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India-US Relations Under Trump: Guarding against Transactionalism by Pivoting to the US Legislature

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ABSTRACT The dynamics of the India-US relationship under the Trump administration bear significantly on the two countries' security partnership. This relationship, however, is being challenged by President Donald Trump's increasingly apparent transactional worldview. As witnessed in the case of the United States' relations with its allies and partners across Europe and Asia, Trump has often linked US defence commitments and partner nations' security dependencies with trade imbalances and immigration issues. In exacting "fair" deals, this transactional approach risks hampering the otherwise positive dynamic of the Indo-US relationship. This brief observes an ongoing shift in the division of power and responsibilities between the legislative and the executive branches of the US government on the conduct of its foreign policy. New Delhi must capitalise on this shift and use a tempered approach to dampen the prospects of President Trump linking security issues with inconsistencies on trade and immigration fronts.

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INTRODUCTION

The election of President Donald Trump in 2016 has caused anxiety amongst US foreignand security-policy elites. The real-estatemogul-turned-president's penchant for isolationist tendencies has given rise to commentaries on an American decline, not by

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defeat by a peer competitor, but by wilful abdication.¹ Since assuming office, President Trump has pushed the US to the brink of trade wars, not only with strategic competitors such as China but also with US allies and partners across North America, Western Europe and East Asia. With the latter, the Trump administration's approach has been to link American security commitments and partner nations' defence requirements with inconsistencies in trade and immigration. Many consider this transactional approach to be an existential threat to the US' credibility as a global partner, which in turn endangers its primacy in the world order.

In the past year, this anxiety has informed a change in the American political system with respect to the division of power and responsibilities on the conduct of US foreign and security policy. Although the executive branch has traditionally exercised broad control over foreign-policy matters—by both constitutional design and post-9/11 consolidation of powers in the hands of the US President—the Trump era has witnessed a shift in decision-making away from the Oval Office. The legislative branch—i.e., the US Congress—has recently engaged in tabling key bipartisan legislations aimed at protecting the enduring tenets of US foreign and security policy from the adverse effects of Trump's transactional approach.

The Trump administration bears continuity with respect to India, especially on matters pertaining to increasing defence interoperability and security cooperation in the Indo-Pacific. However, Trump's protectionist stance on trade and immigration matters presents serious challenges. His transactional approach threatens the otherwise strong Indo-US ties, regardless of India's crucial position in the US security calculus in the Indo-Pacific region and its relatively small trade imbalance with the US.

This brief proposes that New Delhi pursue a tempered approach to counter President Trump's attempts to link developments on the defence and security partnership front with inconsistencies on matters pertaining to trade and immigration. In view of the shift towards the US legislature, the approach will ensure greater engagement with like-minded legislators at the Capitol Hill and administration officials that enjoy bipartisan Congressional confidence, and help set up communication channels at the bureaucratic/ cabinet levels of the US security establishment.

THE INDO-US CONVERGENCE: CONTINUITY UNDER TRUMP

The post-Cold War world has been characterised by what analysts call the "rise of the rest",² or the transition away from American unipolarity and towards a multipolar world. From a realpolitik standpoint, the resultant zero-sum balances of power-wherein the rise of a nation's influence implies the relative decline of another—produces anxiety about the stability of the international order. The 21st century, in particular, is considered crucial to the future of American power. At the core of such a hypothesis stands Washington's relations with rising peer competitor powers such as China. A natural corollary is the country's dynamics with like-minded nations in the proximity of possible competitor powers. In the post-Cold War world, this corollary has, in large parts, influenced the development of the Indo-US relationship.

