

Rising Protectionism in Services : Implications for India

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EXECUTIVE SUMMARY

This working paper examines the rising trend of protectionism in the global services trade, focusing specifically on the implications for countries like India, which have greatly benefited from services exports. The authors argue that while recent protectionism has largely targeted merchandise trade, services will not remain immune to this anti-globalization sentiment. The rules-based global trading system, underpinned by WTO, is facing an existential crisis, driven by political-economic developments that have primarily affected merchandise trade. Trade in services, particularly the offshore performance of services (Mode 1), has remained largely open. However, the paper posits that this openness is not guaranteed, and anti-globalization pressures will inevitably extend to services.

Digitally Delivered Services (DDS) are the fastest-growing component of global trade. DDS has enabled offshore performance of highly skilled services across sectors and occupations. This has intensified competition between workers in developed and developing countries. This competition is generating political pressure in developed nations for protectionist measures to safeguard their white-collar jobs. Even more critically, rapid adoption of digital technologies by emerging country firms and innovation led by start-ups are challenging the dominance of Multi-National Enterprises (MNEs).

The U.S.'s Halting International Relocation of Employment Act (HIRE Act 2025) (a 25% discriminatory tax) and the H1B Visa Fee Hike exemplify this new protectionist trend. The HIRE Act imposes tariffs on offshore services (Mode 1), a radical deviation from tradition, while the visa hike impedes the temporary movement of professionals (Mode 4). These barriers to both modes will disproportionately impact emerging-country exporters like India, and both measures raise concerns over violating global trade rules, including U.S. GATS commitments.

The authors argue that these recent U.S. protectionist measures are not knee-jerk reactions, but part of a greater strategic intent. While the short-run threat may be limited, the strategic danger lies in the U.S. selectively providing exemptions to its firms. This will create conditions where U.S. MNEs capture a higher share of returns from global services trade, benefiting at the expense of Indian and other emerging country firms and workers. Policy responses must account for this strategic dimension.

This working paper is organized as follows. Section II contrasts India's competitive edge based on its vast talent pool and cost advantage with the U.S.'s structural human resource constraints, underlining that offshoring services are an economic necessity. Sections III and IV address the practical obstacles, examining the implementation challenges of the HIRE Act due to complex value chains and detailing various novel enforcement approaches (e.g., Robot Tax) for taxing intangible services. Section V critically shifts the focus from short-term transactional issues to a more strategic consideration, arguing that the HIRE Act and visa hikes are not mere protectionism, but part of a longer-term U.S. playbook that intends to use coercive measures ("sticks") and conditional exemptions ("carrots") to grant competitive advantages to large U.S. firms and maximize economic returns from global service value chains. Finally, Section VI offers policy recommendations for India, urging strong bilateral trade commitments and transformation of service delivery models to counter this global protectionist trend.

Immediate Economic and Competitive Implication of recent US policies

India's Competitive Edge: Necessity vs. Arbitrage

Outsourcing to India is a structural necessity for U.S. firms, not simply a cost arbitrage choice. This is rooted in a fundamental U.S. talent shortage. US labour statistics confirms consistent difficulty filling specialized roles, with the hires-to-openings ratio below 1.0 in key sectors. Accelerating growth projected for U.S. STEM occupations further deepens this domestic supply constraint with a relatively smaller number of US citizens pursuing STEM disciplines

The Indian talent pool serves as the primary external supplier of STEM talent, alleviating these critical U.S. shortages. The U.S. economy's dependence is highlighted by the high proportion of Indian immigrants holding advanced degrees. This necessity is combined with a massive cost and scale advantage, as substantial wage differentials persist. Entry-level Indian engineers earn less than one-tenth of their U.S. counterparts. Given this structural dependency, economies of scale, and India's entrenched global position, Indian operations are anticipated to be well-positioned to manage the fallout from the proposed HIRE Act tariff.

Expected Outcome on Services Exports

The proposed 25% tariff on foreign-supplied services imposes an additional cost. For lower-skill, automatable services, firms will likely manage this cost through headcount reduction and the accelerated adoption of AI, simply expediting existing automation trends.

Outcomes are more complex for mid-to-high skill roles due to India's entrenched competitive advantage, built on an unparalleled scale of talent and the economies of scale from clustered GCCs. Because the U.S. lacks the necessary talent pool, most of these skilled jobs are unlikely to move back to the U.S.

Overall, the tariff is expected to increase the cost of services inputs in the U.S. economy, negatively impacting U.S. competitiveness. While costs will likely be passed on, Indian operations may face downward pressure on profitability and wages. This pressure is worsened by H1B restrictions, which increase the domestic supply of skilled workers in India. The policy appears to be a poor choice for U.S. long-term competitiveness and will face serious enforcement challenges.

Enforcement Challenges for border measures in services

Enforcing the proposed HIRE Act poses a significant administrative challenge because services lack the tangible form of goods and involve complex global value chains. Tax authorities face difficulty establishing jurisdiction and accurately attributing value to service components, especially when services are delivered as hybrid bundles with physical products (e.g., smart devices with data analytics subscriptions).

Establishing the value of offshore-performed services is further complicated by the ability of Multinational Enterprises (MNEs) to manipulate intra-firm transactions using transfer pricing to depress the recorded value. Given the lack of historical precedent for taxing intangible services, enforcement requires complex, resource-intensive firm-level assessments.

The danger is that, unlike the standardized models for goods, countries will adopt a variety of simpler, easier-to-enforce frameworks for taxing intangible services. Potential models include:

- House Blueprint (2016): A border adjustment system denying deductions for all imported inputs.
- H1B Visa Fee Hike: Functions as an easily implemented tax on on-site service delivery.
- "Robot Tax" (Virtual Payroll Tax): Linking imported service value to domestic "job equivalents" to compensate for lost payroll revenue.
- Productivity-based Minimum Alternative Tax: Taxing firms based on the gap between expected and actual U.S.-based employees ("notional employment outsourced").

This divergence in enforcement models will increase the cost and complexity of compliance for firms globally.

Strategic Intent: Advantage for U.S. Firms

The authors argue that the HIRE Act and H1B visa hike are not merely "knee-jerk protectionist reactions" but part of a cohesive strategy by the U.S. to capture a higher share of the value-added in global services and strengthen its firms' long-term competitiveness. The US playbook will most likely involve using these measures as "sticks" (coercive measures) with conditional exemptions as "carrots" (incentives) in manner that advantages large US firms over others. The exemption conditions will be focus on firms meeting two specific conditions.

1. Shift the epicentre of their taxable income into U.S. jurisdiction to help increase US revenues
2. Have a relatively high share of their payroll and other expenditures within the U.S.

Both of these conditions are much easier to achieve for large US MNEs. This strategy aims to achieve several outcomes:

- Tax and Revenue: Limit the loss of revenue from MNE use of tax havens, effectively achieving the objectives of OECD BEPS without international cooperation.
- Domestic Employment: Incentivize the employment of local U.S. human resources, especially for high-skilled, high-paid positions.
- Competitive Advantage: The exemptions would favour large, established U.S. MNEs over foreign firms and start-ups. U.S. firms, which already have significant domestic payrolls, could leverage the exemptions to continue using global talent pools (including offshore and Mode 4 workers) while their foreign competitors would be disadvantaged by the full extent of the tax burden as it would be extremely difficult for them to either operationally shift their tax nexus and significant proportion of workforce (therefore share of payroll) to the US.
- Negotiating Power: Such policies would reduce the negotiating power of foreign skilled workers employers would using the tax/fee burden as a pretext to negotiate lower wages, thereby increasing the returns to capital for U.S. firms.

The authors contend that this combination of policies is an attempt at full-spectrum dominance of global value chains in critical technology and service sectors like AI, advanced data analytics, and digital innovation.

Policy Considerations for India

Given India's significant stake in global services trade, policymakers must evolve strategies to mitigate these challenges.

Actively Seek Bilateral Solutions

India should prioritize negotiating comprehensive Mode 1 binding commitments in all future major Free Trade Agreements (FTAs), particularly with economies like the EU. Bilateral frameworks offer better leverage for India to trade its protected goods markets for binding market access commitments in services, allowing it to respond to violations with retaliation in areas of interest to its trade partners

Working with Like-Minded Countries

India, in collaboration with other developing countries, can pursue multilateral remedies under the WTO, as the HIRE Act is a clear violation of U.S. GATS commitments, specifically the National Treatment principle (Article XVII).

Transforming the Indian Services Delivery Ecosystem

Indian firms should move away from a pure manpower-oriented technical support model and begin 'productizing' their aggregate technical expertise. This involves converting generic expertise into a branded 'expertise as an application' or a 'Digital solution as a Service' model. This productization would allow Indian firms to capture a larger share of the value chain and make it more difficult to characterize their exports as 'outsourcing' that can be easily taxed, as advanced economies would be reluctant to tax digital products which their own MNEs also export.

Reducing Dependency on Limited Markets

Indian services exports are overly dependent on the U.S. and, to some extent, the EU and UK markets. Indian firms must diversify their market exposure by expanding their footprint in regions like the EU, which offers a more stable regulatory environment and is keen to attract Indian talent, and in advanced Asian economies like Japan and South Korea. These markets, despite cultural and linguistic barriers, are demographically stressed and require high-skilled services, offering new high-value opportunities and acting as a stabilizing anchor against U.S. unilateralism.

Section I. Introduction

Services will not remain immune to the rising trend of protectionism

The rules-based global trading system, established in the mid-1990s and underpinned by the WTO Agreements, is facing an existential crisis. While current US actions are often blamed for undermining this system, the underlying instability is also rooted in fundamental political-economic developments of the last two decades.

While this instability has primarily hit merchandise trade, mostly through tariffs and export controls, trade in services, particularly offshore performance of services, has remained largely open and free from protectionist measures. But as argued by Banerjee et al (2025), one cannot take the existing openness of trade regimes in services for granted. The anti-globalization and sentiments pushing back against liberal trade regimes will inevitably extend to trade in services.

