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Engaging with the World: An Analysis of India's Trade Policy in the Wake of the Belt and Road Initiative

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India's trade policy goals have turned a full-circle since its Independence in 1947. While agriculture is the backbone of its economy, more recently, India has become a powerhouse in providing manpower and backbone services to a range of sectors such as information technology and software, banking, medical, transport and logistics, telecommunications, engineering services and professional services. This article seeks to place in perspective, India's rise from an inward looking and autarkic economy to an increasingly powerful economy in the world, currently the sixth largest. The objective of this article is to examine India's economic and development paths adopted since its independence and also its engagement with countries and trading blocs through economic treaties and preferential trade agreements. Such an examination is critical as India seeks to assert its place in the global trading community. This examination assumes further significance in light of the Belt and Road Initiative (BRI) spearheaded by China. While India's participation in the BRI is dependent on a myriad of factors, the BRI project promises to shake up the landscape of international economic relations in the years to come. The BRI is not merely an economic initiative, but has strategic and nationalistic undertones, which are too important to ignore. While the contours of BRI are still unfolding, an evaluation of India's own development path and economic interests could be the key to evaluating India's approach towards it.

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I. Introduction

The Indian economy has seen steady and progressive growth in the last twenty years with significant reduction in poverty and unemployment. India's balance of payments is roughly around US$ 370 bn in 2016, which is a remarkable increase from its pre-1991 crisis levels. Foreign investment has surged in several sectors and the economy has performed well on a number of parameters.[1] While India's place in the global economy is notable, it faces important challenges, which include preserving its growth momentum, securing key export markets and turning around the country's sluggish performance in the merchandise sector. In addition, India has been less successful in exploring free trade agreements and other economic treaties with other developing states, especially in South Asia.

In the above context, this article analyses the impact of the Belt and Road Initiative (BRI) – China's grand project to establish trade routes and infrastructure from China to Europe and stretching all the way up to Africa while entrenching deeper economic cooperation and development assistance within Asia. While India's participation in the project is dependent on a multitude of factors, the BRI offers benefits in trade facilitation, increased participation in value chains as well as an opportunity for India to deepen its trading relationships with its neighbours. However, India's strategic interests and foreign policy sensitivities cannot be lost sight of.

For ease of analysis, this article has divided India's post-Independent experiences in trade and economic liberalization into three phases: from 1950 to 1971; from 1971 to 1991; and the post- 1991 reforms. The article further highlights the present day challenges facing India's trade and investment outlook. Lastly, the article examines whether the BRI is an option, which India should seriously consider in the light of the recent developments that have unfolded as part of the BRI.

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[1] Office of the Economic Advisor, Ministry of Commerce, *Key Economic Indicators as on June, 2017* (2017), http://eaindustry.nic.in/key_economic_indicators/Key_Economic_Indicators.pdf (last visited June 28 2017).

II. Towards Economic Independence: 1950-75

At the time of independence from the British in 1947, India was still an impoverished country and its resources were not adequate to support its almost 350 million population. Despite centuries of foreign occupation and its colonial past, India adopted an open and liberal position to trade. The early 1950's were characterized by 'progressive liberalization'.[2] Exports were limited to traditional agriculture goods such as spices, tea and raw cotton. The Government encouraged foreign investment by according 'national treatment' to existing foreign industries, permitting remittances of profits and dividend of foreign companies abroad and reduced a variety of taxes including business profit tax, personal income tax and super tax as applied to foreign companies and their employees.[3] However, the mid-1950s were characterized by low demand for agriculture-based products on account of a downturn in the global economy. Further, the sterling balance that India had accumulated in the Second World War was also exhausted. The resultant domestic foreign exchange shortage was further aggravated on account of the policies adopted in the Second Five Year Plan, which mandated the need for foreign exchange in sectors such as industry, mining and transport.[4]

The consequent balance of payment crisis erupted with the onset of the Second Five Year Plan (1956-61). The economic policies enumerated in the plan were broadly in line with the *Mahalanobis*[5] model that strongly influenced economic planning in India in the initial years after independence.[6] While India adopted the mantra of 'self-reliance' in the Second Five Year Plan, the demand for imported goods grew at a pace that put inordinate pressure on the scarce foreign exchange that India had. Trade policy at this time was characterised with 'export pessimism', which could be attributed to factors such as the structure and orientation of planning and fiscal policy,

2 *See* Jagdish N. Bhagwati & Padma Desai, India: Planning for Industrialization (1970).

3 Arvind Panagariya, India: The Emerging Giant 25 (4th ed. 2013).

4 T.P. Bhat, *Structural Changes in India's Foreign Trade* 3 (Institute for Studies in Industrial Development, 2011), http://isidev.nic.in/pdf/icssr_tpb.pdf.

5 The Feldman-Mahalanobis model is a neo-marxist model of economic development, independently created by Soviet economist G.A. Feldman and Indian statistician P.C. Mahalanobis. The model aims at promotion of investment in the production of capital goods with the aim for building up domestic consumption in the goods sector. The Mahalanobis model, therefore, aims to connect capital accumulation and economic growth. It focuses on an inward orientation of the economy and accords importance to basic investment goods. The economic policy at this time recognized the importance of self-sufficiency in the primary and secondary sectors of the economy for capacity building for production of consumer goods.

6 Jagdish N. Bhagwati & T.N. Srinivasan, *An Overview: 1950-70, in* Foreign Trade Regimes and Economic Development: India 5 (Jagdish Bhagwati & T.N. Srinivasan eds., 1975).

relative shortage of natural resources and technology and the focus of policy makers on protecting the domestic industry.[7] The experiences of colonialism also began to influence trade policy, with policymakers becoming increasingly suspicious of foreign trade.[8]

The inward looking attitude of policy makers continued with the intensification of industrial licensing and exchange control under the Second Five Year Plan – two ideas that would influence the Indian economy for the next four decades.[9] The exchange control system was implemented which required exporters to surrender their foreign exchange earnings to the Reserve Bank of India at the official exchange rate, and this foreign exchange was later allocated through the import licensing regime.[10] The import and industrial licensing regimes functioned in parallel – with any expansion or new investment requiring both import and industrial licences. While import licensing was undertaken with a view to protect domestic industries, industrial licensing was implemented with the need to avoid concentration of economic resources in the hands of a few corporate houses. Consequently, the public sector continued to dominate the economy through this phase.[11]

The Second Five Year Plan also marked the adoption of an import substitution led model of growth, wherein the focus was shifted from importation to setting up of indigenous industries for replacing such imported goods. Significant amounts of state resources were spent on developing capital-intensive industries in areas such as iron and steel, minerals and metals, coal, energy and natural gas, and aeronautics.[12] The Industrial Policy of 1956 encouraged the entry of foreign capital in order to develop a strong industrial and manufacturing base.[13] The focus was on rapid economic development and to develop industries that produced machines and capital equipment, which were viewed as essential for industrial growth and development, under the Second Five Year Plan.