The Indo-US trajectory has been one of immense promise—as articulated for instance by former Indian Prime Minister Atal B. Vajpayee calling India and the US "natural allies,"³ and former US President Barack Obama labelling the Indo-US partnership as "one of the defining partnerships of the 21st century."⁴ The Trump era ensures continuity by building on the momentum of the past decades for greater convergence of Indo-American interests, especially on issues of defence interoperability and security cooperation. The Trump administration's maiden National Security Strategy deemed India to be "a leading global power,"⁵ and notably, Trump's first Secretary of State, Rex Tillerson, described India and the US as the "two bookends of stability" in the region.⁶

Indeed, it is the Trump administration that encouraged the adoption of the 'Indo-Pacific' moniker, which links the fate of the Western Pacific to the Indian Ocean region. The Trump administration also rechristened the US Pacific Command (PACOM) in Hawaii to the 'US Indo-Pacific Command'. Although PACOM has had jurisdiction over India since the conception of US Combatant Commands in the immediate aftermath of World War II, the renaming of the command, albeit largely symbolic, signifies India's elevated role in the US security calculus.

At the renaming ceremony, Secretary of Defence James Mattis notably defined the geopolitical expanse of the Indo-Pacific region. He said, "For U.S. Pacific Command, it is our primary combatant command, its standing watch and intimately engaged with over half of the earth's surface and its diverse populations, from Hollywood to Bollywood, from polar bears to penguins."⁷ In response, some reports suggest that New Delhi is now considering posting an Indian Military Liaison Officer at the Command in Hawaii. Further, on matters of defence interoperability, New Delhi and Washington recently inked the Communications Compatibility and Security Agreement (COMCASA), the third of four defence interoperability agreements. It is an India-specific version of the Communication & Information on Security Memorandum of Agreement (CISMOA), meant to "facilitate the use of high-end secured communication equipment to be installed on military platforms being sold to India, and fully exploit their potential."⁸

The Indo-US trajectory holds similar promise in other realms. On defence acquisition, a recent report by the Stockholm International Peace Research Institute (SIPRI) noted that the US had recorded "a blazing growth in its arms exports to India, recording over 550% growth in 2013–17 compared with the previous five years. As a result, the U.S. has become India's second largest supplier."9 In trade, in 2017, the Indo-US bilateral trade of goods and services reached US\$140 billion from US\$118 billion in 2016, inching towards the Obama-era goal of US\$500 billion.¹⁰ In immigration, Indians continue to dominate the high-skilled visa category, at times making up over 70 percent of H1-B visa holders.¹¹ On the diplomatic front, the Indo-US synergy at the Financial Action Task Force (FATF) to grey-list Pakistan was notable.¹² However, despite this apparent continuity—especially on the security front—trade and immigration are emerging as areas of contention, stemming from President Trump's increasingly apparent transactional approach towards the mainstays of contemporary US foreign policy.

TRUMP'S TRANSACTIONAL WORLDVIEW: CHALLENGES IN TRADE AND IMMIGRATION

President Trump began his term with protectionist rhetoric, although some analysts have been quick to downplay it. After all, for three-quarters of a century, the US had championed the cause of market economies in a globalised world — underpinned by its stewardship of global financial institutions and its security commitments with over 60 nations¹³ dampening historical rivalries from Western Europe to East Asia.

Since Trump's inauguration, however, his administration appears to have gone beyond mere rhetoric to adopt a more "pugilistic approach," based on the president's "preference to punch first and negotiate later."¹⁴ On matters of trade, this approach has meant the transactional linking of the US' security commitments or partner nations' defence requirements to the president's fixation on exacting "fair" and "reciprocal" trade deals for an America that has been—in Trump's words—a "piggy bank that everybody is robbing."¹⁵

In the run-up to the Trump administration's first one-on-one trade deal — with South Korea, President Trump often echoed a Nixonian approach. In simultaneously raising the prospect of a swift military ("bloody-nose") strategy with North Korea, Trump suggested sealing the Korean War armistice bilaterally with Pyongyang, excluded allies like Japan from the negotiations, and frequently questioned the rationale for the US honing the "hubs and spokes"¹⁶ military architecture in the region. Although Trump hailed the deal as a major "win," it was evident that the deal "had more to do with the geopolitical realities" of ally South Korea's security needs.¹⁷

