Reviving the Indo-US BIT dialogue

There is very little meeting ground between the two countries on core issues of a BIT. It is imperative that India articulates a clear stand.

The US model BIT covers IPR under the definition of investment. This means that foreign investors can use BIT to protect their IPR. Given India’s sensitivity with regard to IPR protection and reports that India wishes to have a truncated definition of investment in its future BITs, India needs to take a position, especially extended to pharmaceutical corporations, to use BIT to enforce IPR protection.

Accordingly, when the US pushes for a stronger position on the proposed BIT, India needs to push for a position that is more in line with its domestic laws and practices. This includes the prevention of anti-competitive behavior, ensuring transparency and accountability in the decision-making process, and ensuring that IPR is protected and enforced.

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