Doing so will not only deepen the strategic convergence between our two countries, but it will create a new pathway to catalyze trade and investment, as well as growth and employment at home.

With this goal in mind, the Atlantic Council's task force brought together leading experts from the United States and India to discuss the opportunities for, and obstacles to, advancing digital cooperation. Our core insight is this: if the last decade saw the rise of a strategic handshake between the United States and India, the time has now come for a digital handshake of equal scope and ambition.

This report, prepared by the task force, lays out the strategic rationale for pursuing a US-India digital handshake. It offers concrete steps that both countries can take to make this vision a reality. We are convinced that a digital handshake that unlocks the power of US and Indian innovators will lay the foundation for a US-India partnership that is robust and resilient. This is a fitting project for two ambitious digital powers that are ready to lead in the twenty-first century and are determined to shape the future of the global digital ecosystem.

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General Counsel and
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Introduction

The United States and India have considerable scope and strategic imperative to deepen bilateral cooperation in the digital domain. China's rise as a technopower looms large in the strategic calculus of both countries. Meanwhile, India and the United States have forged two of the world's most vibrant digital economies and found growing synergies between their respective tech ecosystems.

Today, Indian talent powers leading US firms, from the boardroom to the back office. Indian consumers are among the most voracious consumers of US tech products and platforms. US firms have invested billions in the Indian market and inked local partnerships with homegrown firms that have helped transform India's digital ecosystem. For their part, Indian information-technology (IT) companies have long viewed the United States as a top export destination, and today's "made in India" startups are eager to tap the United States as a key source of growth. Forty-two Indian unicorns emerged in 2021, many of which were backed by major US investors, and 2022

looks set to be yet another banner year for India's best and brightest entrepreneurs—and the US firms doubling down on the India growth story.

This progress is remarkable. It reflects the great strides India and the United States have made in their bilateral relations over the past two decades. Yet, for all these complementarities, there is a striking gap that threatens to derail and limit progress going forward. That gap is found in the lack of alignment and engagement between the Indian and US governments on digital policy.

In fact, digital policy has emerged as a key point of friction between the two countries, rather than a conduit for deepening strategic and commercial relations. From differences over data localization and surveillance to tensions on data privacy and immigration rules, Washington and New Delhi have clashed in recent years as they both chart new rules for their respective digital economies and the global digital commons.



Quad leaders Japan's Prime Minister Fumio Kishida, US President Joe Biden, India's Prime Minister Narendra Modi and Australia's Prime Minister Anthony Albanese meet at Kantei Palace in Tokyo, Japan, May 24, 2022. REUTERS/Jonathan Ernst

The differences between the United States and India are real, and not easily resolved. They reflect deep-rooted convictions and widening cleavages over the nature of sovereignty in the digital domain; the balance of power in the global digital economy; the divides between the haves and have nots; the role and responsibilities of large global tech platforms; and the relationship between the state, civil society, and citizens in a modern digital democracy.

These are all unsettled issues that are also hotly contested within each country's domestic political sphere. They are also taking on a new geopolitical valence in the wake of Russia's invasion of Ukraine, which has exposed tensions within the US-India partnership and—at least for some in New Delhi—validated long-standing concerns about India's overreliance on US tech platforms. Given the relative size of their economies and unique political interests, it should come as no surprise that India and the United States hold differing views on digital policy.

Nonetheless, cooperation in spite of serious differences is nothing new to the US-India relationship; it is, in fact, the operating principle that has guided leaders in both countries throughout the post-Cold War era. For more than three decades now, Washington and New Delhi have found ways to steadily deepen their defense partnership despite holding widely divergent views of alliances, relations with Russia, engagement with Pakistan, and a host of other critical strategic issues. Even today, despite all the strain created by Russia's invasion of Ukraine, US and Indian policymakers remain committed to advancing the relationship, even as they navigate a period of strain and tension.

How did this happen? Washington and New Delhi recognized a core set of convergent interests and came to understand that these could form the basis of a “strategic handshake,” as Defense Secretary Ash Carter once termed it. They then put in place processes and frameworks to operationalize the handshake. This built growing trust and a record of tangible accomplishment: the signing of foundational defense agreements and the designation of India as a Major Defense Partner of the United States.