Similarly, Trump declared his decision to levy tariffs on Canada, stating that its North American neighbour poses a "national security threat."¹⁸ This raised doubts about the US' alliance commitments with Canada, a North Atlantic Treaty Organisation (NATO) partner and one of the five members of the Five Eyes multilateral intelligence-sharing alliance. Moreover, Trump has broken from the longstanding US foreign-policy precedent of keeping Washington's security partnership with its European partners (via NATO) separate from its trade relations (via the European Union).

Thus, in President Trump's conduct of US foreign policy, the country seems keen to "zero in on an arbitrarily chosen economic metric, fixate on it, and no strategic concern or history of alliance strength can compensate."¹⁹ With respect to India, the Trump administration may link security and defence interoperability matters with the inconsistencies in the countries' bilateral relationship vis-à-vis trade and immigration matters. Although India does not have an overt dependency on the American security architecture, the growing Indo-US security partnership is vital to India's strategic calculus. The evolving partnership on matters pertaining to defence acquisition, armed forces' interoperability, and joint development of defence technology-are crucial for India's emergence as a military power in the region and beyond.

In the past, under both Republican and Democrat administrations, an understated

dictum informed the development of the Indo-US bilateral relationship. Named after former Secretary of Defence Ashton Carter, it required Washington to be "patient as the Indian system works through its responses to U.S. templates, and be flexible."20 The Carter mantra thus focused on harnessing economic and defence ties beyond differences-on trade, diplomatic and strategic frontscrowding out minimal-yet-positive developments. Thus, over the past decade, India and the US have developed a closer partnership, wherein India has gradually shifted from its historic dependence on Russia as its primary defence-import destination and now conducts more exercises with the US forces than with any other country.

In the Trump era, the impact of the Carter mantra stands diminished as the president often complains about India featuring in the top 10 countries with which the US registers a trade deficit,²¹ accuses India of seeking billions in exchange for committing to the Paris accords, and repeatedly brings up India's high tariffs on US imports such as Harley-Davidson motorcycles.²² The Trump administration also deemed that it expects "free, fair and reciprocal" trade, despite it having the potential to cause the "most friction" between the two countries' relations that are otherwise on a "very strong footing."²³ The Trump administration now levies tariffs on steel and aluminium products, to the tune of Indian exports possibly losing US\$198.6 million on steel items and US\$42.4 million on aluminium products.²⁴ To combat this loss, India toyed with the idea of levying equally high retaliatory tariffs on US imports, e.g. chickpeas and Bengal gram (at 60 percent), lentils (at 30 percent) and artemia (at 15

percent).²⁵ However, it has twice stayed some retaliatory tariffs in view of ongoing negotiations with US officials.²⁶

Such moves, e.g. levying retaliatory tariffs, may be more effective than appeasement in dealing with a transactional US administration. On Harley-Davidson motorcycles, for instance, India cut tariffs substantially to 50 percent,²⁷ which reportedly received praise from the president himself. However, in view of the escalating tensions on the trade front thereafter, and despite the trade deficit between India and America being around US\$30 billion, the cut on Harley-Davidson tariffs seems to have failed to act as the proverbial magic bullet. Instead, retaliatory sanctions are known to bear a certain deterrent effect by instituting successive stalemates. In combating Trump's ratcheting up of a trade war with the second-largest economy, with which the US runs a deficit of over US\$300 billion, China has adopted a retaliatory posture. India may choose to join the Chinese if tensions continue to rise. China has imposed—although in an equally dangerous, escalatory fashion—biting reciprocal sanctions meticulously targeted against US products, chiefly soy products that hail from constituencies such as Ohio and Iowa, which are predominantly Trump voter bases.²⁸ As NITI Aayog Vice Chairman Rajeev Kumar recently suggested, India may offset Chinese dependency on American soy products by increasing its exports of the same to China.²⁹

