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Mr. Chairman, Ranking Member Schakowsky, and members of the Subcommittee, thank you for the opportunity to testify at today's hearing on market access challenges in India. I am Robert Hoffman, Senior Vice President of Government Affairs for the Information Technology Industry Council, known as ITI. ITI is a global trade association representing 52 of the world's most innovative, forward-thinking technology companies.

Today's topic -- our bilateral commercial relationship with India -- is certainly timely. Earlier this week, Secretary Kerry and India's Foreign Minister, Shri Salman Khurshid, met in Delhi for the fourth U.S.-India Strategic Dialogue. Their joint statement at the Dialogue's conclusion touched on a number of important issues central to today's hearing.

The Strategic Dialogue was preceded by a crescendo of letters and statements from policymakers and thought leaders, highlighting fundamental concerns with numerous existing or proposed economic policies coming from Delhi. The commercial challenges U.S. businesses face in India was even front-and-center at the Senate Finance Committee's confirmation hearing for Mike Froman as U.S. Trade Representative.

Frankly, all of this is no surprise. The U.S.-India economic relationship is strategically important and yet it's a relationship not well understood. That is certainly true for the information and communications technology, or ICT, industry. Many of the extraordinary innovative success stories in the global ICT industry during the past two decades have taken place in the United States and India. Thanks to the quality of skilled American and Indian talent, the United States and India are critical links in nearly every global ICT product development, supply, and support chain.

One could argue the ICT industry is a microcosm of what is both good and frustrating about the U.S.-India economic relationship. Much like the ICT industry, our two countries often compete against but collaborate with each other, and the opportunities generated as a result of competition and collaboration benefit the economies not only of both countries, but also the global marketplace. Strangely and unfortunately, despite this extraordinary progress -- progress rooted in India's gradual movement toward a more open economy -- the Government of India is pursuing and considering policies that are certain to reverse its past successes as an emerging economic power, reduce its future capacity to invest in other economies, including the U.S., and undermine the ability of U.S. and other foreign ICT companies to compete fairly in India.

Let me highlight several very troubling examples that underscore these points:

- Last year, India rolled out its Preferential Market Access initiative, or PMA. One key component of the initiative is to force the public and private sectors in India to procure domestically produced ICT products and services. While India has gone forward with implementing localization requirements on public sector procurements, it is poised to extend them into the private sector, starting with telecommunications operators.
- India continues to stand on the sidelines during the on-going negotiations to expand the Information Technology Agreement (ITA), a highly successful trade pact to which India, the United States, and 74 other World Trade Organization (WTO) members are party.
- Global technology companies face numerous regulatory challenges and persistent remnants of ambivalence toward business from Indian government officials. We experience it in a regulatory and enforcement context, including random and often disturbing enforcement actions by officials in tax and custom matters. The excessive number of large-dollar tax controversies in India demonstrates a clear need for improvements in the fairness, predictability, transparency, consistency, and efficiency of Indian tax law, collection, due process, and dispute resolution.
- A range of problematic testing and certification requirements on our products are unworkable and veer markedly from global norms. These new requirements were developed with limited industry consultations; deviate in significant and impactful ways from international norms; cannot be implemented as published due to the lack of testing capacity and infrastructure; and will make it nearly impossible for companies to import a wide range of ICT products. Fortunately, implementation of these new requirements has been delayed, and we have urged the Government of India as recently as a few weeks ago to extend this delay even further to consider approaches that are consistent with international standards and practices.

With respect to its policies regarding PMA and ITA expansion, India rationalizes these choices as central to the development of its own advanced ICT manufacturing capabilities, and the future growth of its middle class. We certainly do support India's objective to build a strong manufacturing base, but some of its policy choices to achieve this objective are needlessly putting India at odds with its global partners and also with its own larger economic initiatives that advanced its emergence on the global stage.

In fact, it's important to put India's PMA and ITA policies in the context of its recent economic history, including what has been until recently a positive and constructive evolution and advancement in our own commercial relationship with India. This helps to underscore the significance of these policies and the troubling risks they present to both countries.