US President Joe Biden speaks as he meets with India's Prime Minister Narendra Modi in the Oval Office at the White House in Washington, US, September 24, 2021. REUTERS/Evelyn Hockstein

The results of this sustained effort are clear. While the United States and India may never be formal treaty allies marching in lockstep across every theater, they have the means and mettle to work together on the issues that matter most to both countries.

This is the kind of breakthrough that both countries urgently need in the digital domain, and it is crucial to realizing the wider potential of the US-India partnership. Globally, the digital domain will only grow more important in the post-pandemic era. It will prove vital to the growth of trade and strategic relations between the two countries, especially the prospects for signing a future US-India Free Trade Agreement (FTA). Failure to engage on digital policy risks letting a potential asset and anchor of stability in the US-India relationship shift into a persistent source of acrimony and tension. This would not just be a missed opportunity; it would be a colossal mistake.

If the last decade saw the rise of a strategic handshake between the United States and India, the time has now come for a digital handshake of equal scope and ambition. This will require both sides to overcome many political and bureaucratic challenges, but the potential to transform the bilateral relationship at this critical juncture is well worth the effort.

The Goal of a Digital Handshake: Overcoming Substantive and Institutional Barriers

At its core, a digital handshake would provide the United States and India with a new framework and strategic rationale to address policy barriers impeding digital economy integration. These barriers presently fall into two core baskets: substantive and institutional.

Substantive Barriers

- **Data Governance and Privacy:** Data localization remains a tension point in the bilateral relationship due to its impact on foreign tech investors. Law-enforcement access to data held by foreign companies, increasingly challenging in light of a dysfunctional multilateral legal assistance treaty (MLAT) process, is also a significant point of contention. Other issues, like how the countries' emerging and proposed data-governance and privacy regimes fit with others (e.g., that in the European Union (EU)), remains a key question with which both countries must grapple.
 - **H1-B Visas/Totalization:** US visa policies limiting the ability of skilled Indian workers to operate in the United States have long served as a key concern for Indian trade officials. New Delhi has also sought to conclude a totalization agreement that would allow Indian workers employed in the United States to recover their contributions toward the US Social Security system—a sum estimated at \$1 billion.¹
 - **Trade and Investment:** The United States and India have both struggled to deepen trade relations, with India actively pushing for a bilateral FTA and encountering marked skepticism from US trade officials. An FTA would help India catalyze foreign investment at home, particularly in the technology sector, and advance the Narendra Modi government's "Make in India" and "Atmanirbhar Bharat" policy objectives. It would also create new opportunities for India to export to the United States across key sectors—especially those bolstered by the Modi government's Production-Linked Incentive (PLI) scheme. Outside of an FTA, smaller-scale trade deals would also
- give India an opportunity to restore its benefits under the Generalized System of Preferences (GSP) program, which the United States suspended during the Donald Trump administration, and then let lapse.
- **Digital Commerce and Competition:** US and Indian officials both hope to promote digital commerce and create a level playing field between foreign and domestic companies. However, both sides have different perceptions of what constitutes a "level playing field," and how to promote fair and open competition across their respective economies.
 - **Social Media and Content Regulation:** India and the United States have both sought to tighten oversight over social media platforms and their content-moderation processes, yet the two countries differ in their focus, approach, and tactical solutions. Content-moderation decisions—especially those applied in electoral contexts—have also spilled over into broader US-India engagements.
 - **National Security Screening:** Both countries are increasingly determined to guard against national security risks associated with Chinese companies, and they have accordingly taken action against several firms. Nonetheless, India and the United States are still formulating their policy toward Chinese technology companies, Chinese software products, and Beijing's global technology influence, with current variance in substantive policy around foreign-company security screening, technology testing, and more.
 - **Supply-Chain Shifts, Tariffs, and Nontariff Barriers:** The United States and India are both eager to promote manufacturing investment at home and reduce reliance on China-based supply chains. While this potentially creates space for complementary initiatives, the countries will need to work together to iron out differences on tariff and nontariff policies, standards, and testing, as well as onshoring efforts to build resilient and secure supply chains.