President Trump has displayed no qualms in expressing his anguish over immigrants, arriving legally and otherwise. Indians stand in the cross-hairs of the Trump administration's oddly contradictory stance. The administration has called for a "merit-based" immigration policy, whilst also clamping down on "chain migration" for their family members, reflecting President Trump's election dogwhistle decrying the loss of American "culture." As discussed earlier, Indians dominate the high-skilled visa category. Unfortunately, Indians also dominate the illegal arrivals category and are becoming the "fastest-growing illegal immigrant group, nearing half a million in 2014."³⁰

The Trump administration, however, has limited scope for pursuing its protectionist cause, as comprehensive immigration reform on matters such as lifting the 'country-limit' remains gridlocked in a slim-majority-ruled US Congress. Meanwhile, as in the past, India can seek dispute-resolution mechanisms at multilateral fora. In 2015, India took to the World Trade Organization over US laws governing high-skilled worker visa fees. The stakes continue to be high as it is "the first time that an issue of immigration has been disputed under global trade rules" and is thus, sure to "set a global precedent."³¹

India must adopt a tempered approach to prevent defence matters from being linked with inconsistencies on trade and immigration fronts. Such an approach should substantially involve the US legislative branch.

PIVOT TO THE AMERICAN LEGISLATURE: SAFEGUARDING DEFENCE TIES

The US–India defence ties may take a slump, given Trump's increasingly apparent transactional worldview. It is thus important for India to follow a tempered approach, involving greater engagement with the American legislature, i.e. the US Congress.

As discussed earlier, the Trump administration's transactional worldview often links the US' security commitments and defence relations with its bilateral imbalances with countries, on matters such as trade and immigration. Across the American media, academia and policymaking corridors, many have deemed this Trumpian approach an existential challenge to the US' stewardship of the world order, and by extension, the sustenance of US primacy.³² Spurred by the resultant anxiety over Trump possibly dismantling the US-led world order, the American political system is experiencing an unprecedented change with respect to the conduct of American foreign and security policy.

While the US Constitution allows equitable division of power and responsibilities between the legislative and executive branches over matters of US domestic policy, traditionally, the executive branch has had more say on matters of foreign policy.³³ This is due to the inherent design of the country's political system as well as precedents that led to the executive's consolidation of power over foreign-policy decision-making. Although the legislature oversees crucial matters pertaining to the ratification of international agreements, funding of the US military, and authorisation of the use of force, Article II of the Constitution gives the executive branch the power over foreign policy. The Article bestows broad "implied" powers to the executive, stemming from the president's role as the Commanderin-Chief of the armed forces. It also upholds the idea of "executive power," which grants authority to the executive, headed by the president elected by the American people, to "recognize foreign governments and conduct diplomacy with other countries generally" on

behalf of the US.³⁴ Moreover, in the post-9/11 era, due to the protracted nature of nontraditional security threats, the executive consolidated its hold on foreign- and securitypolicy matters by purporting expansive conceptions of US interests to employ US force (as in case of the "War on Terror") and conducting electronic surveillance under the oft-ambiguous mandate of 'national security'.

Although a general power tussle between the legislative and the executive branches has been the norm, the Trump era has witnessed the Congress assuming a greater role in foreign and security policy. Recent examples include bipartisan legislations aimed at guarding against Trump's transactionalism, and by extension also curbing the White House's sway on foreign policy. For instance, the recently passed 2019 National Defence Authorisation Act's (NDAA) conference report included a provision to hem Trump's transactionalism vis-à-vis allied nations such as South Korea. In declaring the 28,500-strong US Forces Korea (USFOR-K) on the Korean peninsula as a "nonnegotiable" item in talks with Pyongyang, the NDAA, 2019 barred reduction of troop presence below 22,000, unless the Secretary of Defence certifies a cut in the national security interest of the US.³⁵

