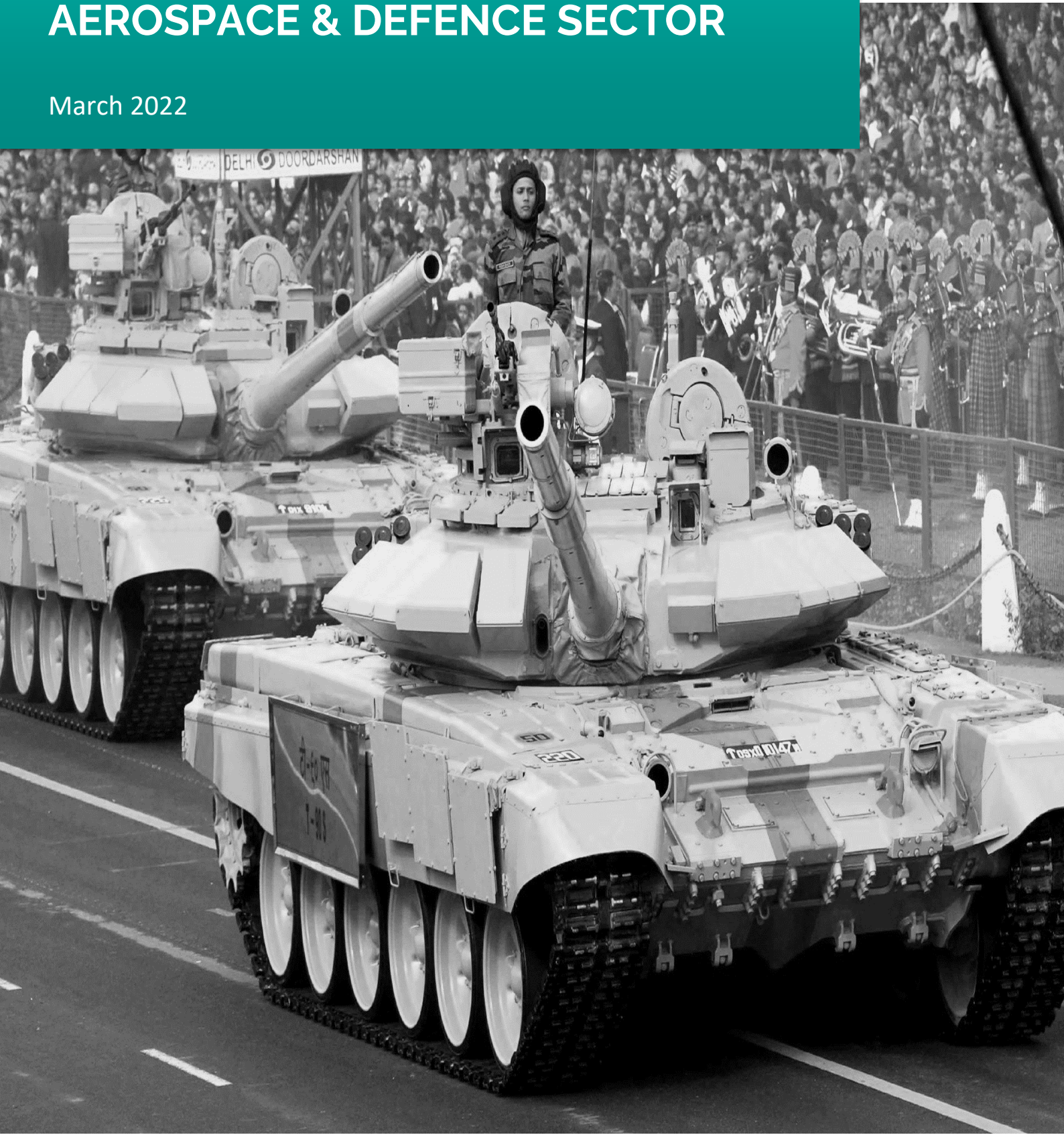


Survey Results Presentation

# EASE OF DOING BUSINESS IN INDIA'S AEROSPACE & DEFENCE SECTOR

March 2022





## FOREWORD

This is a critical time for the bilateral defence industrial relationship between India and the UK, with powerful drivers on both sides.

India is focused on reducing its defence equipment imports, to reduce its capital spending and to stimulate its domestic manufacturing industry, to create more jobs; in no sector in India is *Aatmanirbhar Bharat* as evident as it is in defence manufacturing, where the Indian MOD has prohibited the import of more than 200 platforms and components. At the same time, India is hungry for foreign technology to fuel its' domestic manufacturing ambitions and the capability needs of its forces.