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7 Deepak Nayyar, India's Exports And Export Policies In The 1960s 220 (1976).

8 Anne Krueger & Sajjid Chinoy, *The Indian Economy in a Global Context*, *in* Economic Policy Reforms and the Indian Economy 13 (Anne Krueger eds., 2002).

9 Bhagwati & Srinivasan, *supra note* 6, at 21.

10 T.N. Srinivasan, *India's Economic Growth and Global Integration: Experience since Reforms and Future Challenges*, Economic Policy Symposium – Jackson Hole 195, 196 (2006), https://pdfs.semanticscholar.org/b9b2/a27ced03e78745d7e3b26fb341d0cd1dc259.pdf (last visited June 22, 2017).

11 Bhagwati & Srinivasan, *supra note* 6, at 37.

12 Panagariya, *supra note* 3, at 25.

13 Abhijit Das & Rashmi Banga, *Roles of Trade Policy in the Growth of Indian Manufacturing Sector, in* Twenty Years Of Economic Liberalization: Experiences and Lessons 12 (Abhijit Das and Rashmi Banga eds., 2012), http://unctad.org/en/PublicationsLibrary/osg2012d1_en.pdf (last visited May 22, 2017).

The later part of the 1960s have been described as a period when policy-makers sought to reduce the adverse impact of the autarkic policies adopted in the earlier decade. The Government introduced subsidies and other incentive schemes to encourage the industry to seek export markets, provide credit to exporters through newly established institutions like the Export Credit and Guarantee Corporation (ECGC) as well as provide direct financial support to exporters in the form of cash subsidies.[14] While these efforts can be regarded to be a partial attempt at liberalization, it did not restructure the system towards an open regime.

In 1966, India suffered its second BoP crisis when its fiscal stability was threatened on account of a flat rate of growth and wars with China and Pakistan. By 1965-66, India's fiscal debt had risen to almost 6.7 percent of the GDP.[15] The Indian Rupee was devalued in order to alleviate the export bias and the devaluation was accompanied by liberalization of import licensing, increased taxes on exports and reduced export subsidies.[16] While these measures were targeted at making India's exports competitive in international markets, the effects of liberalization were not palpable.[17] This coupled with a political backlash to the devaluation[18] led to a reversal in trade policy with Indian policy makers choosing to look inwards through regulations imposed on businesses under the Monopolies and Restrictive Trade Practices Act, 1969 (MRTP Act) and control of foreign investment through the Foreign Exchange Regulation Act, 1973 (FERA). Policy hindered the availability of private foreign investment in India. The MRTP Act curtailed business freedom by, *inter alia*, imposing approval requirements from the Central Government for all new undertakings, takeovers, mergers etc., if the same was in 'public interest'. This lack of commercial independence was further compounded under FERA. FERA stipulated that foreign equity holding was subject to a cap of 40%, and exceptions were granted at the discretion of the Foreign Investment Board. Apart from the exceptions granted, companies that did not dilute their foreign shareholding to less than 40% had to wind up. Though several multinational firms such as IBM and Coca Cola left India in the late 1970s, exceptions in FERA allowed many technologically intensive, export intensive firms to preserve majority foreign ownership, even up to 74%. Many existing multinationals consolidated their positions in India, demonstrating that FERA was more hostile to *new*

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14 Bhagwati & Srinivasan, *supra note* 6, at 37; Nayyar, *supra note* 7, at 242.

15 Arvind Panagariya, *India's Trade Reforms* Brookings Institution 3 (2004) https://www.brookings.edu/wp-content/uploads/2016/07/2004_panagariya.pdf (last visited May 10, 2017).

16 Panagariya, *supra note* 3, at 56.

17 Panagariya, *supra note* 3, at 57.

18 Panagariya, *supra note* 3, at 57.

foreign investment than existing foreign collaborations.[19] However, the policies at this time were restrictive and foreign collaborations were down from 36.36% during 1959-1966 to a mere 16.11% during 1969-79.[20]

Liberalization was also curtained by way of the Industrial Licensing Policy adopted by the Government in 1970, which allowed for selective grant of licenses to private companies based on the classification of industry into core industries, heavy investment and middle sector industries. Under this regime, businesses that had inroads into policy making flourished, but industrial sectors as a whole declined. As Panagariya notes, all these measures resulted in a substantial decline in the performance of the Indian industry with the share of non-oil, non-cereal imports in GDP falling from an already low 7% in 1957-58 to 3% in 1975-76.[21]

India's move towards liberalization in the next decade was motivated by several factors: *first,* even though the import regime was partially liberalized, the licensing system led to a shortage of imported capital equipment and raw materials which had an adverse impact on the domestic industry; and *second*, a marginally improved export performance as well as an increase in remittances from overseas Indian workers helped in the accumulation of healthy foreign reserves, thereby lessening doubts of policymakers on the effect of liberalization on the BoP status.[22]

Section C of this article examines the second phase of India's economic planning. The second phase started in the mid-1970s and continued up to 1991, during which India implemented a number of schemes to incentivize trade. This phase presents an interesting study as the GDP grew at a much faster pace compared to the previous decades although the overall level of trade restrictiveness remained almost static.

III. INCHING TOWARDS LIBERALIZATION: 1976-91

India's economic policy in the 1960's, though promoting exports, did not achieve the desired levels of economic or social growth with a resulting adverse effect on employment and wages.[23] The realization of the failure of

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[19] Suma Athreye & Sandeep Kapur, *Private Foreign Investment in India*, 24 (3) THE WORLD ECONOMY 6 (2001).