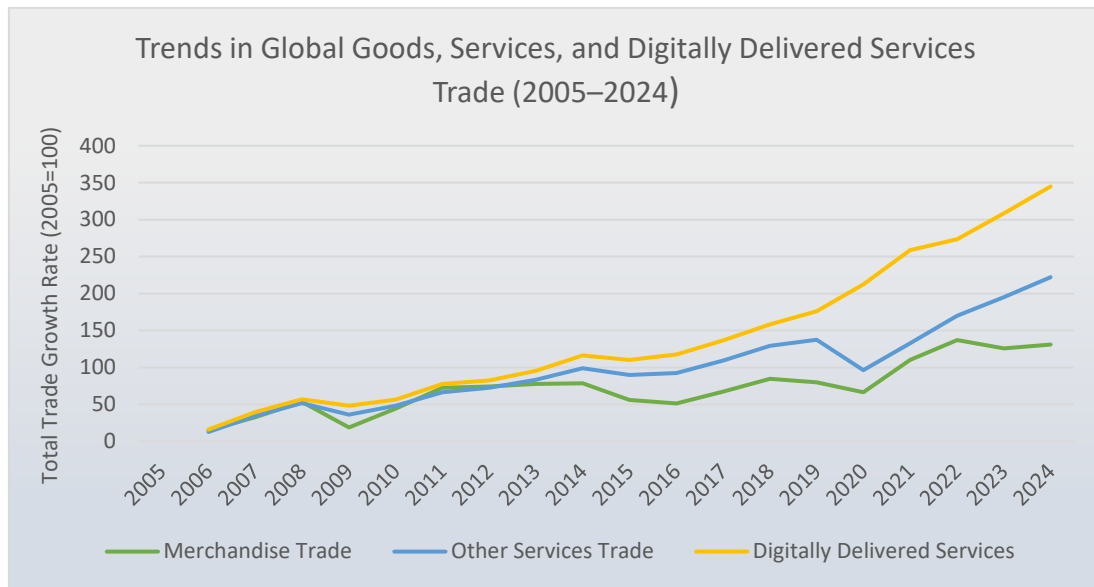
It needs to be noted that this openness of services trade regimes is not uniform. While offshore performance of services (e.g., work done in global capability centres or GCCs in India to support a MNCs global operations) faces very few trade barriers, other modes, such as export of service through commercial presence (e.g., services provided by foreign bank affiliates) and the temporary movement of foreign professionals to deliver services (i.e., visa regimes governing temporary foreign workers), have always been subject to significant restrictions.

Offshore performance of services, especially those services that are digitally delivered (DDS), are the fastest-growing component of global trade (see figure 1 below). Technology now enables remote, real-time performance of many highly skilled services (healthcare, finance, professional services). This rapid growth means increased competition between highly skilled workers in developed countries and their counterparts in developing countries (Banerjee et al., 2025)². This competition is generating political-economic pressure for measures aimed at protecting white-collar workers in developed nations from the competitive challenge of their developing country peers.

Such pressures will lead to new trade barriers, including tariffs and discriminatory taxes imposed on offshore performance of services. One can also expect more restrictive visa regimes governing the temporary movement of professionals. It needs to be noted that on-site foreign workers often complement offshore service performance. While a bulk of the work might be done by workers offshore, on-site support at the client location (i.e., service consumer) is provided by temporary foreign workers employed or affiliated with the firm providing offshore services to that client.

² Banerjee, P, Vartul, Mandal. S, Dua. D (2025), "Negotiating for Digitally Delivered Services- Framework for a Comprehensive Approach", Working Paper No. 82, Centre for WTO Studies, Centre for Research in International Trade, Indian Institute of Foreign Trade, New Delhi.

Figure 1: DDS is growing faster than all other components of global trade



Source: WTO Stats; Note: The base year of the growth rates is 2005 (2005=100).

Digitally delivered services (DDS) trade has expanded significantly faster than both merchandise and other services trade, highlighting the accelerating digitalization of global commerce.

The first concrete examples of these protectionist trends have emerged in the US, raising significant concern for countries like India, that have benefitted significantly from the rapid growth of services exports. These measures include the proposed HIRE Act (2025) that recommends a 25% excise tax on outsourcing payments made by a US company to a foreign person or firm for work benefiting US consumers. This is a radical development since the proposed measure is explicitly designed to impose tariffs on foreign supply of services, deviating from the long-standing tradition of not subjecting services trade to discriminatory tariffs or taxes at the border.

While the HIRE Act is the first explicit attempt to impose tariff barriers specifically on offshore performance of services, it is not the first discriminatory tax measure for services considered by US lawmakers. The House Blueprint proposal of 2016 also included provisions that would have imposed discriminatory taxes on foreign supply of services into the US. This proposal is discussed in detail in Section V.

The H1B Visa Fee Hike complements the HIRE Act. A significant increase visa processing fees for H1B visas (to \$100k) is an effective tariff. By substantially raising the transaction cost of employing a foreign professional, the measure aims to make the supply of services by foreign visa holder more expensive. The HIRE Act violates existing US binding commitments under GATS. Both the HIRE Act and the visa fee hike raise concerns about adherence to global trade rules and risk creating new discriminatory measures against services trade, which traditionally has not been subjected to such protectionism.

Delivery of services through commercial presence, i.e., actual presence of the foreign service providing firm in the service consuming country is largely dominated by multinational enterprises (MNEs) from developed countries. These include globally dominant firms in banking and financial services, transport and logistics, retail, and hospitality among others.

However, emerging country services exports have relatively benefitted much more from offshore performance of services or the movement of their workers to deliver services in global markets. As mentioned earlier, in many cases the offshore component of service performance has to be complemented by a temporary foreign worker at the client site providing support for the overall services delivery to the client (for a detailed explanation of this so-called Global Delivery Model or GDM, refer to Banerjee et al. 2025³). Thus, the possibility of trade barriers impeding offshore performance of services and movement of temporary workers to deliver services will disproportionately impact successful emerging country services exporters like India, Philippines, and Malaysia.

Economic Implications of the HIRE Act and Possible Impact on India

A discriminatory tax on services imported into the United States like the proposed 25% excise tax on outsourcing payments is essentially a tariff. Like any import tariff, it imposes an additional cost on foreign-supplied services, and its impact would not be uniform across the global services landscape.

Effects on Lower-Skill and Automatable Services

In certain cases, services firms would likely attempt to manage the additional 25% cost through cost rationalization and increased productivity. This would involve:

- Reducing headcount through workforce consolidation.
- Accelerating the incorporation of productivity-enhancing technologies, such as Artificial Intelligence (AI).

This outcome is most probable for occupational specializations and tasks already under competitive threat from automation and AI-integrated workflow improvements. A tariff on offshore services would simply expedite these existing trends of worker retrenchment.

Effects on Mid-to-High Skill Services and India's Advantage

For mid-to-high skill intensive occupational specializations, the outcomes are more complex. This complexity is a function of India's entrenched competitive advantage in the more skill intensive occupational or tasks specializations.

- Sheer Scale of Talent: India offers an unparalleled absolute scale of talent for these specialized niches.

³ Banerjee, P, Vartul, Mandal. S, Dua. D (2025), "Negotiating for Digitally Delivered Services- Framework for a Comprehensive Approach", Working Paper No. 82, Centre for WTO Studies, Centre for Research in International Trade, Indian Institute of Foreign Trade, New Delhi.

- Economies of Scale and Network Effects: The presence of Global Capability Centres (GCCs) which service the global operations of several of the world's top multinational firms creates massive economies of scale. These benefits are further amplified by the network economies of these GCCs being clustered around major Indian cities (such as Bengaluru, Hyderabad, and Chennai).
- Talent Pipeline Deficiency in the US: The United States currently lacks the talent pool to rival India's economies of scale and is not expected to build such a human resource pipeline in the medium term. Furthermore, technology shocks like AI are predicted to increase the demand for this higher-skilled talent pool, further solidifying the cost and scale advantages of Indian operations. The subsequent sections will examine these trends in greater detail.

In short, it is unlikely that most of these services, and the jobs associated with them, would move out of India to the US due to tariffs given the underlying fundamentals of economies of scale of existing operations in India and competitively priced supply of talent (i.e., skilled workers).

The overall macroeconomic Outcome

Barring some low-end, easily automatable services, the primary result of a 25% tariff is expected to be an increase in the overall cost of services inputs used throughout the US economy. This higher input cost would ultimately negatively impact the overall competitiveness of both US manufacturing and services sectors.

While the tariff is likely to be passed on, Indian operations may be expected to bear some of the cost, putting downward pressure on profitability of India based services operations and wages in India. This downward pressure on wages might be exacerbated by increasing restrictions on the temporary movement of service professionals (Mode 4), such as through programs like the H1B visa. Lower numbers of Indian skilled workers abroad would increase the supply of such workers in India, depressing wages.

The specific design of the HIRE Act (e.g., potential conditions for tariff exemptions) could also alter the competitive landscape between large Indian firms and US multinational corporations operating their own GCCs in India. The underlying goal of the tariff might also be to incentivize greater investment in US operations and ensure global firms repatriate revenue and shift their operational epicentre back to the US.

The Enforcement Challenge

Economic considerations aside, implementing the provisions of the HIRE Act will be challenging administratively. Unlike goods, services do not 'cross borders' in a tangible form. Global value-chains in services are complicated and often include multi-location performance of services and value-addition. This makes administering border measures on services extremely difficult. With regulators would have to depend entirely on firm level transaction data with all its associated challenges of verifiability and provenance.

Against this backdrop, this working paper is organized as follows. Section II puts India’s competitive edge in terms of its talent pool in perspective. It also highlights the human resource supply constraints in the US. It also discusses the overall cost advantage of Indian operations vis-à-vis the US. Section III takes up the implementation challenges for the measures suggested in the HIRE Act. Section IV provides a detailed discussion on the possible enforcement approaches that US (and other countries) are likely adopt to tax or tariff foreign supply of services. Section V puts these policy developments in strategic perspective and considers that potential use of these policies in a manner that enables the US to create an advantage for its firms and maximize returns to the US economy from the global services value-chain. Section VI concludes this paper with some policy recommendations.

Section II: Scale of Talent Pool and India’s Competitive Edge

US domestic supply of skills is inadequate in meeting the needs of industry

While the popular narrative among sections of US lawmakers and policy experts is that offshoring of services from US to India is largely due to wage and cost differentials, this is not representative of the full commercial and operational reality.

Even a cursory examination of the supply and demand of talent relevant for offshored professional, technical and business services show that U.S. firms will struggle to sustain large operations relying solely on domestic US talent pool. Thus, any substantive re-shoring of these services to the US is operationally constrained by shortage of available US workers with relevant skills.

Figure 2: Hires-to-Openings Ratio in U.S. Information Sector (2015–2024)

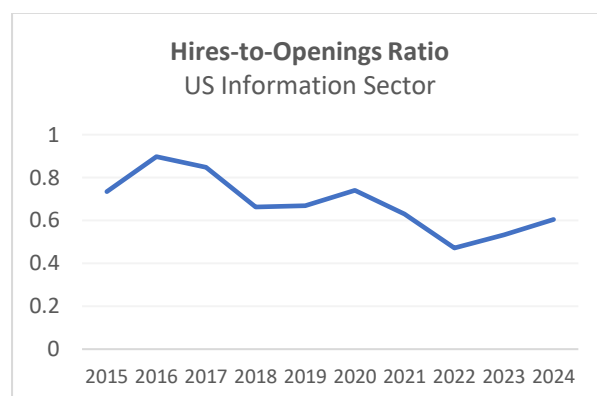


Figure 3: Hires-to-Openings Ratio in U.S. Professional and Business Services (2015–2024)



Data Source: JOLTS, US Bureau of Labour Statistics

There is unambiguous evidence of the difficulty in meeting employer demand for specialized skills in the US.⁴ As shown in Figure 2, the Information sector has consistently recorded a hires-to-openings ratio below 1.0 over the past decade. Even at its peak in 2016, the ratio was just under 0.9, and it fell sharply during 2021–22, bottoming out at around 0.45. Although 2023–24 saw a modest rebound, the sector continues to struggle with filling specialized positions in areas such as software development, data processing, and telecommunications. This reflects both a shortage of highly trained workers and a misalignment between the skills demanded and the skills available in the domestic labour force.