While both India and the United States have a shared commitment to democratic principles that go back even before India's independence in 1947, the growth of the bilateral economic relationship has been relatively recent, and has been driven largely by India's turn toward market-based economic policies in 1991, and the emergence of its globally competitive software and services sector. The economic bonds between our two countries have taken root and become more dynamic as India's innovators and entrepreneurs started to take hold of that country's destiny.

When the ICT industry talks about public policies that matter most to advance innovation, the conversation usually begins with the need to preserve an entrepreneurial ecosystem. By and large, U.S. policymakers understand the importance of this ecosystem. It's been a part of our national DNA since Jamestown and Plymouth Rock. That said, we have to reinforce the importance of the ecosystem or we risk it being taken for granted. That's a big reason why ITI exists. We welcome the opportunity to work with policymakers to advance our innovative potential. At the same time, to effectively do our work, we also find ourselves opposing polices that risk hindering or even destroying that potential, most notably policies that restrict the flow of ideas, innovations, and commerce.

The reverse is certainly true as well. In a closed, stagnant, struggling economy, the best policies are those that unleash an open, entrepreneurial ecosystem and tear down barriers to the development and production of goods and services. During the last 25 years, India has been gradually making progress toward advancing such an ecosystem.

While innovators and entrepreneurs have been openly celebrated in the United States for centuries, that's only been recently the case in India. Throughout the last few centuries, India's innovative potential has been held back by a combination of colonial administration and, since its independence, economic dysfunction. Both factors also limited the development of a thriving trade relationship between the United States and India.

For its first 45 years of independence, India's economic governance adhered to a socialist, centralized framework. Government-imposed domestic production schedules and licenses, and restrictions on imports and foreign investment were key barriers to economic progress. For example, as recently as thirty years ago, an Indian computer services firm seeking to import a U.S.-made computer would have to wait as long as three years for an import license, and once granted, the firm faced a tariff of 101 percent.

But, in 1991, India was forced to reassess its closed economic model when it confronted an economic perfect storm: high oil prices, the collapse of its largest trading partner, the Soviet Union, and a foreign exchange crisis.

The government responded with a series of economic shocks of its own to put the economy on a more open, liberalized course, and helped to give rise to a global software and services sector, including:

- Severe reductions in tariffs and controls on imports. An Indian computer services firm that once had to wait years to import a computer could buy the electronics, hardware and software it needed at competitive prices;
- Devaluation of India's currency, the rupee. This made the prices of India's services exports competitive in global markets -- also good news to India's software and services industry;
- Increased access to international capital markets to fuel Indian-based startups and business expansion;
- Opening of India's equity markets to foreign institutional investors;
- Encouragement of foreign direct investment in joint ventures;

- Allowance of full 100% foreign equity in key economic sectors, one of them being information technology; and,
- Tax and incentives at the federal and state level targeted at foreign-owned ICT companies.

The overall effect of these reforms was extraordinary. Average GDP growth has more than tripled. Poverty has been reduced dramatically, as an estimated 431 million Indians moved out of extreme poverty from 1991 to 2009. Continued economic liberalization has the potential during the next two decades to triple Indian incomes and boost India's middle class to more than half a billion people.

Liberalization was one among a number of key factors that unleashed the Indian IT software and services industry, including tax and investment incentives, access to a deep pool of English-speaking engineering talent, and revolutions in global telecommunications. India's software and services sector has played an instrumental role in unleashing the productive potential of numerous sectors, such as financial services, health care, energy, transportation, retail, and entertainment. The ability of a financial institution to transfer billions in investment capital at the click of a mouse, or a consumer to buy an airline ticket at the touch of a smart phone screen, are due in large part to a global ICT chain that is dominated and operated 24/7/365 by research, development, and maintenance centers in the United States and India.

A key policy decision that helped India's software and services industry was India's decision to sign the ITA in 1997. That decision-making process is insightful given the policies India is pursuing today. India at first hesitated about joining the ITA, fearing that lower ICT tariffs could harm its fledgling manufacturing sector. But the computer software and services industries understood the critical importance of having unfettered access to innovative, affordable ICT technologies from around the world. Ultimately, India's leadership made the wise decision to join this ground-breaking agreement, and it has served to benefit India's businesses and consumers.