[20] NAGESH KUMAR, MULTINATIONAL ENTERPRISES AND INDUSTRIAL ORGANIZATION: THE CASE OF INDIA 44 (1st ed. 1994).

[21] Panagariya, *supra note* 15, at 5.

[22] Panagariya, *supra note* 15, at 5.

[23] RAHUL MUKHERJI, GLOBALIZATION AND DEREGULATION: IDEAS, INTERESTS AND INSTITUTIONAL CHANGE IN INDIA 66 (2014).

an inward looking strategy coupled with the need for technological modernization of the local industry led to a series of reforms in the late seventies and eighties to liberalize and integrate the economy with the rest of the world.[24] Globally, this period marked the beginning of the neoliberal state and the 'Washington Consensus', with trade theorists advocating privatization, reduced state involvement in the economy as well increased operation of market forces.[25] India did not embrace these changes wholeheartedly although some incremental changes were made to make trade more open.

The most fundamental step in this regard was the introduction of the Open General Licensing (OGL) regime. If an item was not on the OGL list, a license was required from the Ministry of Commerce to import the same. However, an importer of an item on the OGL List was required to meet the 'end use' requirement, which was a component of the import regime at the time.[26] The OGL list was still a small category comprising only 30% of imports in 1988. With respect to exports, licensing and canalization was kept to the minimum and the Government introduced several incentives to promote exports, especially after 1985.[27] However, the economy remained comparatively closed to private players with the continuance of the industrial licensing regime as well as establishment of public sector enterprises such as the Minerals and Metals Trading Corporation and the Food Corporation of India which exercised a monopoly in respect of import and export of specified products. The fact that by 1987, sixteen of such agencies were in operation indicates the substantial control that the state exercised over the economic landscape at that time.[28]

The pervasive role of the state in economic regulation was also witnessed in areas such as the regulatory regime for foreign investment. In the 1980's, growing concerns about technological stagnation and poor export performance drew the attention of policy makers to these restrictive procedures and consequently, there was a softening of the regulatory restrictions on foreign investment. While firms that were export oriented were granted exemptions from FERA requirements on foreign shareholdings, restrictions on technological transfers and royalty payments were relaxed to boost manufacturing within the country.[29] However, foreign investment flow continued

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[24] UMA KAPILA, INDIA'S ECONOMIC DEVELOPMENT SINCE 1947 694 (4th ed. 2009).

[25] Gregory Shaffer, James Nedumpara and Aseema Sinha, *State Transformation and the Role of Lawyers: The WTO, India, and Transnational Legal Ordering*, 49 LAW & SOCIETY REVIEW 595, 601 (2015).

[26] Panagariya, *supra note* 3, at 86.

[27] Panagariya, *supra note* 3, at 90.

[28] Panagariya, *supra note* 3, at 87.

[29] Athreye & Kapur, *supra note* 19 at 9.

to be impacted on account of bureaucratic discretion and regulatory bottlenecks. Thus, there was only a marginal increase in foreign inflows and the domestic industry started to rely more on foreign debt capital rather than equity participation to meet its foreign exchange needs.[30]

The 1991 reforms are, to an extent, the result of several failed policies that India had adopted in the seventies and eighties. Economic growth, at that time, was witnessing an extremely modest rate in consonance with the "Hindu Growth Rate" – a term coined to depict the sustained and abnormally low annual growth of India after independence – a rate of growth of 3.5% or less and much lower than the rate of growth in other developing economies at that time.[31] Further, India's external debt witnessed a rise from 12% to 23% of the GDP by 1990-91, on account of heavy internal and external borrowing.[32] By mid-1991, India's foreign exchange reserves were in the range of Rs. 2500 crore[33] and could merely sustain two weeks of imports.[34] The fiscal deficit and the depletion in foreign exchange reserves lead to the third BoP crisis for the country.

Apart from addressing India's fiscal vulnerability, the 1991 reforms were also a response to IMF's conditions that India liberalize its external trade policies and encourage private participation in order to avail international credit. Several key economists at the time were in favour of trade liberalization but suggested gradual liberalization due to the socialist leanings of the then political establishment.[35] Indian policy makers were also disheartened with the socialist model following the fall of the Soviet Union and Eastern Germany in the late 1980s.[36] Many countries in East Asia that had achieved high growth also inspired the shift in policy and poverty reduction through export oriented policies and increased private sector participation.[37] This led to a shift in the attitude of the Government in steering India from an autarkic economy to a more open and market-oriented economy.

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30 Athreye & Kapur, *supra note* 19 at 9.
31 Shaffer et al., *supra note* 25 at 695.
32 Jeffrey D. Sachs, Ashutosh Varshney & Nirupam Bajpai, *Introduction, in* INDIA IN THE ERA OF ECONOMIC REFORMS 14 (Jeffrey Sachs eds., 2010).
33 Dr. Manmohan Singh, Budget Speech of the Finance Minister, 1991-1992 ¶ 3, (July 24, 1991), http://indiabudget.nic.in/bspeech/bs199192.pdf.
34 Sachs et al., *supra note* 32 at 22.
35 Shaffer et al., *supra note* 25 at 695.
36 Shaffer et al., *supra note* 25 at 695.
37 Montek S. Ahluwalia, *Economic Reforms in India since 1991: Has Gradualism Worked?* 16 JOURNAL OF ECONOMIC PERSPECTIVES 64, 73 (2002).