Figure 3 highlights a similar dynamic in the Professional and Business Services sector, which includes IT consulting, engineering, scientific research, and business support functions. While this sector historically performed better at filling vacancies, the ratio has trended downward since 2017. By 2022, it had fallen to about 0.5, showing that despite large numbers of hires, turnover and persistent demand leave many positions unfilled. This constant turnover is especially strong in advanced STEM jobs, where companies find it hard to keep skilled workers long enough to meet their needs.

Accelerating Demand for STEM Occupations

The hiring gaps evident in JOLTS data are reinforced by long-term labour market forecasts. The 2023 US National Employment Matrix projects rapid growth in several STEM occupations between 2023 and 2033. The fastest-growing roles include information security analysts (+32.7%), actuaries (+21.8%), and computer and information systems managers (+17.4%). Other high-growth occupations include statisticians (+11.8%), mechanical engineers (+11%), and chemical engineers (+9.8%).

Even fields outside core IT such as environmental scientists, physicists, and chemists are projected to grow faster than the average for all occupations. Overall, the data shows that demand for highly skilled technical workers will rise sharply in the next decade, and with JOLTS already showing more openings than hires, the U.S. is likely to face an even larger skills gap⁵.

Educational Attainment and Domestic Supply Constraints

In 2024, according to the U.S. Census Bureau, 40.1% of women and 37.1% of men aged 25 and older held a bachelor's degree or higher.⁶ This marks a steady improvement compared with previous decades. However, the aggregate figure conceals important imbalances. A large share of these degrees, about 80% as per figures from 2023, are in non-technical disciplines, while

⁴ The Bureau of Labor Statistics (BLS) Job Openings and Labor Turnover Survey (JOLTS) provides a hires-to-openings ratio that measures how effectively industries convert vacancies into filled positions. A ratio below 1.0 indicates that many job openings remain unfilled.

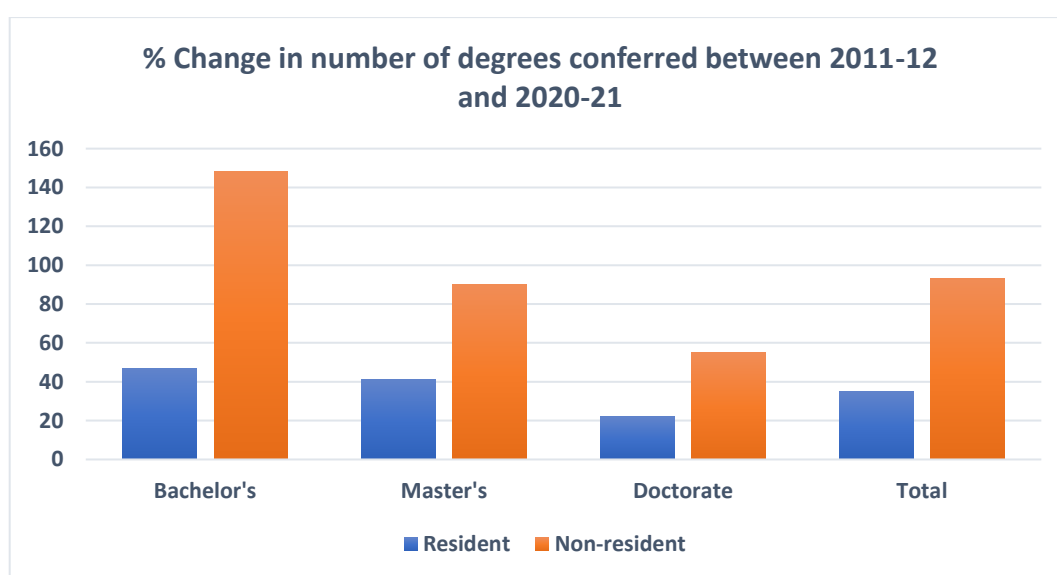
⁵ This section draws in part on a note prepared by Saptarshee Mandal, Young Professional at the Centre for WTO Studies, whose contribution is gratefully acknowledged.

⁶ <https://www.census.gov/newsroom/press-releases/2025/educational-attainment-data.html>

the occupations with the strongest growth projections are overwhelmingly concentrated in STEM.⁷

STEM jobs are projected to grow 8% in the next decade, but U.S. residents are not pursuing STEM degrees at the same pace as international students⁸. Figure 4 shows that between 2011-2021, STEM bachelor's degrees among non-U.S. residents rose by 148% versus 47% among U.S. residents, with nearly half of STEM master's graduates being non-residents. This further emphasises the fact that the supply of U.S. domestic STEM graduates has not kept pace with the accelerating demand for advanced skills in information technology, data science, engineering, and analytics. Moreover, STEM careers often require not only formal education but also specialized, practical experience, which takes years to build. Out of the 24 broader job profiles listed under the STEM occupational group by US Labour Bureau, 20 require a minimum educational attainment of a bachelor's degree in a STEM subject.⁹ These talent pipeline related 'bottlenecks' mean that even with rising education levels, the U.S. labour market is struggling to supply the specific types of talent most in demand, and this imbalance between supply and demand of talent will only exacerbate over time.

Figure 4: STEM Degrees conferred by U.S. Institutions by level of degree.



For decades, India has served as the primary external supplier of STEM talent to U.S. firms, particularly in IT and software services. With most of India's IT exports directed to the U.S., the two economies are deeply interlinked in the IT service value-chain. India produces a large

⁷ <https://cset.georgetown.edu/article/the-global-distribution-of-stem-graduates-which-countries-lead-the-way/#:~:text=Moreover%2C%20just%2020%20percent%20of,behind%20both%20Mexico%20and%20France.>

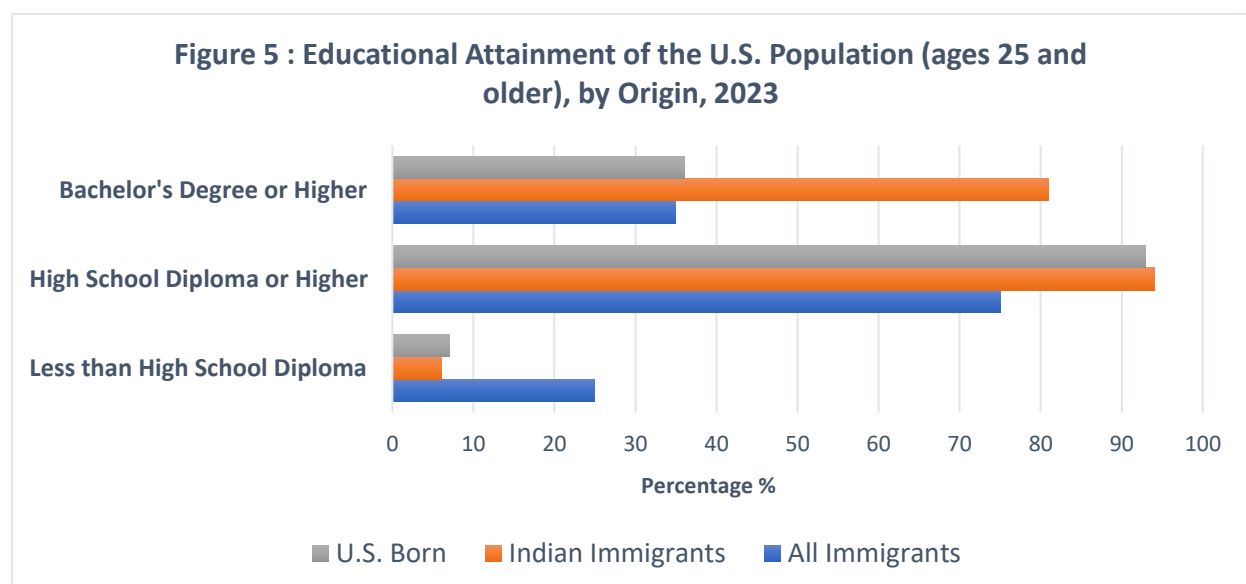
⁸ <https://www.bls.gov/emp/tables/stem-employment.htm>

⁹ As per the US Labour Bureau's classification of STEM job profiles there are 105 job specific roles under STEM subjects.

pool of engineers, computer scientists, and technical professionals every year, many of whom are deployed either onsite in the U.S. or offshore through outsourcing arrangements. This workforce has not only provided cost efficiency but also alleviated critical hiring shortages in the U.S. labour market. The persistent hires-to-openings gap in Information and Professional Services, coupled with projections of accelerating STEM demand, illustrates that access to India's skilled labour is not a matter of choice, it is a structural necessity for U.S. firms.

Figure 5, below, demonstrates why Indian talent (both onsite in the U.S. and offshore in India) has been so critical: it fills the shortage of STEM-capable graduates that the U.S. alone cannot supply. The data shows that while overall U.S. educational attainment has improved, Indian immigrants are far more likely to hold advanced degrees (81% hold at least a bachelor's degree vs just 36% of U.S.-born.), especially in STEM-related fields. This highlights the structural dependence of the U.S. economy on Indian talent.

Moreover, Indian-origin households in the U.S. earn the highest median income around \$138K which is almost twice the national median of \$69.7K¹⁰ hence reflecting their strong presence in high-paying fields like technology, engineering, and healthcare. This clearly underlines that a large proportion of Indian-born workers are employed in jobs that pay well above the average. In other words, Indian born workers are typically employed in roles that require advanced skill sets. Combined with persistent domestic shortages reflected in JOLTS data, the evidence suggests that outsourcing to India is not merely a matter of cost arbitrage but a necessity for filling critical skill gaps.



Source: US based Migration Policy Institute & MPI tabulation of data from the U.S. Census Bureau 2023 ACS.

¹⁰ As reported by India in Pixels by Ashris and the Pew Research Center (a U.S.-based think tank). See Pew Research Center, "Asian Americans: Indians in the U.S.," 2023, available at: <https://www.pewresearch.org/race-and-ethnicity/fact-sheet/asian-americans-indians-in-the-u-s/>

The proposed HIRE Act's 25% tax on offshore services risks undermining this balance. By making offshore service performance significantly more expensive, the Act could force U.S. firms to choose between leaving positions unfilled or paying substantially higher costs for scarce domestic labour. In sectors like information security, data management, and advanced engineering, where the talent pool is already stretched thin, this would slow innovation, raise costs, and weaken US competitiveness.