Further, a recently tabled legislation spearheaded by bipartisan heavyweights Tim Kaine (D-VA), Cory Gardner (R-CO), Jack Reed (D-RI), and (late) John McCain (R-AZ)—includes a backstop to an American withdrawal from crucial security alliances such as the North Atlantic Treaty Organisation (NATO), unless backed by a Senate approval.³⁶

A bipartisan Bill by State-Foreign Operations Appropriations Chairperson

Lindsey Graham and Foreign Relations ranking Democrat Robert Menendez aims to stop funding for any US withdrawal from NATO. Another Bill by Senators Edward Markey and Ted Lieu seeks to curb the president's command of the American nuclear arsenal by requiring prior congressional authorisation for a US nuclear first strike. Another prospective legislation that could—if passed—further shift the US foreign-policy locus is the Defending Elections from Threats by Establishing Redlines (DETER) Act. It puts forth watertight sanctions against adversarial countries and rests the power to off-ramp imposed sanctions with the office of the Director of National Intelligence, not with the President.³⁷

The long-term ramifications of these legislations chipping away at the executive's powers warrant a separate discussion on the nature of the American political system of checks and balances. In the present-day scenario of President Trump dealing systematic blows to the US' credibility as a security partner, these steps by the US Congress signify a welcome shift of foreignpolicy decision-making away from the Oval Office. From Western Europe to East Asia, American allies' abandonment concerns stemming from President Trump's transactional worldview may stand assuaged by such legislations that aim to conserve the enduring tenets of US foreign policy, rendering a sense of relative continuity in its otherwise idiosyncratic conduct under Trump.

The heightened role of the US legislature has been apparent in keeping the developing Indo-US dynamic on track. A case in point here would be the recent discord over the Countering America's Adversaries Through Sanctions Act (CAATSA) sanctions. Last year,

due to the Russophobia surrounding the 2016 election, the US Congress introduced CAATSA. With respect to India's historical ties with Russia as a major source of weapons imports, CAATSA momentarily raised the spectre of hampering the trajectory of Indo-US relations. The CAATSA legislation not only put forward intrusive sanctions against Russia, Iran and North Korea, but also sought to "punish" other countries dealing with them.³⁸ In light of this, New Delhi's plan to purchase Russian S-400 air defence systems was set to trigger sanctions under CAATSA's provisions. Eventually, New Delhi managed to keep the prospects of capitulation to a minimum with the Defence Acquisitions Council (DAC), chaired by Defence Minister Nirmala Sitharaman, clearing "the decks" towards acquiring five advanced S-400 Triumf air defence missile systems from Russia "despite the looming threat of US sanctions."39 In addition, senior Trump administration officials, such as Secretary of State Mike Pompeo and Secretary of Defence James Mattis, in their testimonies to Congressional committees like the Senate Foreign Relations Committee, urged for waivers to partner nations such as India. Eventually, the US Senate and House Armed Services Committee did provide provisions for waivers to India, Vietnam and Indonesia under Section 231 of the US law.⁴⁰

India must now consider pursuing the US Congress for a long-term, stable development of the Indo-US dynamic. Trump's transactional worldview with respect to acquiring "fair" deals on the economic front threatens the trajectory of the Indo-US strategic partnership. To avoid the same from becoming a bargaining chip in the hands of President Trump, India must pursue the US legislative branch or senior administration officials, e.g. Secretary of Defence James Mattis (confirmed 98-1 by the US Senate), who enjoy strong bipartisan support on the Capitol Hill, to ensure greater institutionalisation of the Indo-US relationship. Increasing coordination with such members of the Cabinet—whom the US Congress depends heavily on to hem President Trump—will go a long way in institutionalising the Indo-US partnership beyond the Trump era.