IV. India opens up to the world: Reforms of 1991

The 1991 economic reforms in India are perhaps the most defining moment in India's economic history. Prior to the launch of the 1991 economic reforms, more than 80 % of the goods were subject to quantitative restrictions and India's peak tariff was 355%.[38] In July 1991, the Government introduced reforms in respect of trade of goods, services and liberalization of foreign investment. In respect of goods, removal of quantitative restrictions was accomplished by moving away from a positive OGL list to a narrow category of negative list.[39] However, removal of trade restrictions on consumer goods was more difficult on account of the large number of domestic producers, many of which were small-scale industries. While important economic reforms were made in the 1990's, the import licensing on consumer goods was removed only on April 1, 2001 after a ruling by the World Trade Organization (WTO) dispute panel and later the Appellate Body on a complaint initiated by the United States.[40]

One of the key impacts of joining the WTO was that India brought about wide changes in pursuance of its commitments under the Uruguay Round. India gradually reduced quantitative restrictions, ending the import-licensing regime in 2001.[41] With the ending of broad import licensing, the Government sought to reduce tariff rates in a structured manner with reduction in the number of tariff bands.[42] The average duties on goods which were in excess of 80 percent came down to less than 20% in the next decade or so. Export controls were also substantially reduced and the Government initiated export promotion steps such as permitting 100% foreign equity participation in export promotion zones, enhancement of duty replenishment certificate, introduction of EXIM scrips and removal of the phased manufacturing programme.[43] The reforms in the import and export regime led to a rise in imports and exports from an average of 15% of the GDP in the 1980s to 23% in 1994-95 and to an impressive share of 53 % by the end of 2015.[44]

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38 Das and Banga, *supra note* 13 at 29.

39 Pankaj Vashisht, *Creating Manufacturing Jobs in India: Has Openness to Trade Really Helped?* 7 (Indian Council for Research on International Economic Relations, Working Paper No. 303, 2015), http://icrier.org/pdf/Working_Paper_303.pdf.

40 *See* Appellate Body Report, *India - Quantitative Restrictions on Imports of Agricultural, Textile and Industrial Products*, WT/DS146/AB/R and WT/DS90/2/Add.1 (Aug. 23, 1999).

41 Vashisht, *supra note* 39 at 7.

42 Vashisht, *supra note* 39 at 7.

43 Vashisht, *supra note* 39 at 8.

44 David B.H. Denoon, *Cycles in Indian Economic Liberalization*, 31 Comparative Politics 43, 54 (1998).

While the 1991 reforms were also marked by the devaluation of the Rupee – from 21.2 Rupees to 25.8 Rupees to the U.S. Dollar, the most significant contribution of the 1991 reforms was perhaps the opening up of India's dormant services sector. At the time of joining the WTO, India made market access commitments regarding services for the first time under the General Agreement on Trade in Services (GATS) involving 33 service sectors.[45] Considering the wide overreach of GATS (it covers 4 modes of services), there was a plausible need for Governments to maintain a 'level playing field' in domestic markets to ensure the competitiveness of the domestic industry. In addition, the 'positive list' approach advocated by the GATS provided considerable flexibility to a developing country such as India.

In respect of trade, India has followed autonomous liberalization both on industrial goods and services. India uses a pro-trade negative list for eliminating duties on goods especially in relation to the various preferential trade agreements it has signed after opening up its economy. In particular, India has liberalized its trade in services with several South-East Asian countries as well as Far Eastern economies such as Japan and South Korea which are significantly higher than its WTO commitments under the GATS.

To provide an update, opening up of the services sector has led to foreign investments of upto USD 7.55 billion in 2015-16 alone, contributing to roughly 60% to India's GDP and leading to an increase in foreign inflows by over 22% when compared to the previous year.[46] India's acknowledgement of the growing importance of the services sector is best witnessed by its backing of the negotiations on Trade Facilitation in Services before the WTO. In its communication to the WTO, India has laid down broader ideas including transparency of services related measures, free flow of data for Mode 1 services, ease of visa formalities for Mode 2 and 4 services etc.[47] However, India's services sector is still characterized by trade restrictions in the legal, accounting, logistics, insurance, telecom and banking sectors where India lags behind other developing countries such as China and South Africa.[48] Further, service reform including efficient infrastructure and quicker response mechanisms assume special significance as India seeks

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[45] Shaffer et al., *supra note* 25 at 697.

[46] Press Trust of India, *FDI in services sector up 77.6% in 9 mths of FY'17*, Business Standard (Mar. 5, 2017), http://www.business-standard.com/article/economy-policy/fdi-in-services-sector-up-77-6-in-9-mths-of-fy-17-117030500250_1.html (last visited May 9, 2017).

[47] Communication from India: Concept Note for an Initiative in Trade Facilitation in Services, S/WPDR/W/55 (2016); and Communication from India: Possible Elements of a Trade Facilitation in Services Agreement, S/WPDR/W/57 (2016).

[48] Harsha Vardhana Singh, *Trade Policy Reform in India since 1991* 40 (Brookings India, Working Paper No. 2, 2017), https://www.brookings.edu/research/working-paper-trade-policy-reform-in-india-since-1991/

to engage more proactively in integrating with international production or value chains.

V. INDIA'S FUTURE TRADE POLICY: CHALLENGES AND CONCERNS

"India Poised" was a buzzword that Indian corporate leaders and policy makers used very often in the mid-2000s, while comparing India's growth patterns with China's. While the Indian economy has grown at impressive rates during 2002-2012, and more recently during 2015-17, there is a growing feeling that the growth rates and the pace of economic reforms have been below par. This section seeks to set out the key issues plaguing India's trade policy including governance challenges, lack of trade facilitation measures, less than desirable participation in regional and global value chains as well as a failure to engage more efficiently in trading partnerships in the South Asian region.

It appears that the Indian Government's immediate goal is to increase India's share in global trade from 2.1% to 3.5% by 2020.[49] Towards this objective, the Government has introduced initiatives such as 'Make in India', 'Skill India' and 'Digital India'. These measures also seek to promote local manufacturing and provide an impetus to the domestic service sector.[50] However, it is rather ironical that India's exports have remained stagnant over the last one year despite the emphasis on an export driven foreign trade policy.[51] The stagnation of exports can be attributed to several factors such as the global economic slowdown, lower demand for petroleum exports as well as the limited diversification of India's exports – with the top 10 principal exports accounting for as much as 78% of the exports, making India's export performance extremely dependent on these commodities.[52] Further, India is also overly dependent on the U.S. and the European Union (EU) markets which account for more than 40% in India's total exports.[53] The

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[49] Directorate General of Foreign Trade, *Foreign Trade Policy Statement* 1 (2015), http://dgft.gov.in/exim/2000/policy/FTP_Statement.pdf.

[50] Press Trust of India, *Narenda Modi Government unveils its first trade policy, targets doubling of exports at $900 bn*, FINANCIAL EXPRESS (Apr. 1, 2015), http://www.financialexpress.com/economy/narendra-modi-govt-unveils-its-first-trade-policy-targets-900-bn-in-exports/59535/ (last visited May 9, 2017).