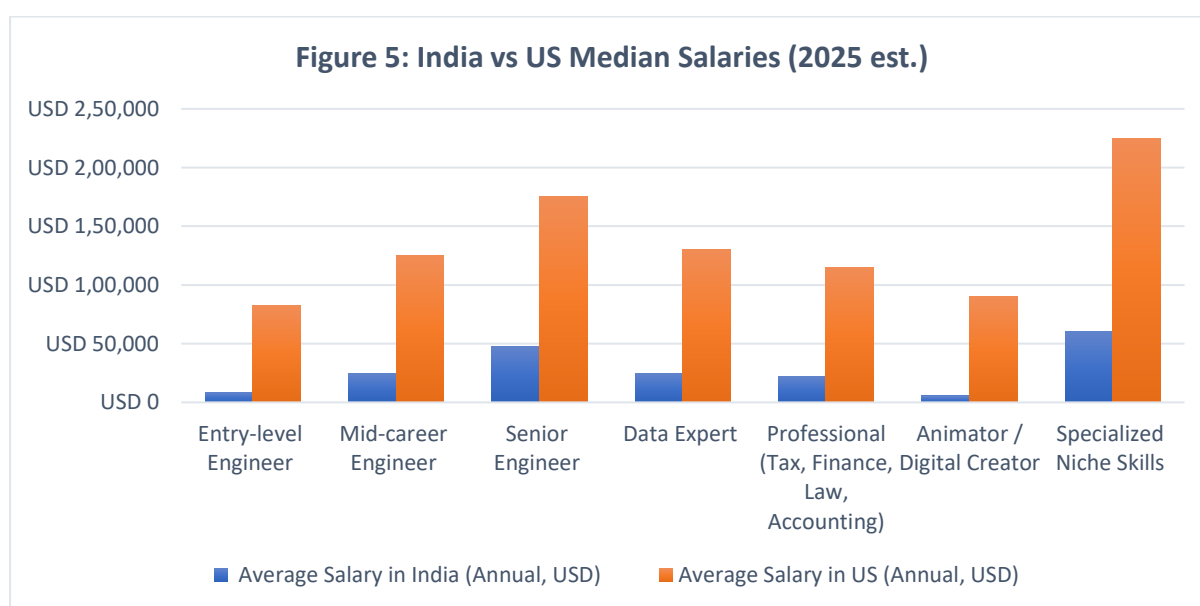
For India, the HIRE Act in combination with the H1B visa fee increase could potentially disrupt IT and STEM service exports, eroding profit margins and reducing employment in an industry that is central to its economic growth. The outcome of the act would hurt both sides as U.S. firms would be held back by unfilled jobs, while India's workforce would be pushed aside from contributing to global innovation. While the Act proposes to fund domestic training programs in the US through revenue generated from the proposed 25% tax, such initiatives take years to produce results and cannot address immediate gaps.

The evidence is clear from our analysis that the U.S. already struggles to hire enough STEM workers, and demand for highly skilled workers is projected to rise sharply. India's STEM workforce has long alleviated these shortages, sustaining U.S. competitiveness in knowledge-intensive industries.

The Indian Competitive Advantage due to cost and scale

The very basis of trade are differences in cost and productivity due to factor endowments and economies of scale. India is home to a cost-effective labour pool with a large and deep talent base. Outsourcing to India helps the US firms to keep their costs down and profit margin up.

In order to illustrate the scale of labor cost arbitrage and the persistent wage gap between India and the U.S., and thus underscoring why US firms continue to outsource and establish GCCs in India, we examine median salaries across a set of representative occupational categories that capture both mainstream and specialized talent pools.



Source: Author's own calculations using BLS, ILO, Labour Bureau, Glassdoor, PayScale etc.

The chart above provides clear evidence of the substantial wage differentials between India and the United States across key occupational categories. Entry-level engineers in India earn on average less than one-tenth of their U.S. counterparts, while even highly specialized skills such as AI research, quantitative finance, and chip design are compensated at only about one-third to one-fourth of U.S. wage levels. This striking disparity emphasises why U.S. firm may not avoid outsourcing even after the outsourcing tax.

What is changing today is that the outsourcing dividend, once concentrated among Indian IT service majors, is now being progressively redistributed. In the earlier model, U.S. firms outsourced work to Indian IT vendors, who managed large pools of junior engineers at relatively low salaries. But wage growth at the entry level has remained stagnant even as job requirements have become more specialized. As a result, even Indian IT firms have struggled to attract and retain young talent.

GCCs are stepping into this gap. By offering competitive pay, faster career progression, and greater exposure to global operations, they are increasingly absorbing the share of outsourcing that once flowed to Infosys, TCS, or Wipro. By employing Indian workers through GCCs, subsidiaries, or third-party service providers, companies are able to reduce operating costs by 60–80%¹¹, preserving profit margins in intensely competitive global markets. Relocating these functions back to the U.S. would mean higher wages, increased overhead, and squeezed margins, ultimately raising prices for consumers and lowering returns for shareholders.

Section III: The HIRE Act: Definitional Gaps and Potential Issues in Enforcement

The definition of services covered by the proposed HIRE Bill has not been clearly articulated. This ambiguity is particularly problematic in the current technological era, where the boundaries between goods and services are increasingly blurred due to the “Servicification of Manufacturing”. Many products today integrate both tangible components and embedded services. For example, consider a technologically advanced product such as a Tesla vehicle. Beyond being a physical good, it depends heavily on tech support for real-time data analytics, software updates, and network connectivity related services. Similarly, “smart” products ranging from home devices to industrial robots, often combine physical hardware with continuous service components such as cloud computing, remote monitoring, or artificial intelligence support.

In many cases industrial equipment including robots in many factories, warehouses, and other industrial facilities are remotely operated, or on-site physical operations are supplemented by remote support to increase operational productivity. Such ‘hybrid’ operational models that combine offsite and onsite services for industrial activity using human resources located offshore will increasingly become the norm in the future.

¹¹ <https://www.insigniaresource.com/research/outsourcing-to-india-statistics>

Without a precise definition of services in the HIRE Bill, it becomes unclear whether the services component of such integrated offerings, if performed outside the boundaries of the United States would be taxed under this bill. Box 1 below provides an example to illustrate the challenge of implementing HIRE Act with respect to such integrated services offering. This also raises the fundamental challenge of taxing different components of an integrated production framework performed within the same firm separately at different locations.

Box 1: SaaS with Embedded Hardware

Consider the case of a U.S. health-tech company selling a Wearable Device bundled with a subscription for health monitoring (like many real-world health-tech products do, e.g., Fitbit Premium, Apple Health, or digital health apps).

Components of the bundle:

1. Wearable Device (Good):

- Manufactured in Mexico and imported into the U.S.
- Subject to customs duty upon import as a physical good.

2. Health Data Analytics (Service):

- Raw data from the wearable is transmitted to servers physically located in Malaysia.
- However, the cloud infrastructure is owned and operated by a U.S. company
- Data analytics feeding the device is performed in India where analysts use licensed AI tools. The customized AI service provider is an Estonian firm registered in Ireland

3. Medical Consultation (Service):

- U.S.-licensed doctors provide advice through the app
- Clearly falls under U.S tax jurisdiction

The example in Box 1 raises multiple policy implementation related questions. The first question is related to tax jurisdiction. Should tax jurisdiction be determined by the location of the servers (Malaysia), the residence of the cloud provider (U.S.), location of the service provider (both India and the US), location of the AI tool (Ireland) or the location of the consumer (U.S.). While consumers will perceive this as a single package, tax authorities on the other hand would be forced either to break it down and tax each component separately based on geography, in turn creating risks of double or uneven taxation, or to treat it as one integrated supply, which then raises uncertainty about whether the analytics component should be included in the taxable base at all, or if so, what share of value can be attributed to it.

This leads us to the associated problem of taxation of value chains. While the outsourcing excise tax is triggered by direct payments from U.S. entities to foreign service providers, it fails to adequately capture complex value chains scenarios where services are routed through foreign subsidiaries or intermediaries.

For instance, consider a large U.S. IT conglomerate. A subsidiary in India undertakes tasks such as design, R&D, coding, and product development, and sells these services to its affiliate in a EU member state (for e.g., Ireland). At this stage, no U.S. outsourcing tax is triggered since the transaction occurs between two foreign affiliates of a US firm. The EU subsidiary, acting as an intermediary, then sells these services to the US parent. By using transfer pricing to set this intra-group sale at a very low value, the effective outsourcing tax liability in the U.S. can be reduced to a very insignificant amount.

There would be further complications for tax administrators attempt to tax such transactions. The activities undertaken the by the Indian subsidiary in the above example would often be supporting the global operations of the US firm, serving its customers globally. The nexus between the overall value of this intra-firm transaction and the share of that total value specific to US consumers will often be unclear, and subject to accounting assumptions of the firm. Regulators challenge of firm's assumptions would lead to tax related disputes and adjudication.

Further, linking production effort to final value of a product is complicated business in modern value-chains. It is even more complicated in the case of offshore services that often combine a range of technologies (including increasing use of AI agents), high-skilled labour, databases, and hardware to deliver the service to the client. Box 2 below discusses some of these tax jurisdiction related enforcement challenges in the context of the HIRE Act.

Box 2: How MNCs Minimize Global Taxes

MNEs deploy several techniques to reduce tax liabilities. A subsidiary in a high-tax country borrows money from an affiliate in a low-tax one, then pays high interest on the loan. These interest payments are a tax-deductible expense in the high-tax country, while the interest income is minimally taxed in the low-tax jurisdiction. Apple's Irish subsidiaries were accused of using a similar scheme by the European Commission, exploiting loopholes to become "stateless" for tax purposes and pay a negligible effective tax rate.

Another common strategy is transfer mispricing of goods and services involves manipulating the price of products sold between subsidiaries. A company might sell a product from a high-tax country to a subsidiary in a tax haven at an artificially low price. The tax haven subsidiary then sells the product at its true market value to another affiliate, booking all the profit in the tax haven where it faces little to no tax. This strategy, along with the use of shell companies and multi-location invoicing, exploits the ambiguity of the "arm's length" principle to legally minimize tax payments.

Further, MNEs use their captive Global Capability Centres (GCCs) to minimize taxes by manipulating transfer pricing. The core strategy involves setting the prices for services provided by the GCC to its parent company. While international tax law requires these prices to adhere to the "arm's length principle," as if they were between unrelated parties, MNEs have numerous ways by which they can minimize recorded value of transactions if there is a tax advantage in doing so.

The HIRE Bill does anticipate such practices and has included an explicit Anti-Abuse Clause that says Treasury must issue regulations to prevent avoidance through related parties, controlled foreign corporations, intermediaries, or transfer pricing arrangements. The challenge would be to frame effective rules on these issues that are practical and attuned to actual business practices and can therefore be effectively enforced.

It needs to be kept in mind that despite the best attempts of national governments worldwide, MNEs have effectively used tax-havens, multi-location invoicing, and loopholes in tax laws to use transfer pricing techniques that minimize their tax obligations. Enforcement is notoriously difficult and requires huge investment and commitment of regulatory resources. This problem was compounded by the growth of digital economy. The existing international tax rules were developed in the 20th century, based on the principle that a company's profits could only be taxed in a country where it had a physical presence.

This model became outdated in a digitalized economy where MNEs could conduct significant business activities in a country without a physical presence, or work through entities like captive offshore arms of the parent company, or their more modern avatar, the GCCs. Captive units or GCCs are considered 'expense centres' of the firm, not units generating profits.

The global response to such taxation challenges has evolved out of the Global Anti-Base Erosion (GloBE) Model Rules, also known as Pillar Two of the OECD/G20's Base Erosion and Profit Shifting (BEPS) project. The GloBE model rules provides for a coordinated system of rules that applies a "top-up tax" on MNEs' profits in any jurisdiction where their effective tax rate falls below 15%.