¹ <https://www.thehindubusinessline.com/news/world/india-us-should-sign-totalisation-agreement-for-social-security-trade-promotion-council/article29618278.ece>



Above left: US President Joe Biden hosts a 'Quad nations' meeting at the Leaders' Summit of the Quadrilateral Framework with India's Prime Minister Narendra Modi, Australia's Prime Minister Scott Morrison and Japan's Prime Minister Yoshihide Suga in the East Room at the White House in Washington, US, September 24, 2021. Source: REUTERS/Evelyn Hockstein; above, right: U.S. Secretary of State Antony Blinken, Defense Secretary Lloyd Austin, India's External Affairs Minister Subrahmanyam Jaishankar and India's Defense Minister Rajnath Singh hold a joint news conference during the fourth U.S.-India 2+2 Ministerial Dialogue at the State Department in Washington, U.S., April 11, 2022. Source: REUTERS/Michael A. McCoy/Pool

Institutional Barriers

The substantive policy barriers outlined above have grown and festered because of critical institutional barriers—specifically, the fact that the United States and India lack a suitable platform to discuss the full range of digital issues with the key decision-makers represented at the table. Instead, discussion of digital issues is fragmented across the bureaucracies of both countries, often led by officials who lack the ability to deliver the precise domestic policy changes required to bridge differences on digital policies.

- **Existing Bilateral Dialogues Fail to Address the Full Range of US-India Digital Issues:** Collectively, the US and Indian governments lack an existing, clearly effective institutional structure to discuss tech issues at the highest levels—driving toward tactical, near-term objectives. The US-India ICT Working Group touches upon a wide array of strategic and commercial issues, but faces limitations because it brings together mid-level officials from the US State Department and India's Ministry of Electronics and Information Technology (MeitY). As a result, the ICT Working Group is not well equipped to drive policy change, and does not receive regular, high-level political attention. While the US-India Trade Policy Forum (TPF) has been an effective forum for dialogue and cooperation in years past, it remains to be seen how its re-initiation will progress in general, as well as on digital issues. Additionally, the TPF only

considers digital trade issues as part of a broader working group examining services, which places constraints on the amount of time and attention given to digital issues. Lastly the Quad, while putting out statements on the future of technology, is primarily security focused, and it remains unlikely that grouping will shift its focus to substantive action on commercial digital issues.

- **The United States Lacks an Institutional Counterpart to MeitY:** Moreover, the United States currently lacks a senior counterpart to India's IT minister to provide consistent engagement at the highest levels. While this reflects the nature of the US bureaucratic structure, it presents its own complications for bilateral engagement on the digital issues that specifically fall under MeitY's purview—such as India's data-protection bill, nonpersonal data regulation, or IT rules. When these policies are raised by the United States within the context of the TPF, India's Ministry of Commerce and Industry can only relay concerns back to MeitY; it cannot directly implement or compel MeitY to make policy changes needed to ease bilateral tensions. In a similar vein, MeitY lacks a suitable senior-level point of contact in Washington to discuss the broad array of digital issues that impact the US-India relationship. This limits India's opportunities to discuss collaborative initiatives around digital payments, e-governance, tech for social good, and Internet and communications technology (ICT) manufacturing, among other areas.

Operationalizing the Digital Handshake



Then-US Vice President Joe Biden delivers an address at the Bombay Stock Exchange (BSE) in Mumbai July 24, 2013. REUTERS/Vivek Prakash

A digital handshake should ideally create opportunities to overcome substantive and institutional barriers, and elevate digital-economy cooperation as a core pillar of the relationship. With this in mind, our task force recommends a four-step effort to operationalize the digital handshake.