[51] The export-import policy (EXIM policy) is framed for a period of five years under the Foreign Trade (Development and Regulation) Act, 1992.

[52] C.P. Chandrasekhar and Jayati Ghosh, *Understanding India's export collapse*, HINDU BUSINESS LINE (Nov. 21, 2016), http://www.thehindubusinessline.com/opinion/columns/why-indias-exports-are-falling/article9370929.ece.

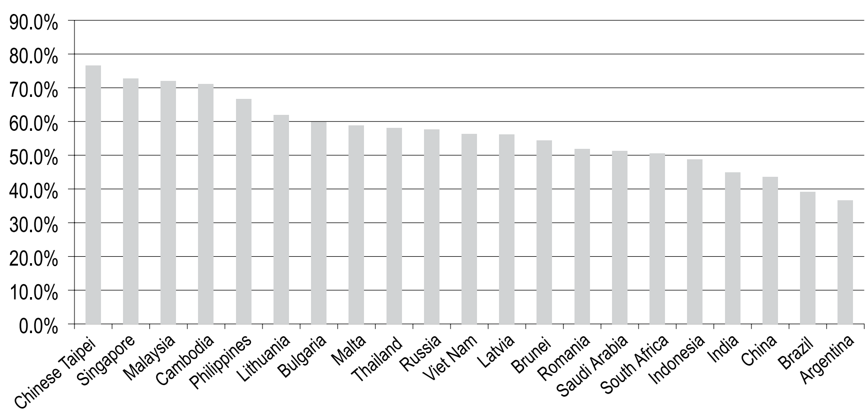
[53] Pradeep Mehta, *How to solve India's exports puzzle*, HINDU BUSINESS LINE (Apr. 28, 2016), http://www.thehindubusinessline.com/opinion/how-to-solve-indias-exports-puzzle/

Regional Hirschman Index (RHI), which is a standard measure of export market diversification, shows that while India's RHI with the EU and the U.S. have declined from their respective shares of 0.067 and 0.061 in 2005 to 0.033 and 0.036 in 2015; the RHI with Asia and Africa does not reflect a substantial change.[54] These figures only highlight the need for India to re-evaluate its trading relationships with Asia and Africa and the need to diversify its export markets.

India's participation in global value chains (GVC) is another important consideration to be discussed in the context of its future trade policy. The Indian Government has recognized the need to integrate the manufacturing sectors with GVCs - a trend that has been on the rise with 11% foreign value addition in 1995 to 22% in 2011. Notwithstanding these developments, India still lags behind other Asian economies such as Singapore, Malaysia and Vietnam.[55]

Figure 2. GVC participation index for selected non-OECD economies, 2008

Foreign value-added and domestic vlaue-added used in third countires' exports, as a share of gross exports (%)



Source: Author's calculations using the OECD ICIO model, December 2012 release.

Source: Organization for Economic Co-operation and Development

Further, India's skewed import duty structure imposes higher customs duties on raw materials and intermediaries and lower duties on finished

article8533094.ece.

[54] *Id.*

[55] Bishwanath Goldar et al., *Domestic Value addition and Foreign Content: An Analysis of India's Exports from 1995 to 2011*, 29 (Indian Council for Research on International Economic Relations, Working Paper No. 332, 2017), http://icrier.org/pdf/Working_Paper_332.pdf.

goods, and tariff escalation exists on several products.[56] This discourages domestic production and export of value added items, thereby impairing India's attempt to play a greater role in GVCs. Apart from GVCs, India's participation in regional value chains (RVCs) is also of consequence. China's emergence as the global leader in manufactured goods is underpinned by its unique relationship with the South-East Asian region where it is a major importer of intermediaries from most regional economies and is a major assembling and production hub. India, on the other hand, has a much-limited presence in regional supply chains and imports of both intermediaries and finished products.[57]

Apart from the issue of integration into GVCs and RVCs, India's current focus is on the implementation of trade facilitation measures as part of its trade policy.[58] Though India has come up with cost-reducing processes like compulsory filing of online applications, self-assessment of customs, single-window schemes in customs etc., India continues to lag behind its peers including Brazil, Russia and China.[59] According to a World Bank Report of 2017, India stands 130 out of 190 countries in ease of doing business.[60] Further, a recent report of the Public Accounts Committee also noted that lack of infrastructure facilities like port to road connectivity, rail infrastructure to move containers to inland depots as well as arduous documentation mechanisms lead to delays in various stages of import and export clearances.[61] According to the Organisation for Economic Co-operation and Development (OECD), trade flows for developing countries are most impacted by streamlining of formalities, governance and impartiality and

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[56] Raj Bhala, *First Generation Indian External Sector Reforms in Context*, 5(1) Trade, Law and Development 5, 30 (2013).

[57] Amitendu Palit, *Regional Supply Chains in Asia: Examining India's Presence and Possibilities in the RCEP*, 12 (Centre for WTO Studies, Working Paper No. CWS/WP/200/20, 2016), http://wtocentre.iift.ac.in/workingpaper/Final%20version%20%20RCEP%20India%20Value%20Chain.pdf.

[58] Department of Commerce, Government of India, *Task Force on Transaction Cost in Exports: A Report* (2011), http://dgft.gov.in/exim/2000/tcostrep2011/tcostenglish.pdf.

[59] Pravakar Sahoo, Niloptal Goswami and Rahul Mazumdar, *Trade Facilitation: Must for India's Trade Competitiveness*, 15 Journal of World Trade 285, 286 (2017).

[60] World Bank Group, *Doing Business 2017: Equal Opportunities for All* 7 (2017), http://www.doingbusiness.org/~/media/WBG/DoingBusiness/Documents/AnnualReports/English/DB17-Report.pdf (last visited May 10, 2017).