The core objective of the BEPS Project was to enhance global cooperation on international tax matters. This need for cooperation stemmed from the realization that unilateral actions by individual countries could not effectively address the tax avoidance strategies of multinational enterprises (MNEs). The wide membership of BEPS that included 140 countries is considered the key to ensuring that tax rules are applied consistently worldwide, closing the loopholes MNEs previously exploited by shifting profits to jurisdictions with little or no tax. Mandatory disclosure rules and the exchange of Country-by-Country Reports that are part of BEPS provisions have been framed to ensure very high levels of cooperation and transparency among tax administrations in different countries.

In light of this, it is interesting that the U.S. has pulled out of the OECD/G20 process. This raises questions about the true intent of U.S. measures like this HIRE Act. The US might tread an unilateral path that uses a system of incentives and coercion to bring MNE tax avoidance

strategies into line. An important tool towards achieving that might be to use laws like the HIRE Act or increase in visa fees as coercive measures, i.e., ‘sticks’. Exemptions from these measures can be used as an incentive, i.e., ‘carrots’.

MNEs that are seen to apply strategies for tax avoidance will be tariffed under HIRE Act and additionally have to shell out much higher visa fees for the foreign workers it employs in its US operations. MNEs that shift their taxation epicentre to the US on the other hand might receive exemptions from such tariffs, and also be allowed much lower visa fees. Such policies can have serious ramifications for Indian and other non-US businesses operating within the global services value-chain. This will be discussed in greater detail in section V.

Section IV. Tariff and Discriminatory Taxes on Services: Potential Enforcement Approaches

Application of tariffs or discriminatory taxes on services imports does not have much of a historical precedence. This is especially true of cross-border delivery of services performed in offshore locations. A substantive share of such cross-border delivery of services are through digital or electronic means, and there is no existing precedence for a border tariff or even a discriminatory tax on such services.

It needs to be noted here that the WTO moratorium on customs duties on electronic transmissions, popularly known as the moratorium on e-commerce, has been in place since 1998¹². While the debate around on what the moratorium covers, i.e., whether it covers only goods or extends to services, and what types of goods it covers has not been resolved, with different WTO members taking different views (Banerjee et al. 2025b)¹³, it has been largely assumed that the fact that the moratorium is in place means that digitally delivered goods and services would not be made subject to tariffs or discriminatory taxes by any WTO member.

This makes this policy-space associated with tariffs and discriminatory taxes on services, especially remotely performed services that are electronically or digitally delivered, a very new area for regulators globally. Lack of precedence and tried and tested means of enforcement means that governments would be experimenting with different approaches to figure out what works best. The measure of what is ‘best’ would be a combination of being fit for purpose in being able to identify and collect the revenues that governments had envisaged the policy for, and ease and efficiency of enforcement. Keeping this in mind, there is need for greater discussion around potential enforcement models. The choice of policy instrument used for imposing tariff or discriminatory tax will underline the nature of disruption to existing value-chains in services and the transaction costs it imposes on businesses. Choice of policy instruments will also define the ability of countries to find mitigating solutions bilaterally or

¹² The moratorium on customs duties for electronic transmissions, known as the e-commerce moratorium, has been in place since 1998. It was first established at the World Trade Organization's (WTO) Second Ministerial Conference and has been periodically extended at subsequent Ministerial Conferences. The Ministerial Conference decision also led to the Work Program on E-Commerce, or WPEC. WPEC was created to deliberate and create a comprehensive work programme that examines all trade-related issues arising from e-commerce.

¹³ Banerjee, P., Mukherjee, A., & Srishti, A. (2025, January). E-commerce in trade agreements: India's strategies and options (AWP244). Centre for WTO Studies.

through regional arrangements. The following discussion focuses on some of the probable enforcement models for applying tariff or discriminatory taxes, including what is being proposed under the HIRE Act.

The House Blueprint for Tax Reform Proposal of 2016

The House Blueprint Proposal (2016)¹⁴ sought to regulate U.S. taxation by converting the corporate income tax into a 20% cash flow–based indirect tax. It allowed full deductions for capital expenditure, labor costs (including social security contributions), and *domestically sourced* inputs, but denied deductions for *imported inputs* whether goods, services, or intellectual property. At the same time, all export revenues, including goods, services, and IPR, would be exempt from taxation.

Together, these measures effectively created a border adjustment system under which domestic production enjoyed tax relief while all imports faced a higher effective tax burden. Exports were zero-rated with all taxes, including taxes on inputs used for export production being remitted to the exporter.

Since the House Blueprint proposal sought to impose a higher tax burden on all imports covering both goods and services, it effectively meant imposition of a discriminatory tax on services imports into the US. In some ways therefore the House Blueprint proposal was a precursor to the proposed HIRE Act.

This framework would significantly alter trade dynamics. For goods, it would function as an additional protective tariff beyond existing customs duties. For services, the implications are more radical as currently imported and domestic services are treated equally under VAT/GST systems worldwide, with input tax credits available for both. Under the Blueprint proposal however, imported services are not allowed deduction, thus creating a clear disadvantage for foreign service providers.

The HIRE Act

The HIRE Act 2025 (Halting International Relocation of Employment Act), introduced by Senator Moreno on September 5, 2025, proposes a 25% non-deductible tax on outsourcing

¹⁴ The purpose of the Blueprint reform proposal was not to specifically impose taxes on services imports. It had a wider objective of overhauling the US tax system and address what US policymakers felt was lack of level playing field for US business vis-à-vis rest of the world due to lacunae in the US taxation structure. The United States does not have a national Value Added Tax (VAT). VAT systems allow countries to implement border adjustments, which zero-rate all domestic taxes on exports and impose taxes that are equivalent to domestic VAT rates on imports. It needs to be noted that this is WTO compliant and meets the test of National Treatment. US policymakers felt that this gives an undue advantage to foreign competitors since US does not have a VAT. To fix this the Blueprint proposed transitioning to a consumption-based tax approach. This would be classified as a more "indirect" tax, bringing the U.S. system into compliance with WTO rules and allowing it to implement its own border adjustments (for a more detailed discussion, see Lighthizer 2023, pg. 296).

payments made by U.S. companies or taxpayers to foreign workers whose services benefit U.S. consumers. The revenue raised will be used to fund domestic apprenticeship and workforce development programs. However, the bill's scope and enforcement remain uncertain, particularly whether it applies to existing contracts or only new ones, and whether payments to employees of U.S.-based subsidiaries are included. If applied broadly, the tax could disrupt global services trade and existing business models. If applied only to new businesses, it could create discriminatory outcomes and competitive imbalances, raising questions about the policy's sustainability.

The H1B Visa Fee Hike as an effective tax

The recent hike in H1B visa fees represents a significant shift in U.S. immigration and labour policy. The visa hike is being touted as a de facto Labour Market Test (LMT) by economically disincentivizing the hiring of lesser-skilled foreign workers who are preferred over US workers due to their lower salaries. In all fairness, H1B program has been criticized for its abuse of relatively lax requirements relying on minimal formal labour market scrutiny, relying instead on employer attestations rather than rigorous proof of domestic hiring challenges.

However, as has been pointed out in section II, the US suffers from genuine talent shortages. Persistent shortages in U.S. STEM talent, especially in IT and professional services, have made foreign talent primarily from India a structural necessity. Data from the JOLTS survey and employment projections detailed out in Section II underscore chronic hiring difficulties and accelerating demand for specialized skills.

The fee hike, alongside the proposed HIRE Act should therefore be viewed as a discriminatory tariff on both on-site and offshore service delivery, potentially harming U.S. commercial interests by restricting access to essential external talent. The increased fee would have the maximum impact on relatively lower paid entry-level positions, where the cost of the increased visa-fee would price foreign workers out of the market. For the more skilled and relatively highly paid categories, firms are expected to evolve a range of mitigation strategies. Some of these strategies include:

1. Substitution and automation (Entry-Level): Replace H1B workers with offshore staff and AI tools to reduce costs.
2. Increased operational productivity (Mid-Level): Reduce the overall number of US based workers in such roles by shifting tasks to India-based teams and invest in automation to increase productivity and reduce headcount.
3. Cost Sharing with Workers (Mid-level critical roles where intermittent on-site presence helps service delivery): Firms negotiate with workers to absorb part of the fee, supported by living cost subsidies. Workers agree since US exposure and increased earning opportunities in the future are important long-term career goals for individual employees

4. Cost sharing with clients (High-End Roles that require on-site presence of foreign worker): Negotiate shared costs for niche roles where U.S. talent is scarce, i.e., limited alternatives to the use of foreign talent

It is interesting to note that the first two mitigation strategies (nos. 1 and 2) recommend moving more of the work offshore rather than depending on foreign workers onshore. Such a strategy would be under threat of discriminatory taxes on offshore services from the proposed HIRE Act. It is for this reason that the H1B visa fee hike and the HIRE Act implications need to be seen in totality, and not in isolation. Besides there is a need to understand strategic as opposed to transactional impact of these policies. This is taken up in Section V.

The “Robot Tax”

Bill Gates floated an idea of taxing the companies that replace human workers with robots and automated systems, known as the “Robot Tax” in 2017¹⁵. The logic behind this is that when robots replace jobs, governments lose revenue from Income Taxes and other Social Security Contributions that human workers would have paid. Hence, such a Robot tax would compensate for this loss of revenue as Robots become increasingly ubiquitous in society. Banerjee et al. (2025a) have argued that the concept of a “robot tax” could be extended to digitally delivered services where governments might link the value of service imports to job equivalents and levy additional taxes accordingly. For example, the U.S. could decide that importing \$350,000 worth of digital radiology services per year equals the work of one radiologist employed domestically. Once that equivalency is set based on agreed upon parameters, the government could then estimate how much tax revenue and social security contributions would have been collected from that radiologist if they were employed locally. The DDS-exporting firm, or the domestic company importing those services, might then be required to pay an equivalent amount in taxes. In essence, this creates a form of “virtual payroll tax” on foreign digital labour.

Hence, the US government could come up with discriminatory taxes like surcharges applied to companies that replace local jobs through automation *or* cross-border digital outsourcing, calculated to adjust for lost income and social security contributions and other such variations of the Robot Tax. This concept is simple and easy to implement and meets the intended purposes of both revenue collection and creating disincentives to use foreign supplied services.

Flat Tax Approach Based on Revenue–Expenditure Alignment

A third possible approach would be to impose a simple flat tax rate based on the ratio of revenue booking to expenditure booking across jurisdictions. This approach could be thought of as a variation of Controlled Foreign Corporation (CFC) rules, though it would be narrower in scope since it would apply only to fully owned subsidiaries.