- 1 Launch the Digital Handshake During President Biden's Next Trip to India:** The next leader-level visit to India or the United States would serve as the ideal launching ground to announce the digital handshake. This gives officials on both sides ample opportunity to position the digital handshake as one of the key deliverables for a leader-level visit. Embedding this concept within the resulting leader-level joint statement will elevate the political significance of the initiative and give bureaucrats on both sides ample incentive to drive forward progress. Once it is launched, President Biden and Prime Minister Modi should commit to reviewing progress on the digital handshake annually.
- 2 Create a US-India Digital Economy Ministerial to Convene All Key Decision-makers:** With the formal political backing of President Biden and Prime Minister Modi, both sides should stand up a US-India Digital Economy Ministerial that would be co-chaired by cabinet-level officials from the State Department, the US Trade Representative (USTR), and the Commerce Department on the US side, and the Ministry of External Affairs (MEA), Commerce, and MeitY on the Indian side. This tripartite structure would bring together the relevant decision-makers shaping digital policy in both countries on an annual basis, and create a suitable venue to discuss a key set of digital issues shaping the bilateral relationship. Critically, it would also give India's IT minister a high-level counterpart in the US commerce secretary, and help align timelines for talks and substantive deliverables.
- 3 Define Five Key Workstreams for the US-India Digital Economy Ministerial:** The ministerial should work toward joint initiatives and concrete outcomes across five key

lines of effort. These workstreams would ideally tackle areas of cooperation and contestation, including those outlined below.

- **Talent and Innovation:** The United States and India should explore ways to increase the exchange of talent in both countries and strengthen their respective innovation ecosystems. Key objectives under this pillar could include streamlining and expanding H1-B processes for Indian applicants, jointly funding training programs designed to help upskill micro, small, and medium enterprises (MSMEs), creating joint investment pools for US and Indian startups, promoting the growth of Indian software as a service (SaaS) companies in the United States, and enabling Indian startups for initial public offerings (IPO) and listing on US stock exchanges.
- **Resilient Supply Chains and Manufacturing:** The United States and India should commit to an ambitious target of promoting \$50 billion in US manufacturing investment over the next decade. Priority focus areas for the United States could include advancing projects and investments across India's ICT, solar, and semiconductor sectors, in exchange for a reduction in tariff and nontariff barriers for manufacturers.
- **Tech for Social Good:** Leveraging digital technologies to advance social good and development objectives should be a priority for both sides. Exploring opportunities to pursue joint initiatives around health tech, climate tech, financial inclusion, and crypto regulation would also help both sides grapple with cutting-edge topics, as well as areas of mutual interest.
- **Data Flows and Digital Commerce:** The United States and India need to make cross-border data flows, data governance, and digital commerce key components of their trade engagement. Key initiatives under this pillar could include discussing and refining data-localization and processing definitions in both digital policy regimes, ensuring some degree

of compatibility between data-protection regimes (and that the other meets the adequacy bar for data transfers), sharing on policy approaches for nonpersonal data, engaging with both countries' technology sectors to weigh tradeoffs in national treatment, and developing coordinated policy toward fintech and e-commerce sectors.

- **National Security and Law-Enforcement Cooperation:** Ensuring that law enforcement can access data on its country's citizens—held by foreign technology companies, with proper safeguards in place—is in the shared interest of the United States and India. Likewise, building robust national security policies toward technology and trade—again, with appropriate oversight and safeguards in place—is in the interest of both states. Under this pillar, key initiatives could include fixing problems with the current MLAT process, through which Indian law enforcement requests US company-held data from the United States, cooperating on investment-screening policies and programs designed to protect each country's national security, and building out investments in critical and emerging technologies, like semiconductors and quantum computing, which hold great weight in future national security.
- 4 Develop a US-India Digital Economy Advisory Board and Technical Advisory Committee:** The United States and India must find ways to leverage the power and insights of the private sector. As such, they should set up a Digital Economy Advisory Board that would convene thirty leading executives (fifteen from each country) during each meeting of the ministerial. The executives would have an opportunity to share industry perspectives on an array of digital issues and actively lend support to the handshake through public-private partnerships and flagship investments. In parallel, both governments should set up an industry-led technical advisory committee that would convene twenty leading technologists in both countries for regular engagements with bureaucrats implementing the five workstreams of the Digital Economy Ministerial.

Why Start With Bilateral Efforts Over Multilateral Engagement?

Given the global scope of the digital domain and regulatory developments under way in Europe and Asia, the bilateral scope of a US-India digital handshake comes with certain limitations. Nonetheless, this task force believes that bilateral cooperation on digital issues should serve as a key starting point—particularly given the constraints on US-India digital policy engagement in multilateral settings.