[61] Anand Mishra, *House panel slams Commerce, Textiles ministries over 'lackadaisical approach' on facilitating trade*, Indian Express (May 8, 2017), http://indianexpress.com/article/india/house-panel-slams-commerce-textiles-ministries-over-lackadaisical-approach-on-facilitating-trade-4645403/ (last visited May 9, 2017).

information availability. Consequently, India could draw considerable benefits from improvements in the areas of fees and streamlining of import-export processes.[62]

The prospect of effecting trade liberalization through the multilateral routes looks extremely bleak as of now. Though waning confidence in the multilateralism system has resulted in an increase in regional trade arrangements, the future of the latter is also clouded as demonstrated by the U.S backing out of the Trans-Pacific Partnership (TPP) and the uncertainties surrounding the Transatlantic Trade and Investment Partnership (TTiP). In these times, formulation of a long lasting trade policy is a challenge for any country. There is no denying the fact that with the rapid improvements in technology and the ever-increasing movement of goods, services, capital and people, trading nations require newer models of economic cooperation. In the above context, the BRI also claims to offer a new model for economic integration without the drawbacks of preferential regional trading agreements.[63] In the light of this, we have sought to examine the contours of the BRI and assess India's approach to this initiative.

VI. Belt and Road Initiative: What is in it for India?

Announced by the Chinese Premier Xi Jinping during his visit to Kazakhstan in 2013, the BRI has been hailed by China as the revival of the old trading routes, collectively known as the Silk Route, across Eurasia.[64] The BRI, in the current form, consists of two components: (i) the Silk Road Economic Belt (SREB) which links China to Central Asia and Europe; and (ii) the Maritime Silk Road (MSR) which would connect the eastern coast of China to Europe through the South China Sea and the Indian Ocean to the West.

The SREB will link the eastern part of China to Europe, cutting through the mountainous terrains of Central Asia while the MSR will extend from the Quanzhou province in China heading south to the Malacca Strait, and

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62 *See* Organisation for Economic Co-operation and Development, *OECD Trade Facilitation Indicators* (2014), https://www.oecd.org/tad/facilitation/india-oecd-trade-facilitation-indicators-april-2014.pdf (last visited May 10, 2017).

63 Andreas Grimmel and Sussane My Giang, *Why China's 'One Belt, One Road' initiative should be taken more seriously by the EU and how it can be an interregional success*, LSE BLOG (April 3, 2017), http://eprints.lse.ac.uk/75707/1/blogs.lse.ac.uk-(last visited June 10, 2017).

64 National Development and Reform Commission, Ministry of Foreign Affairs, and Ministry of Commerce of the People's Republic of China, *Vision and Actions on Jointly Building Silk Road Economic Belt and 21st-Century Maritime Silk Road* (2015), http://en.ndrc.gov.cn/newsrelease/201503/t20150330_669367.html (last visited May 10, 2017).

from Kuala Lampur to Kolkata via the Indian Ocean, and will then proceed to Nairobi, Kenya and into the Mediterranean Sea via the Suez Canal.[65] The BRI is estimated to consist of roughly 900 infrastructure projects to promote connectivity across Eurasia and Africa through a series of composite and multitier networks. The Chinese statement on the BRI provides that the project is aimed at promoting a free flow of resources, economic factors and deeper integration of markets of countries forming part of the Belt and the Road. The statement also mentions that the BRI aims to tap market potential, promote investment and trade and create job opportunities among the people of the relevant countries. It further seeks to promote trade facilitation measures along the Belt and the Road including simplification of customs processes by resorting to online checks, lowering of non-tariff barriers, elimination of investment barriers and entering into double taxation avoidance agreements.[66] Financed by several Chinese backed institutions including the Asian Infrastructure Bank (where India is the second largest shareholder)[67], the BRI has been described as "*the most significant and far-reaching project that any nation has put forward*".[68] With approximately 60 countries, the BRI roughly accounts for an economic aggregation of USD 21 trillion and comprises of 29% of global trade, two-thirds of the world's population and 55% of the world's GDP.[69] These estimates are tentative as the list of countries that may eventually join the BRI initiative is rather uncertain at this moment.

The BRI is still evolving and its substantive and geographical contours are far from clear. While skeptics are concerned about the extent of China's involvement in the project, there is a lack of clarity regarding the nature of the project itself. While the initiative seeks to promote free and inclusive trade by promoting economic coordination and cooperation of the Belt and Road countries, it is unclear how the same will be implemented. One of

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[65] Geethanjali Nataraj and Richa Sekhani, *China's One Belt One Road: An Indian Perspective* 50 Economic and Political Weekly 68 (2015).

[66] Helen Chin, Fong Lau, Winnie He and Timothy Cheung, *The Silk Road Economic Belt and the 21st Century Maritime Silk Road*, Fung Business Intelligence Centre (2015), https://www.fbicgroup.com/sites/default/files/The%20Silk%20Road%20Economic%20Belt%20and%2021st%20Century%20Maritime%20Silk%20Road%20MAY%2015.pdf (last visited May 5, 2017).

[67] Press Trust of India, *AIIB grants $160 mn for Andhra Pradesh Power Project*, Hindu Business Line (May 3, 2017), http://www.thehindubusinessline.com/news/national/aiib-grants-160-mn-for-andhra-pradesh-power-project/article9678140.ece (last visited May 5, 2017).

[68] *One belt, one road' initiative will define China's role as a world leader*, South China Morning Post (April 2, 2015), http://www.scmp.com/comment/insight-opinion/article/1753773/one-belt-one-road-initiative-will-define-chinas-role-world (last visited May 5, 2017).

[69] Nataraj and Sekhani, *supra note* 65, at 68.

the main questions is whether the BRI seeks to form a free trade area *via* a common trade agreement or if the project is Asia's 'Marshall Plan'.[70] One can further deliberate if the BRI can transmute into a comprehensive economic cooperation agreement in the future linking Asia, Australia, Africa and Europe. At present, the BRI appears to be different from conventional free trade agreements in that there are no barriers to entry or preconditions to join. To that extent, the BRI represents a new model of international cooperation.[71] It does not appear as a market-opening instrument or initiative in itself, but more as a trade and infrastructure facilitating exercise. While China has signed memorandums of understanding, cooperation agreements and transportation agreements with several countries during the course of the Belt and Road Forum organized in China[72], it is still unclear what these engagements envisage. Does it allow Chinese firms to develop projects in third countries or does it relate to foreign investment or development aid to support infrastructural projects in other countries? Many BRI projects appear to involve both Chinese investment and involvement of Chinese firms. For example, the railway line to link Nairobi to the port of Mombasa is being constructed by the Chinese state-owned China Road and Bridge Corporation with the project being primarily financed by China's Exim Bank (to the tune of almost USD 3.6 bn).[73] If BRI projects primarily allow for Chinese investment, greater role for Chinese firms and more participation for Chinese labour[74], the utility of the project for investors from other states remains to be clarified. These questions along with the lack of clarity on the trade measures accompanying the project or its larger economic model have created apprehensions for several states, including India, in respect of its participation and involvement in the BRI.