The UK is pivoting to the Indo-Pacific, for economic and geopolitical and security reasons. As the recently published [Integrated Review](#)<sup>1</sup> states 'the Indo-Pacific is the world's growth engine... home to half the world's people; 40% of global GDP... [and] some of the fastest growing economies... [and is] at the forefront of new global trade arrangements.' At the same time, according to the Review, 'China's increasing international assertiveness and the growing importance of the Indo-Pacific... In the decade ahead, the UK will deepen our engagement in the Indo-Pacific... establishing a greater and more persistent presence than any other European country.'

Consequently, there has been a build-up in bilateral activity over the past 12 months in this sector, culminating in the visit to Mumbai of HMS *Queen Elizabeth* and the Carrier Strike Group in October 2021

For all the positive sentiment and momentum, however, and the recognition by UK Plc that it needs to be invested in India for the long-term to succeed, UK firms still find engaging with the Indian market difficult. This report aims to catalogue those market access barriers and produce actionable recommendations based on business feedback.

# UKIBC & THE AEROSPACE & DEFENCE INDUSTRY GROUP

**UKIBC** is a private non-profit which exists to help British businesses succeed in India. It is currently part-funded by the British government through the Department for International Trade (**DIT**). The Indian Government is also a partner (funding, for example, the Access India Programme). Uniquely placed in the UK-India corridor, UKIBC is trusted and listened to by both Governments and has a powerful network comprising industry, central and local government, academia, and media. UKIBC has a track-record of strategic advisory to UK firms (and increasingly Indian firms entering the UK), and advocacy wins in both countries.

In November 2019, following extensive consultation between government, industry and associations representing business, UKIBC launched the Aerospace & Defence Industry Group (**ADIG**) to improve its support to UK firms (and those looking to invest in or trade with) India. ADIG contains 20 aerospace and defence firms with a combined global turnover of USD 60Bn. Membership is diverse – including most UK OEMs operating in (or aspiring to operate in) India, systems operators, and niche or supply chain SMEs – but united by a desire to do more business with India. We help firms do this by:

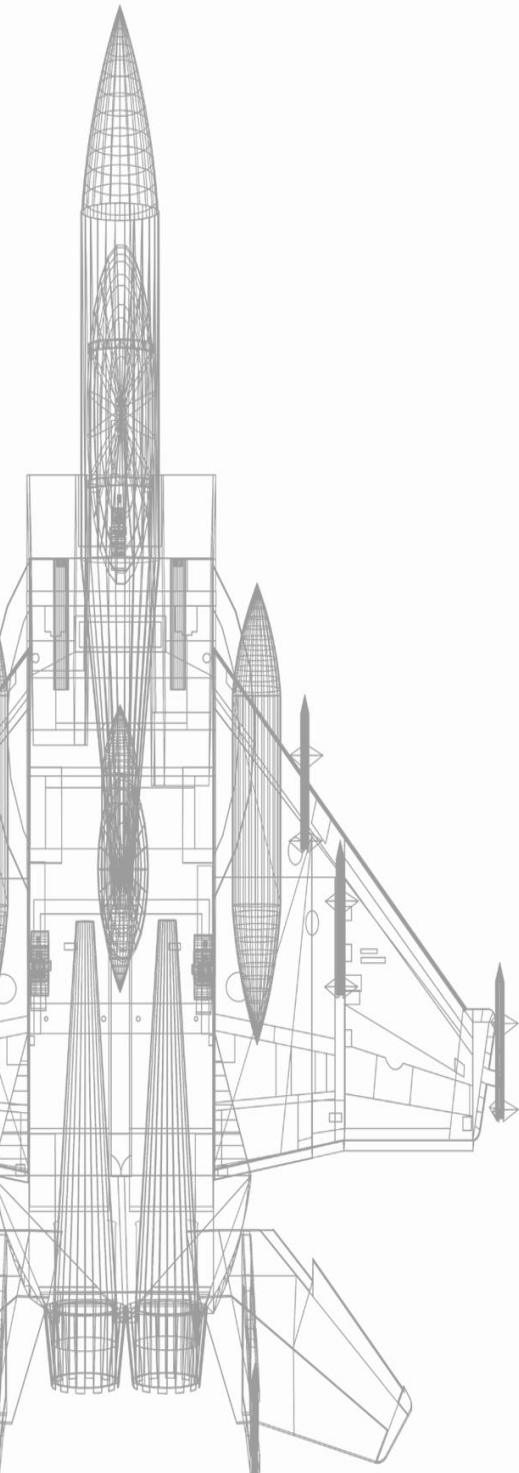
- **Increasing UK industry visibility and access in India:** We convey a collective sense of UK impact and contribution in India to Govt. and industry. And beyond Delhi, to India's states.
- **On-the-ground expertise from experienced advisors:** Expert advice to aid decision-making from ex-India-forces advisors who act as local consultants, backed by a Big Four Knowledge Partner and IMOD-aligned Legal Partner.
- **Policy advocacy:** Working collectively to achieve reforms on 'landscape' EOBD barriers and to improve operating environments (Navigating procurement and operating settings in India remains a serious challenge for UK firms).
- **Providing access to opportunities, clients, and partners in India:** Putting members in front of the client; identifying client demands and areas of opportunity; helping smaller members save cost and time through effective partner-search.