A multinational US based firm can argue that its products and services are sold globally, not just in the United States. In such a case, the proportion of revenue booked in the U.S. (as a

¹⁵ This is why we should tax robots, World Economic Forum (WEF), February 17, 2023, available at <https://www.weforum.org/stories/2017/02/bill-gates-this-is-why-we-should-tax-robots/>

share of the company's global revenues) could be compared with the proportion of expenditures incurred in the U.S. (as a share of global expenditures). If there is a mismatch between the two proportions, the difference would serve as the basis for determining the taxable revenue attributable to the U.S. The underlying principle would be that if ratio of global to US expenditure of the firm is skewed towards expenditures outside the US, while US is the main source of revenue (i.e., sales), it provides a basis for establishing that foreign services inputs are being used to serve the needs of the US market.

While the basic principle of this enforcement mechanism might appear simple, regulators would have to delve deep into firm level transactions to make sense of expenditures incurred globally and compare with expenditures incurred in the US, and the elements of that expenditure. Firms will also be tempted to book inflated expenditures in the US to help improve their US versus global expenditure ratios, often only in notional terms. It will also create incentives for creating transactional layers. The firm will incur expenditure by paying a US third-party for services rendered, booking the expenditure in the US. The third-party in turn might offshore a bulk of its services in a manner that helps reduce the overall tax burden due to use of offshore services.

Productivity based Minimum Alternative Tax

The productivity-based minimum alternative tax seeks to tie a firm's tax liability directly to the relationship between its domestic employment and its revenue generation.

- Establishing a Baseline: Tax authorities would first calculate a baseline figure (X), representing the number of employees typically required to generate a given unit of revenue in a particular industry or sector. This figure serves as the benchmark for "expected" US employment given quantum of services sold and associated revenue generated in the US
- Measuring Actual Employment: The actual number of U.S.-based employees on the firm's payroll (Y) would then be identified.
- Calculating the Gap: The difference between the baseline (X) and actual employment (Y) would be calculated ($X - Y = Z$). This gap (Z) represents the "notional employment outsourced, either through offshoring, automation, or reliance on digitally delivered services.
- Tax Implication: The firm would then be taxed based on this notional outsourced employment, with a per-employee equivalent charge applied to Z. Once Z is established, tax authorities could impose a minimum charge per outsourced employee equivalent, creating a de facto "outsourcing tax."

For example, if the baseline suggested that a software firm should employ 1,000 people domestically but only 600 were actually on payroll, the gap of 400 would be treated as notional outsourced employees. The firm would then be taxed based on those 400 units of missing domestic employment. The advantage that policymakers would see in such a system would be ease of implementation. Data for output per employee are easy to establish using payroll and tax data already available with governments. Using economic literature to establish a

‘defensible and logical’ notional number of employees needed to produce a particular value of services sold in an economy would not be complicated either. Some leeway for firms to work with regulators to tweak numbers established for individual firms would need to be maintained for sake of fairness and transparency. But such ‘appeals for reappraisal’ of tax obligations are routine in case of all direct and indirect taxes and will not represent a departure from the current practices.

While lacking in precedence, there are multiple means by which governments can implement discriminatory taxes or tariffs on services imports. While there was a general feeling for many years that it is difficult to tax intangible services, especially digitally delivered services, the lead author of this paper has been consistently making the case that discriminatory tax barriers on services trade are imminent¹⁶. As countries increasingly disregard global trade rules, we can expect a proliferation of policy instruments that seek to implement such discriminatory taxes on services imports. Countries can adopt different approaches, further complicating life for global businesses. As can be seen in the discussion in this section, regulators might prioritize differently, leading to a plethora of systems that add to the cost and complication of managing global services value-chains, in addition to the costs these taxes impose. A proliferation of different approaches and choice of tax instruments in itself would then become a ‘barrier’ to services trade and globalization.

Section V : The US Playbook--Strategic use of Trade Barriers to Advantage US Firms longer term Competitiveness?

The US approach to tariff policy in goods under the second Trump administration since February of 2025 has been to not just discourage imports or address perceived lack of a level playing field in global trade, but to also actively create incentives for manufacturing to re-shore back to the US. The US has used both explicit conditional exemptions to tariffs, as well as implicit investment and sourcing commitments in its bilateral agreements with trade partners to achieve this goal.

An illustrative example of explicit exemptions is found in steel and auto and auto components related tariffs. The steel component included in the value of auto parts or components are conditionally exempted if used in the final manufacture of automobiles or their parts in the US. The policy objective here is to encourage the more value-added production of automobiles or their parts within the US.

An illustrative example of implicit commitments to re-shoring manufacturing to the US include commitments by South Korea to invest up to USD 500 billion in the US ship-building industry, where Korea itself is a major player and employer, in lieu of tariff concessions overall to its merchandise exports to the US.

It can be safe to assume that the US strategy would be similar in services. Therefore, any assumption that the HIRE Act or the decisions to increase visa fees for H1B applicants are knee-jerk protectionist reactions, and not strategies to capture higher share of the value-added

¹⁶ As an example see Banerjee, P (2018) H1B is not the only problem, Hindu Business Line, January 27, 2018 available at <https://www.thehindubusinessline.com/opinion/the-h1bs-not-the-only-problem/article9552117.ece>

in global services value-chains in the face of increasing global competition for the US in these sectors would be incorrect in the opinion of the authors of this working paper.

Looking at how events have unfolded in the third quarter of 2025, it is clear that the United States has been adopting a range of strategies that specifically target services trade. First, the offshoring tax proposed in the HIRE Act is intended to create an explicit tariff barrier on Mode 1 services imports by making it more expensive for firms to provide services remotely into the US market. Second, the increase in H1B visa fees would further add to the overall cost of service delivery since offshore performance of services (Mode 1) are often twinned with some level of on-site presence at client locations (Mode 4) within the US. Taken together, these measures are a deliberate attempt by the US to build barriers around the two modes that are used in combination to deliver services from offshore into the US market. The game plan here might be to use a range of policies, primarily exemptions to the proposed US measures, that tilt the competitive edge in favour of US firms.

Potential Policy Pathways to secure competitive edge for US firms and incentivize high-skilled employment generation in the US

If implemented, the HIRE Act will add costs for US businesses and firms that are users of offshore services. As we have already demonstrated in Section II, the dependence on offshore services is not simply a function of wage and cost differentials, US has genuine constraints on available human resources. In other words, this dependence is structural and cannot be wished away. US policymakers are well aware of these constraints.

But assume if exemptions to discriminatory taxes are granted to US firms that satisfy either or both of the following conditions:

1. Shift the epicentre of their taxable income into US jurisdiction instead of using tax havens or low tax countries like Ireland to book their income and profits
2. Have a specific relatively high share of their payroll expenditure (and concomitant taxes paid) and other expenditures within the US

Also consider that US policymakers could introduce a further limitation whereby only firms above a certain revenue threshold would qualify for such exemptions.

The overall impact of such a policy would be the following:

- a. US achieves the overall objectives of OECD BEPS of limiting loss of revenue due to use of tax havens by MNEs but without the need for co-operation with other countries, and without any commitment on its part to co-operate with rest of the world
- b. It ensures that income of MNEs from IPR and other intangibles, and associated profits in general flow into the US, increasing revenue streams that help it balance its budget better. It will also increase the official recorded flow of exports of services from the US, allowing US policymakers to claim a victory for trade policy.
- c. It creates a strong incentive for firms to employ local US human resources, especially the more highly paid positions so as to capture a required share of payroll expenditure in the US, leading to:

- i. Advantaging US firms over non-US firms since US firms, especially its IT, digital, financial, professional services and management consultancy giants since they already have significant numbers of employees in the US, thus making it easier for them to meet ‘minimum’ share of US expenditure in payroll. In other words, large US MNEs who can meet the exemption conditions can continue to offshore and even hire foreign talent for their US operations, leveraging global talent pools and build scale combining access to US markets with global supply of skilled labour.

On the other hand, foreign firms who would typically find it much more difficult to avail these exemption conditions will not be able to do the same. This would allow US MNEs to widen the gap with upstart foreign firms and startups outside US including in countries like India. Many developing country firms’ and startups were using low-cost innovation and more nimble adoption of technologies to close the gap with US MNEs in many core technologies and were increasingly seen as threats to US dominance in these areas.

- ii. Create incentives for locating more skilled highly paid jobs and activities related to innovation and product development in the US. This is likely to increase wages for high-skill jobs in the US. US policymakers hope that sharp increases in wages for mid to entry level jobs in STEM related occupations would incentivize more Americans from considering STEM careers and pursue STEM disciplines.
 - iii. Force even large non-US (foreign) firms to also consider moving some employment and significant parts of their overall value-chain to the US so as to meet exemption conditions. This would benefit the US economy and help furthering the outcomes outlined in preceding points i and ii.
- d. Reduce the negotiating power of foreign skilled workers and thus reduce their share of value-add in the value-chain of global services. Firms would be able to keep remunerations down to a certain extent using the discriminatory taxes as a pre-text. Firms would use their need to minimize the non-US share of payroll expenditures as an argument to negotiate lower wages from foreign workers engaged by them in their operations outside the US. In other words, force a discount on wages of highly skilled non-US workers in lieu of their being able to continue to economically benefit from opportunities in the world’s largest and most advanced market for their services. US based firms can then use the increased share of returns to capital due to such discounted wages to further invest in innovation and technology development, further deepening their market dominance over a longer period of time.
 - e. The minimum firm size requirement will potentially exclude several non-US firms, including many firms considered large by developing country standards from benefitting from these exemptions, helping increase the competitive gap between them and US majors. Since economies of scale due to access to US market is a critical element of growth and innovation adoption, this can create a genuine competitive

disadvantage for relatively smaller firms and especially start-ups in the short to medium term. In the longer term, increasingly larger and wealthier markets in large developing countries like India will compensate for this to a certain extent.