Though China sees India as an essential player in the BRI, India has expressed its reservations about the project. Considering the several policy implications for India, it has chosen to remain cautious towards the project. One of India's biggest concerns of the BRI has been the 'unilateral' and

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70 Enda Curran, *China's Marshall Plan*, Bloomberg (Aug. 8, 2017), https://www.bloomberg.com/news/articles/2016-08-07/china-s-marshall-plan (last visited May 10, 2017).

71 Longyue Zhao, *China Trade Strategies: FTAs, Mega-Regionals and the WTO* (2015), RSCAS Policy Papers, European University Institute, *available at*: http://cadmus.eui.eu/bitstream/handle/1814/38270/RSCAS_PP_2015_11.pdf;sequence=1.

72 Xinhua, *Full text: List of deliverables of Belt and Road forum*, Xinhua (May 15, 2017), http://news.xinhuanet.com/english/2017-05/15/c_136286376.htm.

73 Briana Duggan and Idris Muktar, *Nairobi to Mombasa high-speed railway opens*, CNN (May 31, 2017), http://edition.cnn.com/2017/05/31/africa/kenya-nairobi-railway/index.html (last visited June 10, 2017).

74 *Tapping Chinese Belt and Road Capital for Power Projects: Ten Points to Know,* Norton Rose Fulbright (April 2016), http://www.nortonrosefulbright.com/files/tapping-chinese-belt-and-road-capital-for-power-projects-137672.pdf (last visited June 10, 2017).

'nationalistic' nature of the entire project itself.[75] India is concerned that the BRI, rather than being based on economic cooperation and dialogue, could end up being a vehicle for China to assert its influence over the rest of the region.[76] Further, the lack of a consultative process from the conception of the BRI has raised alarm bells for India.[77] India is also concerned about the China – Pakistan Economic Corridor, which consists of a system of roads, rail and energy projects stretching from the port of Gwadar in Pakistan to Xinjiang in China, and is likely to pass through Pakistan Occupied Kashmir (PoK) and Gilgit-Baltistan. India is apprehensive that the corridor will not only lead to increased land connectivity between its neighbours to India's detriment, but will also allow China to establish troops close to sensitive areas such as Kashmir.[78] While the project itself raises several questions in respect of foreign and economic policy, this article will focus on the impact of Belt and Road on India's trading goals. Though the BRI could provide India with an opportunity to further economic integration with South Asia, India's participation in the project is marked with concern for India's national and strategic interests.

The BRI seeks to offer several mechanisms, which could address India's trading woes. As discussed earlier, the Indian economy has been affected by slow progress in trade facilitation. Trade facilitation measures such as simplification of the customs regime and upgrading the financial and physical infrastructure results in reduced transaction cost and thereby reduces the overall costs of exports and imports making India more trade and investment competitive.[79] It is also crucial to the success of Governmental initiatives such as 'Make in India', which are dependent on India's trade competitiveness.[80] The BRI also focuses on ensuring cooperation in matters of custom procedures, certification and accreditation of products, development of 'single window' in border posts, among other things.[81] Availing the benefit of such facilities would result in value addition for India in both imports and exports.

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[75] Tanvi Madan, *What India thinks about China's One Belt One Road Initiative (but does not explicitly say)*, BROOKINGS BLOG (March 14, 2016), https://www.brookings.edu/blog/order-from-chaos/2016/03/14/what-india-thinks-about-chinas-one-belt-one-road-initiative-but-doesnt-explicitly-say/ (last visited May 10, 2017).

[76] Talmiz Ahmad, *Who's Afraid of the One Belt One Road*, The Wire (June 3, 2016), https://thewire.in/40388/one-belt-one-road-shaping-connectivities-and-politics-in-the-21st-century/ (last visited May 10, 2017).

[77] *Id.*

[78] D.S. Rajan, *China: President Xi Jinping's South Asia policy- Implications for India*, Paper No. 5920, SOUTH ASIA ANALYSIS GROUP, http://www.southasiaanalysis.org/node/1763 (last visited May 10, 2017).

[79] Sahoo et al., *supra note* 59 at 286.

[80] Sahoo et al., *supra note* 59 at 286.

[81] National Development and Reform Commission, *supra note* 64.

The BRI also provides India with an opportunity to tap South Asian markets. Since the initiation of the 'Look East' policy in 1991, India has sought to expand its trading relationships with South Asia. Though India has entered into free trade agreements with the Association of Southeast Asian Nations (ASEAN) in respect of goods and services, India's trade performance in this regard has not been upto the expectations. In 2015, India-ASEAN trade stood at US$ 58.7 billion, much below the target of US$ 100 billion and has declined from US$ 67.7 billion in 2014.[82] One of the reasons underlying India's insignificant integration in this region is the lack of infrastructural connectivity to the ASEAN region. There is a need for development of trade infrastructure, and especially in the Northeastern region of the country.[83] It has been argued that India must take advantage of heavy infrastructure investment by Chinese firms into BRI projects, and focus on developing connectivity infrastructure within and outside India.[84] Though this would be of benefit to India, it would be strategically irrational to allow Chinese involvement in key infrastructural projects in the country.

In analyzing India's response to the BRI, it is also important to consider India's trading relationship with its neighbours. While China is India's largest import partner, India also has the largest trade deficit with China – USD 53 billion in 2015-16, which has been steadily increasing over the last five years, driven by declining exports and increasing imports.[85] Chinese imports consist of consumer and intermediary goods, and imposing tariffs on such intermediaries will only lead to losses for the domestic industry where such intermediaries are used.[86] In respect of Pakistan, the tension between the two states has severely impacted the trading relationship between these two countries. Pakistan accounted for only 0.74% of India's total exports, and 0.12% of India's imports in 2015-16, though this does not account for the informal trade between the two countries, which has been predicted to be

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82 Rahul Mishra and Shamshad Khan, *Why India needs to expand its engagement with ASEAN*, Daily News and Analysis (Sep. 7, 2016), http://www.dnaindia.com/india/comment-why-india-needs-to-expand-its-engagement-with-asean-2252804 (last visited May 10, 2017).