Limited Opportunities to Engage in Multilateral Trade Forums: Critically, wide-ranging digital cooperation between the United States and India is unlikely to take place in traditional multilateral trade forums. In the World Trade Organization (WTO), for instance, India and the United States have traditionally battled fiercely on key digital issues such as e-commerce, cross-border taxation, and ICT tariff barriers, and have come to view each other in adversarial terms. Old habits and patterns of engagement will be difficult to overcome in the WTO setting. Meanwhile, neither country is a party to prominent regional trade agreements such as the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) or the Regional Comprehensive Economic Partnership (RCEP), and there is little indication that Washington or New Delhi will look to join these trading blocs (and their associated digital trade rules). In the Group of Twenty (G20), there has been no consensus on the core issue of promoting “data free flow with trust” amongst the key countries including US, Japan and India, and it remains to be seen how digital-economy cooperation will fit into the G20 agenda in 2023. In this context, focusing on bilateral engagement on digital issues in the run-up to G20 in 2023 could drive a unified vision for India and US.

Need to Build Trust to Engage India on Digital Economy Via IPEF: The Biden administration has sought to craft an Indo-Pacific Economic Framework (IPEF) to engage Asian partners, instead of pursuing a regional trade policy that would offer

increased market access. On its face, IPEF could serve as a feasible platform for the United States and India to engage on digital issues. Yet, at the outset, the IPEF is likely to focus on broader geoeconomic issues. And, to the extent that IPEF will cover digital trade, the Biden administration appears likely to prioritize cooperation and hard commitments from countries that are already broadly aligned with the United States on digital issues—such as Japan, Australia, New Zealand, Singapore, and South Korea. Efforts to engage India on core digital trade under IPEF appear limited at this stage, reflecting the lack of trust and perceived differences between Washington and New Delhi in the digital domain. A bilateral digital handshake, meanwhile, can help overcome these gaps, build trust, and create a glidepath for India and the United States to work together on digital-trade modules under IPEF going forward. At the same time, the handshake would not preclude the United States and India from working together under IPEF in the short term on issues related to supply-chain resiliency and decarbonization, among others.

A Digital Handshake Can Unlock the Path to a US-India Free Trade Agreement: A US-India digital handshake is also vital to achieve the goal of exploring a bilateral FTA and raising two-way trade to \$500 billion. Both countries have expressed interest in moving toward an FTA, with Prime Minister Modi raising this directly with President Biden during his visit to Washington in September 2021. However, the path to an FTA necessarily requires both sides to address challenges on an array of digital-economy concerns, including the same set of “substantive barriers” outlined earlier in this report. Putting in the time, resources, and senior-level bandwidth to bridge differences and craft a digital handshake will help unlock progress in bilateral trade talks. This is a smart investment and a timely one, given the need to strengthen and expand the US-India economic relationship and insulate the partnership from broader strategic tensions.

Conclusion

The United States and India need a bold new project to realize the grand vision and untapped potential of their strategic partnership. A digital handshake presents just this opportunity.

Today, digital-economy cooperation can no longer be framed as a mere subset of the trade relationship; in the twenty-first century, digital has to be a core pillar of the US-India partnership, receiving as much attention from policymakers in Washington and New Delhi as traditional forms of defense and economic cooperation. The broader frame of a digital handshake can help elevate digital-economy cooperation as a top-tier priority for leaders in both countries, and the creation of US-India Digital Economy Ministerial that enjoys leader-level backing will be vital to overcoming institutional and substantive barriers. Progress, in other words, requires investments in process: crafting robust new platforms that engage the right set of decision-makers.

This includes leaders in the private sector and civil society. Ultimately, the long-term success of the digital handshake rests with US and Indian companies, entrepreneurs, and civil-society leaders—who are already well accustomed to striking handshake deals and driving bold new joint ventures. Private-sector leaders and budding entrepreneurs must continue to see the US-India corridor as a source of opportunity, even as they accept new rules of the road governing fair competition and conduct in the fast-changing global digital economy. A digital handshake that unlocks the power of US and Indian innovators will lay the foundation for a resilient US-India partnership; this is a fitting project for two ambitious digital powers that are ready to lead in the twenty-first century.

Acknowledgments

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