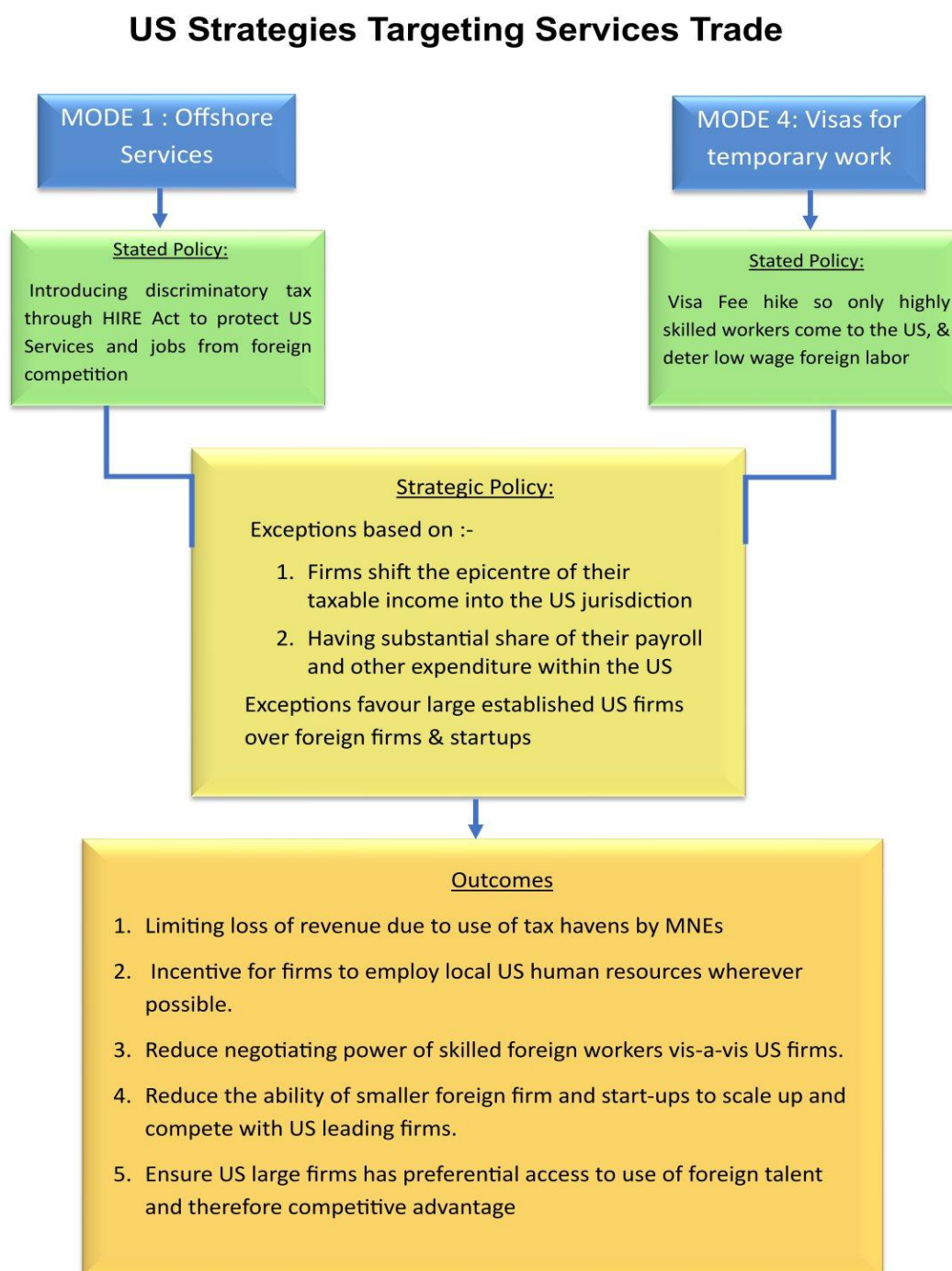
- f. The two exemption related conditions in combination with the minimum firm size (by revenue) would further ensure that large US firms are best able to utilize access to foreign talent pipeline, and most developing country firms including start-ups, and small and medium US firms do not get such an advantage. As demonstrated in Section II, since access to foreign born talent pipeline is critical to overall competitiveness, this will entrench existing advantages of large US firms and help manage their costs of innovation, all the while imposing relatively higher costs on their competitors.
- g. Exemption from the higher H1B fees would reduce the overall cost of services rendered for the eligible US firms, giving them an advantage over their developing country competitors.

Using the policy tools like HIRE Act and H1B visa fee increases the US might be seeking to strategically reset the competitiveness button in key sectors of service led innovation. Since many of these services, i.e., IT, quantum computing, advanced data analytics, AI, digital innovations like digital twins, automated industrial production, robotics, personalized medicine to name just a few, will be the key drivers of overall economic competitiveness, this is an important policy objective for the US. Firms that dominate these technologies and control the products and services associated with them will dominate value-chains in both goods and services. With the lines between goods and services getting blurred by the day, the combination of policies being considered by the US are attempts at full spectrum dominance of global value-chains. It might be that the US is willing to tolerate some short-term pain in terms of increases in cost of goods and services due to such tariff and tax policies in the pursuit of value-chain domination in the longer-run.

While none of these objectives have been publicly stated or discussed in policy forum, the lead authors discussions with some senior industry interlocutors have indicated that this line of thinking is well understood in business circles, as are its implications. The rise of Global Capability Centres in India is integral to this overall trend. The growth in GCCs are symptomatic of US firms need access to Indian talent pipeline to support them even in their core functions and leverage Indian talent for driving innovation.

Having been burned by past experiences in manufacturing, where reliance on third parties in developing countries led to the transfer of U.S. skills and know-how, ultimately creating competitors in places like China, U.S. majors are now more cautious about leveraging the Indian talent pool for services and innovation. GCCs are tightly controlled in-house operations that might limit, if not eliminate, the potential for rapid emulation, adoption and competition from local firms that grow on the back of know-how transferred from US firms to locals. Recent trends where Indian IT and services firms are directly competing with GCCs can be an underlying symptom of the dynamics discussed above. Please see Annex 3 for a brief discussion of these trends. Figure 6 below provides a diagrammatic summary of the discussion in this section.

Figure 6: US Game Plan: Strategic Reset of Competitiveness



Section VI. Conclusion: Policy Considerations and Recommendations

The recent developments in the US are the beginning of the long-march to protectionism in the coming decade. Demographic pressures and technological developments that put the increasingly ageing populations in wealthy economies in direct competition for employment

and livelihoods with the younger and larger populations in less wealthy emerging economies is generating severe political-economic backlash against open markets for global trade.

For India, open markets in services, especially the ability to provide high-end skilled services from India to markets in the US, EU and elsewhere has been an important part of its growth and development over the last three decades. Today, service account for X % of its total exports. Export oriented services provide employment to millions of white-collar workers in India and support several more indirect jobs. The Indian middle-class revolution that led to rapid growth its extended metropolitan centres in cities like Bengaluru, Delhi National Capital Region, Hyderabad, Mumbai, Chennai, and Pune was an extension of these rapid growth in services exports from India. India is demographically placed to take advantage of the exponential growth in services due to technological transformations currently underway globally. The absolute numbers of skilled workers it produces further underlines the Indian advantage.

This paper is an initial attempt to present the recent protectionist developments in the form of a cohesive strategy as opposed to knee-jerk protectionist measures by countries like the US, and underline that more such policies are likely possible in other advanced economies due the political economic pressures. Given the Indian stake in global services trade, it is important that Indian policymakers take these developments seriously and evolve strategies to deal with these challenges or find solutions that mitigate them. The rest of this concluding section provides some ideas towards such solutioning. But well considered policy reaction would require much more detailing and deliberation that includes Indian industry, skilled workers, and stakeholders outside India that are aligned to the idea of free and fair markets for services trade.

Seeking bilateral solutions: Binding commitments for cross-border services

India has managed to get strong binding commitments for cross-border (Mode 1) export of services across a wide range of sectors in its recent FTAs with EFTA member states and the United Kingdom. These binding commitments cover both market access and national treatment. India needs to prioritize negotiating comprehensive Mode 1 related binding commitments in all its future major FTAs, including with the EU and all other major economies.

Unlike in the case of multilateral GATs commitments, bilateral agreements that trade off India's rapidly rising (and relatively protected) markets in goods with binding market access commitments in services as part of a single undertaking, provides India much better leverage. Such leverage extends to India being able to respond to violation of commitments on services with retaliation in areas of interest to its trade partners.

As articulated by Banerjee et al. (2025a), bilateral frameworks can also provide a platform for more meaningful disciplines in areas of interest for services, especially digitally delivered services. Multiple forms of potential impediments to trade, whether through discriminatory taxes, fees (such as visa fees), or certification regimes for service quality or qualification of service professionals to name just a few, can be addressed through relevant disciplines.

Issues related to access and use of data, access to temporary worker visas and other relatively contentious issues could also find mitigation in FTA disciplines. This includes out of the box solutions that limit access and flexibilities to ‘trusted firms’ who qualify for such status based on a bilaterally agreed framework. Pre-empting protectionism in services through bilateral frameworks should be an Indian priority.

Working with like-minded countries to prevent the US from violation of global trade rules

The US HIRE Act is in violation of Article XVII (National Treatment) of the General Agreement on Trade in Services (GATS), as it directly targets and discriminates against non-US service suppliers, thereby distorting competitive neutrality. The determination of a GATS violation is based on four key requirements under Article XVII.

1. A 25% discriminatory tax on services consumed in the US but provided for by foreign entities. creates explicit (de jure) discrimination because it applies a direct and significant tax burden solely on transactions involving non-U.S. service suppliers, while the same services provided by domestic (U.S.) service suppliers are exempt from this new tax and remain tax-deductible. Such a tax that clearly discriminates between national and foreign suppliers are inconsistent with the non-discrimination principle of national treatment.
2. A further test of the effective impact of a measure violating the National Treatment principle is that of competitive neutrality. The core purpose of the National Treatment rule is to ensure "competitive neutrality," meaning that once a foreign service or supplier is in the market, it would not be made subject to internal taxes or regulations that modify the conditions of competition in favour of domestic rivals. The HIRE Act's punitive tax directly and intentionally undercuts the competitive advantage of using foreign suppliers, thereby tilting the playing field in favour of U.S. domestic suppliers.
3. Another conclusive test of violation of the National Treatment principle is that policies cannot render "treatment" that are "less favourable" to the foreign suppliers. By imposing an additional 25% excise tax on payments to foreign suppliers and simultaneously denying the tax deduction for that cost, the HIRE Act unquestionably results in less favourable treatment for non-U.S. service suppliers compared to domestic U.S. suppliers of services.
4. However, the principles of National Treatment as covered under Article XVII of the GATs will only apply to those services where the US has made a binding commitment on extending National Treatment to services imports from other WTO member states in its Schedule of Commitments under the GATS. Since the US has indeed made binding commitments for National Treatment (and offered Market Access) on most services sub-sectors of export interest to India and represent services that are typically offshored, these commitments therefore apply to them. Table A in the annex provides the relevant list. Besides Health services, Research and Development related services, and Services incidental to manufacturing, US has made binding commitments across all other major sectors associated with offshore performance and delivery.

Since the provisions of the HIRE Act satisfies conditions 1 through 4 listed above, US is clearly in violation of its GATS commitments. India, in collaboration with other developing countries that rely on services exports, can pursue multilateral remedies under the WTO by challenging the discriminatory nature of U.S. measures under Articles XVI and XVII of GATS.

While the above two recommendations are government led, but supported by industry inputs, the next two recommendations will largely have to be considered and led by industry. Government should consider any form of support that firms might need, whether taxation related policies, incentives, support for global market development and regulatory facilitation to help achieve these goals.

Transforming the Indian services delivery ecosystem

Indian services exports are typically provided as a form of input or technical support to operations of other firms. This aggregate level of technical expertise provided by Indian firms is project oriented or customized to integrate seamlessly into the client firms' operations. But they are not sold in the form of a product. Indian firms need to start 'productizing' this aggregate technical expertise it provides. The generic occupational and domain specific solutions can be converted into an application wherever possible, i.e., a product that integrates human effort with AI and data. Any customized version offered to specific clients will become bespoke versions of the same product. The continuous effort at the backend to ensure smooth operation of the application for the client can be considered to be a part of the overall product proposition.

It is essentially a transition from pure manpower oriented technical support to 'expertise as an application' model. This will also enable Indian firms develop unique branding around application-based solutions. This is not very different from the 'Software as a Services' or SaaS model used by global MNEs like SAP.