83 The Associated Chambers of Commerce and Industry of India, *India ASEAN Trade and Investment Relations: Opportunities and Challenges*, 48 (2016), http://www.assocham.org/upload/docs/ASEAN-STUDY.pdf (last visited May 10, 2017).

84 Samir Saran and Ritika Passi, 'Seizing the 'One Belt One Road' Opportunity, *The Hindu* (New Delhi, 16 September 2016), Available at: http://www.thehindu.com/opinion/op-ed/Seizing-the-%E2%80%98One-Belt-One-Road%E2%80%99-opportunity/article14054927.ece (last visited May 10, 2017).

85 Tulsi Jayakumar, *Good Neighbours, Bad Neighbours*, The Hindu (Nov. 14, 2016), http://www.thehindubusinessline.com/opinion/india-needs-strong-ties-with-china-and-pakistan/article9345769.ece (Last visited May 8, 2017).

86 *Id.*

twice as much as the formal trade.[87] Currently, trade between India and Pakistan is plagued with heavy transactional costs due to the long circuitous route that the trade takes, mainly the Delhi-Mumbai-Dubai-Karachi-Lahore route.[88] While India's trade with its neighbours has been slackening, China is steadily stepping into territory, which has historically been considered 'India's backyard'.[89] With the proposed free trade agreement with Sri Lanka, funding of infrastructure and hydropower projects in Nepal as well as entering into agreements with Bangladesh for 25 projects worth more than USD 20 billion in 2016[90], China is keen on consolidating its power in the South-Asia region. In the light of these facts, there is a higher need for India to further its trading relationships with its neigbours. The BRI, with its offer of better infrastructural connectivity and facilitation mechanisms, could further serve this purpose.

While the BRI seems to offer several benefits, there are other foreign policy and strategic concerns with the project that are hard to ignore. Regardless of participation in the BRI, India must have a forward-looking trade policy, which is focused on trade facilitation and greater infrastructural connectivity. In this regard, the opening up of the Dhola-Sadia bridge, which not only ensures continued connectivity to Arunachal Pradesh in northeastern India, but also helps reduce transit timelines, is a welcome move to improve infrastructure development in the hitherto overlooked region. Furthermore, while China is consolidating links with its neighbours by supplying them with personnel, equipment, technology and standards[91], India must speed up its trade deals and free trade agreements with other Asian and African economies, especially to take advantage of its booming services sector. A positive effort in this regard has been the proposed 'Asia-Africa Growth Corridor', spearheaded by India and Japan, which seeks to the increase financial and infrastructural connectivity within Africa. Further, it is also imperative for India to mobilise funds to build its current projects such as 'Project Mausam' (which aims to re-establish India's ancient maritime routes and connects East Africa, the Arabian Peninsula, the Indian Subcontinent and Sri Lanka to the Southeast Asian archipelago) and the 'Spice Route' project (which

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[87] Jayakumar, *supra note* 85.

[88] Jayakumar, *supra note* 85.

[89] Nataraj & Sekhani, *supra note* 65, at 69.

[90] Shubha Singh, *China to hold grand Belt and Road Forum next week: Will India skip biggest diplomatic event of the year?*, FIRSTPOST (May 9, 2017), http://www.firstpost.com/world/china-to-hold-grand-belt-and-road-forum-meet-next-week-will-india-skip-biggest-diplomatic-event-of-the-year-3432194.html (last visited May 9, 2017).

[91] Sushil Aaron, *Why India needs to take China's One Belt One Road initiative seriously*, HINDUSTAN TIMES (March 31, 2017), http://www.hindustantimes.com/analysis/why-india-needs-to-take-china-s-one-belt-one-road-initiative-seriously/story-OpfzM34MJoEyGLE7z8GkSI.html (last visited May 9, 2017).

aims to re-establish maritime ties from countries stretching across Africa to East Asia). This will allow India to align its national interests with the larger outlook of knitting together an integrated Asia.

VII. Conclusion

India's trade policy has traversed a full spectrum in the last seven decades. Although India followed a progressive trade policy in the initial years after independence, the absence of an industrial base and an uncompetitive agriculture sector forced India to embrace an import-substitution led economic policy. Such a policy was essential to preserving India's scare foreign exchange reserves but had the unintended consequence of leading India to a spiraling trap of economic protectionism and isolation. Although India has reversed much of its inward looking economic policies in the manufacturing sector and has enabled its services sector to expand and flourish in the last three decades, India still has much to do in respect of upgrading trade infrastructure, lowering regulatory hurdles and nurturing deeper trading and economic relations with its neighbours.

In this regard, the BRI assumes special significance in light of its proposed economic impact in the region. Although the BRI offers a platform for India to expand its trading opportunities, the lack of clarity and vagueness of this initiative has led to skepticism in several countries including India. Admittedly, the BRI is an 'evolving concept' and many of its structural components and action plans would require further deliberation and careful study.[92] Perhaps, it would be fruitful to wait until there is fuller understanding on the legal nature of BRI as well as the extent of Chinese involvement. At this juncture, India may have certain reservations to joining a grandiose project that seeks to realign the geopolitical ordering in South Asia and beyond. A grandiose project of rediscovering and establishing connectively along the old Silk route is unlikely to achieve its potential unless the countries that are located along the Belt and the Road are taken into full confidence. It is beyond doubt that China and India are poised to be the dominant economies in the upcoming decades with business engagements between the two likely to multiply several folds. Any economic or infrastructure cooperation that adequately accommodates the territorial sovereignty, national security, and development concerns of both these countries should be a welcome development for the global economy.

[92] Talmiz Ahmad, *supra note* 76; Talk by Minister Liu Jinsong, DCM and Minister, Chinese Embassy in India on 'Challenges and Development of One-Road and One-Belt Initiative', O.P. Jindal Global University (Apr. 11 2017) (notes available with the authors).