Further, New Delhi must seek to develop the Indo-US partnership along the guard-rails of the US legislative or at the Cabinet levels of the security policy establishment at the State Department or the Pentagon. In the long run, developing such channels can be useful as they cannot be easily undone or overturned at the hands of a whimsical president. For instance, despite the announcement of the CAATSA waiver provision, serious challenges remain. The provision rests authority with the president to waive sanctions for partner countries, e.g. India, on grounds of being in the interest of US national security. Since the passage of the waiver provision, President Trump has not accorded one to India. Recently, despite the looming prospect of US sanctions, Russia and India inked the INR 39,000-crore deal for five S-400 Triumf air defence systems.⁴¹

If India now lobbies US legislators to vest the power to grant waivers with the Office of the Secretary of State, the spectre of Trump possibly dangling the waiver as a bargaining chip in the future could be countered. Thus, as Seema Sirohi, a commentator on Indo-US ties, stated in July, "In the current dispensation, it might especially be best for all concerned that CAATSA waivers are settled one rung below the Oval Office."⁴²

Finally, in guarding against President Trump's inclination to leverage security partnerships and dependencies, New Delhi must increasingly tap into the strong bipartisan optimism regarding India at the Capitol Hill. New Delhi must ramp up engagement with the India caucuses, the largest country-specific caucus in the US House of Representatives and the only country-specific caucus in the US Senate. Recently, a collection of legislators from these caucuses tabled the US-India Enhanced Co-operation Act in the House of Representatives, including another amendment to the Arms Export Control Act, to designate India as a 'Major Defence Partner' and bring New Delhi on par with major US allies on defence-acquisition matters. This, despite the two countries not having a formal alliance.⁴³ This latest amendment will do more for the future of Indo-US defence ties than possibly any proclamation of goodwill from the Oval Office, as such concrete bipartisan legislations tend to outlive executive inclinations.

Similarly, on matters of raising defence interoperability and active communication channels, India must continue to seek greater institutionalisation of the evolving dynamic at a bureaucratic level. Thus, the initiation of a hotline between Defence Minister Sitharaman and Defence Secretary Mattis,⁴⁴ and the inaugural 2+2 meetings between Indian and US defence and foreign ministers, which seek to institutionalise the relationship at the Cabinet level are both welcome developments. These will contribute significantly to the development of the Indo-US security dynamic.

CONCLUSION

In light of the increasingly apparent pattern in Trump's conduct of US foreign policy—using US defence commitments and partner nations' security dependencies to exact "fair" deals over trade imbalances and immigration issues the inconsistencies on the bilateral trade and immigration front are potential hurdles in the otherwise promising Indo–US relationship.

Despite India's crucial position in the USsecurity calculus in the Indo-Pacific region and its relatively small trade imbalance with the US, India will not be spared from the adverse effects of the Trumpian transactional approach. This brief proposes that New Delhi must guard its security needs vis-à-vis the US to have them delinked from the outstanding issues on trade and immigration that are known to invite the ire of the populist US president.

Further, the American political system seems to be witnessing an unprecedented shift with respect to the division of power and responsibilities on the conduct of US foreign and security policy. Traditionally, the executive branch has enjoyed broad control on foreign-policy matters, by constitutional design as well as post-9/11 consolidation of powers in the hands of the US President. However, the Trump era has witnessed a shift away from the Oval Office. The legislative branch—the US Congress—has proposed bipartisan legislations, aimed at protecting the enduring tenets of the US foreign and security policy from the adverse effects of Trump's transactional approach.

Recognising the recent consolidation of the US foreign policy decision-making at the

Capitol Hill, the brief suggests a tempered approach for India to pursue greater institutionalisation of the Indo-US dynamic. As substantiated with the recent CAATSA waiver provision, such an approach can lead to greater engagement with like-minded legislators and administration officials that enjoy bipartisan Congressional support, and can help set up communication channels on the US security establishment's Cabinet level to weather challenges presented by the Trump era's worldview.

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