Such productization would allow Indian firms lock in larger shares of the value from the value-chain of high-end services, while also making it more difficult to characterize Indian service exports as 'outsourcing' that needs to be taxed. An Indian subsidiary based in US or EU can simply sell its product as an overall value-proposition.

A product like Enterprise Resource Planning (ERP) solution by a large MNE like SAP is treated as a software product, with its extended service proposition (continuous technical support, periodic upgrades and firm specific customization) being considered integral to the product. The same is true for some applications available on the market, for e.g., a supply-chain management application that runs generic versions on mobile (for MSMEs) that priced lower, and more customized mainframes versions (for large firms) that are priced much higher.

Advanced countries would be much more reluctant to tax such digital 'products' since many of their lead firms are also exporters of such products globally. A potential taxation 'race to the bottom' would be strongly lobbied against and resisted by MNEs in US and EU. This would be in stark contrast to any policy that focuses on 'offshore outsourcing' and grants an exemption to the US or EU MNEs based on friendly exemption conditions.

Reducing Dependency on a limited number of markets

Indian services exports continue to be overly dependent on US and to some extent EU and UK markets. The EU, with its comparatively more stable regulatory environment, offers a valuable counterweight to U.S. protectionism. By expanding their European footprint, Indian firms can position themselves within a market that is actively shaping global standards in data governance, digital trade, and services regulation. The EU is keen to attract Indian talent and work with Indian services firms to help improve EU competitiveness overall. Germany has been actively seeking high-skilled Indians and some German policymakers have publicly put on record their keenness to attract Indian talent.¹⁷ India is in active negotiations with the EU, and binding commitments in the EU-India FTA has the potential to incentivize growth of trade and help Indian firms further penetrate the EU market.

Beyond Europe, Japan and South Korea represent additional strategic frontiers for Indian firms seeking to diversify market exposure. Both economies are heavily investing in digital transformation, AI, and next-generation services, creating opportunities for Indian firms to integrate themselves into advanced service ecosystems. Both these markets are challenging for a number of reasons.

There are obvious language and culture related barriers. Indian services firms have typically done better in English speaking markets, or where English is widely used in the corporate or business context. But language barriers are increasingly less important as the focus in global services is shifting to more on advanced technical and analytical skills rather than simpler back-office functions. Also, AI based translations including real time speech support are breaking down language barriers.

The corporate culture in both these economies are also somewhat different compared to western markets. Large firms tend to do much more in-house in terms of their core services related operations. Even when there is outsourcing to third-parties, Japanese and Korean firms tend to trust their local companies with whom they have long-standing relations.

However, both these economies are demographically stressed and have shrinking talent pools. Their large firms would find the cost and productivity proposition of Indian services ecosystem impossible to ignore if they are to remain competitive in their own operations. Recent policy developments and statements by policymakers clearly underline shifting attitudes, especially in Japan. The Japanese government is now keenly pursuing Indian talent and investing in facilities to tap into services related capabilities in India¹⁸.

Indian firms in turn need to pursue opportunities more aggressively in these markets. The US and EU markets have provided both high returns and rapidly expanding opportunities for Indian firms. Indian firms therefore never seriously put significant effort in winning business in markets such as Japan or Korea.

¹⁷ Germany rolls out the welcome mat as US shuts door on Indian talent, Economic Times, September 24th, 2025

¹⁸ For example, see How Japan Is Betting Big on India Amid Global Shifts, Talent Crunch & Trade Risks, The Secretariat, August 2, 2025, and Japan steps up to attract Indian talent as H-1B visa hikes push Indian professionals away from US, September 30th, 2025, Business Today

Japanese and Korean markets would not only allow Indian firms to tap into new demand but also provide an alternative set of high-value markets less susceptible to the unilateral restrictions seen in the U.S. context. In this way, Japan and Korea can act as stabilizing anchors for Indian services exports, balancing out the risks associated with U.S. dependence to a certain extent. India might also need to revisit its FTAs with these countries, or seek bilateral frameworks outside of FTAs that help pre-empt protectionism in digitally delivered services (Banerjee et al. 2025a)

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Appendix

1. Projected employment growth for broader STEM job profiles

Table 1: Projected employment growth for broader STEM job profiles

STEM Jobs	Employment change, projected 2023-33 (percent)
Information security analysts	32.7
Actuaries	21.8
Epidemiologists	18.8
Computer and information systems managers	17.4
Computer network architects	13.4
Statisticians	11.8
Mechanical engineers	11
Chemical engineers	9.8
Chemists	7.6
Astronomers	7.4
Environmental scientists and specialists, including health	7.3
Soil and plant scientists	7.2
Physicists	7.2
Environmental science and protection technicians, including health	7
Microbiologists	6.7
Chemical technicians	5.5
Geoscientists, except hydrologists and geographers	5.5
Environmental science teachers, postsecondary	3.9
Geological technicians, except hydrologic technicians	3.8
Mathematicians	3.7
Physics teachers, postsecondary	3.7
Chemistry teachers, postsecondary	3.4
Hydrologists	2.8
Civil engineering technologists and technicians	1.8

Data Source: US Bureau of Labour Statistics

2. Median Salaries: India Vs U.S Comparison

CATEGORY	INDIA RANGE (USD)	INDIA AVG (USD)	US RANGE (USD)	US AVG (USD)
ENTRY-LEVEL ENGINEER	\$5,000 – \$12,000	\$8,500	\$70,000 – \$95,000	\$82,500
MID-CAREER ENGINEER	\$14,000 – \$35,000	\$24,500	\$100,000 – \$150,000	\$125,000
SENIOR ENGINEER	\$35,000 – \$60,000	\$47,500	\$150,000 – \$200,000	\$175,000
DATA EXPERT	\$13,000 – \$36,000	\$24,500	\$100,000 – \$160,000	\$130,000
PROFESSIONAL (TAX/FINANCE/LAW/ACCOUNTING)	\$8,000 – \$36,000	\$22,000	\$80,000 – \$150,000	\$115,000
ANIMATOR / DIGITAL CREATOR	\$2,500 – \$8,500	\$5,500	\$60,000 – \$120,000	\$90,000
SPECIALIZED NICHE SKILLS	\$40,000 – \$80,000	\$60,000	\$150,000 – \$300,000	\$225,000

3. GCCs and the Evolving Competitive Dynamics in India's IT Services Sector

India's IT services sector is undergoing a structural shift with the rapid expansion of these Global Capacity Centres (GCCs). According to RBI, India's software exports grew 12.7% in FY25 to \$180.6 bn, but listed IT services companies saw only 3.8% growth to \$69.6 bn. The gap stems from the rise of unlisted IT firms and GCCs. India now hosts about 1,700 GCCs (half the global share), employing the bulk of new tech talent~120,000 of 200,000 tech roles in FY25, growing 10-15% annually. GCCs attract talent with more specialized roles, while Indian IT firms struggle with stagnant pay and rising skill demands.

These centres, set up by multinationals, have displaced the earlier vendor-led outsourcing model that powered the rise of Indian IT majors. While cost arbitrage remains the key driver, the outsourcing dividend is no longer flowing to firms like major Indian IT Firms but is increasingly captured in-house by MNEs.

In the past, outsourcing contracts allowed Indian vendors to learn from global clients and gradually move up the value chain. GCCs, however, are tightly controlled extensions of their parent firms, designed to retain intellectual property and limit knowledge spillovers. Five years ago, most operated as cost centres doing transactional work. Today, they function as global innovation hubs, owning full product lifecycles in areas such as AI, cybersecurity, and data governance. For instance, nearly two-thirds of OpenText's global engineers are based in India, and close to 70 per cent of its R&D will soon be driven from here¹⁹.

A major reason for this shift is the stagnation of entry-level salaries in Indian IT firms. While demands for specialized skills have risen, compensation for junior engineers has barely kept pace, making such roles unattractive. GCCs have stepped in with better pay, career progression, and exposure to global innovation, thereby capturing top talent. In FY25 alone, out of 200,000 new tech jobs in India, around 120,000 were absorbed by GCCs.

The implications are significant. GCCs are now competing directly with Indian IT vendors not only for business but also for skilled labour. In effect, GCCs are reshaping India's services landscape consolidating the country's role as a global technology hub, but simultaneously eroding the dominance and growth prospects of its traditional IT services giants.

¹⁹ <https://economictimes.indiatimes.com/small-biz/security-tech/technology/opentext-to-drive-70-of-global-rd-from-india-as-gccs-shift-to-innovation-hubs/articleshow/124225210.cms?from=mdr>

4. United States GATS Commitments for Mode 1

United States GATS Commitments for Mode 1 (Offshore Performance)			
S.No	Sector Concerned	MARKET ACCESS	NATIONAL TREATMENT
1	Legal Consulting/Legal Support	YES	YES
2	Bookkeeping/Audit/Accounting	YES	YES
3	Taxation	YES	YES
4	Engineering	YES	YES
5	Architecture	YES	YES
6	Computer and Computer related services	YES	YES
7	Other Business Services	YES	YES
8	Scientific and Technical Consulting	YES	YES
9	Management Consulting	YES	YES
10	Security	YES	YES
11	Maintenance and Repair of Equipment	YES	YES
12	Photography	YES	YES
13	Motion Picture Projection and Distribution	YES	YES
14	Retail	YES	YES
15	Education	YES	YES
16	Financial Services	YES	YES
17	Insurance Actuarial, Risk Assessment, and Claim Settlement Services	YES	YES
18	Tourism and Travel	YES	YES
19	Research and Development	NO	NO
20	Healthcare	NO	NO
21	Services Incidental to Manufacturing	NO	NO

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About CRIT

India's Foreign Trade Policy (FTP) Statement 2015-20 suggested a need to create an institution at the global level that can provide a counter-narrative on key trade and investment issues from the perspective of developing countries like India. To fill this vacuum, a new institute, namely the Centre for Research on International Trade (CRIT), was set up in 2016. The vision and the objective of the CRIT were to significantly deepen existing research capabilities and widen them to encompass new and specialized areas amidst the growing complexity of the process of globalization and its spill-over effects in domestic policymaking. Secondly, enhancing the capacity of government officers and other stakeholders in India and other developing countries to deepen their understanding of trade and investment agreements.

About CWS

The Centre for WTO Studies which is a constituent Centre of CRIT, pre-dates the CRIT since it was created in 1999 to be a permanent repository of WTO negotiations-related knowledge and documentation. Over the years, the Centre has conducted a robust research program with a series of papers in all spheres of interest at the WTO. It has been regularly called upon by the Government of India to undertake research and provide independent analytical inputs to help it develop positions in its various trade negotiations, both at the WTO and other forums such as Free and Preferential Trade Agreements and Comprehensive Economic Cooperation Agreements. Additionally, the Centre has been actively interfacing with industry and Government units as well as other stakeholders through its Outreach and capacity-building programs by organizing seminars, workshops, subject-specific meetings, etc. The Centre thus also acts as a platform for consensus-building between stakeholders and policymakers. Furthermore, the inputs of the Centre have been sought after by various international institutions to conduct training and studies.

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