

Congress of the United States
Washington, DC 20510

June 23, 2017

President Donald J. Trump
The White House
Washington, DC 20500

Dear President Trump:

We write to you ahead of the upcoming visit by Prime Minister Narendra Modi to urge you to prioritize the elimination of Indian trade and investment barriers that significantly harm American businesses and workers. While Indian businesses continue to benefit from open U.S. markets, India has failed to eliminate, or even address concretely, multiple trade and investment barriers that have been the focus of recent bilateral and multilateral fora. At the same time, India has imposed several new significant barriers that have harmed U.S. producers across all sectors of our economy, including services, manufacturing, and agriculture. Prime Minister Modi's visit provides an opportunity once again to press India for results.

In recent years, the United States and India have sought to strengthen our economic engagement through the bilateral Strategic and Commercial Dialogue (S&CD) and the Trade Policy Forum (TPF). Yet these high-level discussions have not resulted in the elimination of major trade and investment barriers or even deterred India from imposing new barriers. Many sectors of the Indian economy remain highly and unjustifiably protected, and India continues to be a difficult place for American companies to do business. This reality is buttressed by the results of the 2017 edition of the World Bank's *Doing Business* report, which ranks India 130 out of 190 countries – the lowest ranking for any G20 country – for ease of doing business.

India remains an important bilateral trade and investment partner for the United States. The United States and India now have the largest bilateral trade and investment flows ever recorded in our relationship. Nevertheless, as a result of India's persistent failure to enact market-based reforms and resolve significant and discriminatory impediments to trade and investment, the U.S.-India economic relationship severely underperforms. Bilateral trade and investment is small considering the size of the countries' economies and the scale of the potential relationship – India accounts for less than two percent of total U.S. exports of goods and services and less than one percent of the stock of U.S. overseas investment. The U.S. International Trade Commission determined in a 2014 report that “[i]f tariff and investment restrictions were fully eliminated [by India] and standards of IP protection were made comparable to U.S. and Western European levels, U.S. exports to India would rise by two-thirds, and U.S. investment in India would roughly double.” Consumers, businesses, and workers in both the United States and India could gain enormously from enhanced bilateral trade and investment. But achieving the full potential of this relationship requires the actual removal of India's economic barriers.

These barriers are prevalent in multiple sectors and include high tariffs, inadequate protection of intellectual property rights (IPR), inconsistent and nontransparent licensing and regulatory practices, and various other restrictions. Concerning tariffs, according to the 2016 edition of the World Trade Organization's (WTO) *World Tariff Profiles* report, India maintains a whopping 48.5 percent simple average final bound tariff rate and a 13.4 percent simple average applied tariff rate. India imposes especially high tariffs on imports of agricultural products. High tariffs on certain products, like almonds, have led to the smuggling of U.S. goods through third countries to avoid high customs duties. India also recently raised applied tariffs on medical devices and, in conflict with its commitments under the WTO's Information Technology Agreement (ITA), information technology products.

Regarding IPR protection, we continue to have concerns about India's system for providing protection for patents, trademarks, and copyrights. India's weak standards and insufficient enforcement remain an area of concern for U.S. rightholders, including with respect to pharmaceutical patents and in the area of copyright protection, where we understand that India has not enacted meaningful laws to prevent camcording in cinemas, which has led to rampant infringement.

In regard to India's licensing and regulatory practices, discriminatory determinations and inconsistent and nontransparent approval processes have hampered U.S. trade and investment. For example, India maintains a variety of forced localization measures on solar and information technology products and enforces duplicative in-country security testing requirements for telecommunications equipment. Other regulatory barriers include unnecessarily slow and opaque approval processes for biotechnology products; sanitary and phytosanitary standards that appear to be non-science based; burdensome import and customs procedures; significant limitations on foreign participation in professional services; and restrictive foreign equity caps for financial, retail, and other major services sectors. In addition, India is increasingly erecting barriers to digital trade, such as data localization requirements, restrictive encryption standards, and burdens on internet services. The list is long and growing.

Moreover, India has imposed additional barriers in 2017. One such example is the expansion of India's nontransparent and arbitrary system of pricing on medical products, recently expanded to include coronary stents. According to some U.S. producers, India's arbitrary system has forced them to sell certain products at a loss in order to retain access to the Indian market.

As supporters of a strong U.S.-India economic relationship, we urge you to personally address India's significant and longstanding barriers to trade and investment during your meetings with Prime Minister Modi. Only through concrete actions that remove actual barriers to trade and investment can the U.S.-India economic relationship flourish.

Sincerely,



Orrin Hatch
Chairman
Senate Committee on Finance



Kevin Brady
Chairman
House Committee on Ways and Means



Ron Wyden
Ranking Member
Senate Committee on Finance



Richard Neal
Ranking Member
House Committee on Ways and Means