That same ITA debate is being repeated today on the topic of ITA expansion. And it's a reminder that, while economic liberalization has ushered in dramatic changes in India, it is far from being embedded in India's DNA. Foreign investment and market access barriers exist across a number of sectors, and the benefits of a market- and innovation-driven economy are not uniformly understood and appreciated throughout India's vast bureaucracy.

Strangely, critics of a more open economy have sought validation of their point of view from a recent slowdown in India's economy. Once nearing 10 percent annual GDP growth just a few years ago, India's economy grew just 5 percent at the end of its fiscal year in March -- after a 6.2 percent increase the previous year. Foreign Direct Investment also has fallen. The Press Trust of India recently reported that India received roughly $14 billion in the first nine months of its most recent fiscal year, compared to $23 billion in 2011-12.

While the software and services sector will continue to be a major driver of India's exports and growth, Delhi sees robust manufacturing as central to its future economic development. Given the extraordinary role liberalized, and incentive-based economic policies played in launching India's ICT sector, the logical policy choice would be for India's emerging manufacturing to follow the same playbook.

That's not what we're seeing. India effectively threw its economic policies in reverse in February 2012, when it adopted a forced localization policy as part of its larger PMA initiative. This policy imposes local content requirements of up to 100 percent on procurements of "electronic products" by the government. While India has threatened to extend the PMA to private sector entities with "security implications for the country," as of yet it has not done so -- but it is poised to do so. Of course, India rationalizes its decision to pursue a mandated made-in-India policy in order to develop India's advanced manufacturing base to boost domestic employment. However, the policy is also defended as a means to achieve greater product security.

More than a half-dozen guidelines to implement the PMA localization mandate have been announced and most have focused on government procurement. Although India is a member of the World Trade Organization (WTO), it is not a signatory to the Government Procurement Agreement (GPA), and thus can apply forced localization requirements to government procurements.

Last October, however, this fundamentally bad policy became worse when India's Department of Electronics and Information Technology issued draft guidelines that would impose forced localization requirements on purchases of a defined list of telecom products by private-sector telecom operators/licensees.

While India has yet to implement a forced localization policy on the private sector, based on a recent visit to India, I can report the following:

- The Government of India appears poised to move forward on its proposed forced localization initiative on telecom operators.
- The Government of India is considering additional forced localization policies in other key sectors, including financial services, transportation, and energy. This would effectively cover more than half of all major electronics purchases in the Indian marketplace.
- Industry stakeholders have informed us that the Government of India is considering content requirements that extend beyond hardware and into software and intellectual property.

The PMA localization requirement raises significant questions regarding India's current and future commitment to further market liberalization reforms, as well as to the rules-based trading system established under the WTO, including the fundamental principle of "national treatment." India has suggested it intends to invoke national security as the grounds for imposing local content requirements on ICT purchases by the private sector. Doing so would set a dangerous precedent for other WTO signatories to mirror.

Of course, the United States is not the only country with concerns about India's forced localization policies. Governments in Tokyo, Brussels, Seoul, and other capitals have urged India to drop the WTO-inconsistent components of its PMA localization policy. ITI has assembled a business coalition from around the globe to elevate concerns with Delhi about its PMA policy. Many members of Congress, including Republican and Democratic members of the Energy and Commerce Committee, have urged India to avoid taking the forced localization road.

No one should fault India's desire to build robust ICT and ICT-enabled manufacturing sectors. In fact, India's commitment to advance its economy and grow its middle class will create numerous opportunities for increased trade for U.S.-based industries, including ICT.

However, given India's international influence, the broader ramifications of trade protectionism could induce other countries to take similar actions. And that leaves us with a race to the bottom.

What will all this mean for our industry? Just in India, if the government chooses to expand forced localization requirements into other key industries, it could easily capture $9.3 billion, or roughly half, of India's $20.5 billion ICT market. And that's just in India. This policy, if allowed to stand, would encourage other governments to adopt similar policies to close off their own markets to foreign competition. This would create what we call the "contagion effect," and it's real.

As I noted at the beginning of my testimony, one of the countries with the potential to be the most adversely affected by India's PMA policy is India herself. It will further discourage foreign ICT entities from investing in India, disrupt the global supply chain of ICT vendors that many Indian businesses helped to create and build, raise the price of ICT goods for Indian consumers, and restrict India's access to the best ICT technologies, including those that would improve cybersecurity.

Similarly, India's refusal to join the ITA expansion talks in Geneva also undermines India's economy. From 1996 to 2008, total global two-way ITA product trade increased more than 10 percent annually, from $1.2 trillion to $4.0 trillion. In the process, the ITA has helped to drive innovation, accelerate productivity, increase employment, lower consumer prices, and bridge communities across the globe in ways unimagined 16 years ago, when the agreement was forged. Yet, while the high-tech sector has exploded with new and improved products since the ITA came into force, the product scope of the agreement has never been expanded.

So it is puzzling to hear some in the Indian government express "buyer's remorse" for joining the initial agreement in 1997. The ITA has played a pivotal role in building India's IT-enabled services industry by providing access to myriad innovative and affordable ICT equipment through tariff elimination. In recent years, as India's ICT services industry has become more advanced, India's growth rates of ICT goods exports have far exceeded imports. According to the WTO, from 2005-2010, the annual rate of India's tech goods export growth was 35 percent versus only 10 percent for tech goods imports.

Just as India's software and services industry benefitted from competitive-priced products ranging from computers to routers to build its ICT industry infrastructure, its emerging manufacturing industry also would benefit from similar foundational economic building blocks, such as ICT goods. To impose tariffs on these goods would be counterproductive to promoting a strong, competitive, advanced manufacturing industry. Indeed, one study done by Indian economists found that for every $1 in tariffs India imposed on tech imports (in the years before joining the ITA), it incurred an economic loss of $1.30 due to decreased productivity.

Other emerging economies are embracing ITA expansion, from Malaysia to Costa Rica to Croatia. One must ask, after more than two decades of building its global economic leadership, will India now stand by and let its competitors reap the investment and trade benefits of being more fully integrated into the global supply chains that will inevitably flow from an expanded ITA?

Bottom line, the policy choices being made in Delhi suggest a significant reversal in India's broader growth strategy, and potentially, a similar dimunition in our bilateral economic ties. Moreover, many of these policies appear specifically designed to disadvantage U.S. and foreign ICT companies seeking to compete fairly in India, while working to potentially disadvantage India's own economy. The enlightened, progressive economic policies of two decades ago that enabled India to become a global powerhouse in software and services now are at risk of being undermined, if not dismantled.

Yes, we could let all this play out and let the WTO diplomats resolve issues like the misguided PMA policy. This would be good for trade lawyers, but not for industry entrepreneurs. A WTO-imposed solution would take years to implement, and would undermine ICT product innovation and development for India and the U.S.

That's why this week's joint statement at the conclusion of the Strategic Dialogue -- and the upcoming trip to India by Vice President Biden -- offers the hope that we can resolve these issues through bilateral mechanisms and collaboration. Given the critical importance of the Indian and American markets to the entire tech sector, reaching agreements among stakeholders short of pursuing potentially disruptive unilateral policy options serves all our interests. So we deeply appreciate your decision to convene this timely hearing this morning. We are committed to continuing the dialog with India in an effort to find better solutions.

As I noted earlier, India is both competitor and collaborator with the United States and many other countries. Global competition is the rising tide that raises all boats. What's at stake is the shared commitment to the economic ideals that have unleashed innovators and entrepreneurs in India, and reinvigorated innovators and entrepreneurs here in the United States. That is why we urge the U.S. government, and like-minded governments around the world, to intensify their efforts to get India back on a track that once again embraces market-driven approaches. "Forced localization" policies, such as the PMA, taken to their logical conclusion mean the end of vibrant global supply chains. They cannot stand. They are a real threat to our economic model, to the American economy, and to American jobs.

We recognize that India faces many daunting economic challenges. We all do. Our great hope is that we can work together to meet those challenges in the spirit of collaboration that has made the last two decades so enriching and rewarding for both our countries. Our industry considers India a close friend and valued partner. But friends don't let friends drive forced localization policies. It's an addictive but damaging practice. Friends and partners owe it to each to have frank and honest discussions when differences arise. It is in that spirit that I appear before the Subcommittee today.

Thank you.

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