We have three principal campaigns, each focused on putting UK firms in front of decision-makers:

- **Complex air systems:** Collaborating with DRDO labs and the Aeronautical Development Agency (**ADA**) to support India's next generation fighter programmes (**LCA Mk2, AMCA**).
- **Maritime:** Interaction with defence private and public sector shipyards across India to showcase UK technology for: electric propulsion for next generation warships; a large submarine (**P75i**) programme; India's 2<sup>nd</sup> indigenous carrier platform.
- **Homeland security:** Supporting India's states with police modernization, showcasing tech and equipment from the UK. This may broaden to include Cyber Security.

UKIBC works closely with other 'Team UK' constituents: UK Defence & Security Exports (**UK DSE**), the British High Commission in India, and UK Defence Solutions Centre (**UK DSC**). And with ADS Group and the Society of India Defence Manufacturers (**SIDM**) in India. The group is co-chaired by Kishore Jayaraman, President, India & South-Asia Rolls-Royce and Richard McCallum, UKIBC's Vice Chair India.

**Ultimately, our vision is to make a meaningful contribution to UK-India strategic cooperation, including making India's defence acquisition process more effective and efficient and fostering technology and hardware transfers and collaboration between the UK and India**



# SURVEY ANALYSIS

The aerospace and defence sector in India is at an inflection point, given the modernization and indigenization programmes being undertaken by all the three services of one of the largest military forces in the world.

The Ministry of Defence has formulated a comprehensive plan for modernization of obsolete equipment through a long-term vision plan, a capacity plan, a capacity roadmap, and a capital procurement plan.

The Indian government has also identified the aerospace and defence sector as a key area of the 'Make in India' programme (*Aatmanirbhar Bharat*) and has taken various steps to further establish manufacturing infrastructure in the country, supported by the requisite R&D ecosystem. The Defence Acquisition Procedure 2020 (DAP 2020) contains provisions to support this 'indigenisation', and subsequent action by the Indian Government – most recently the Indian MOD's notification on 18 platform and projects which must be solely designed and developed by Indian industry - has reinforced this intent.

This challenges the existing business models of UK industry. That said, we believe it presents an opportunity. India's private and public defence firms need foreign technology partners. (And India will still need to import some assemblies, sub-assemblies and components.) UK firms willing to work with Indian industry have the most to gain from the situation. Moreover, we are encouraging UK firms to look at India as part of their global supply chain – to reduce their input costs and to get imbedded into the Indian defence manufacturing system.

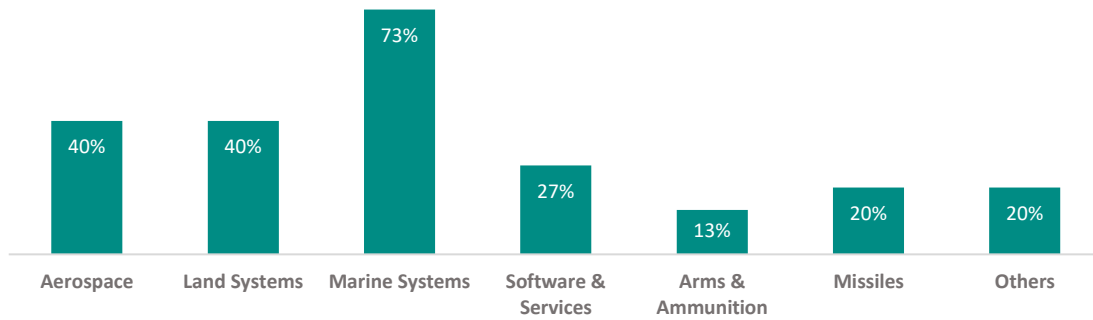
Despite all of this, there remain 'ease of doing business' challenges which we believe can be streamlined to the benefit of India's industry and forces, and for UK firms. This survey on 'Ease of Doing Business in India's Aerospace & Defence Sector', conducted for leading defence manufacturers in the United Kingdom, aims to analyze industry's perception of the Indian aerospace and defence industry today.

## Key survey themes

For ease of understanding and assimilation, the survey responses have been clubbed into the following 7 categories:

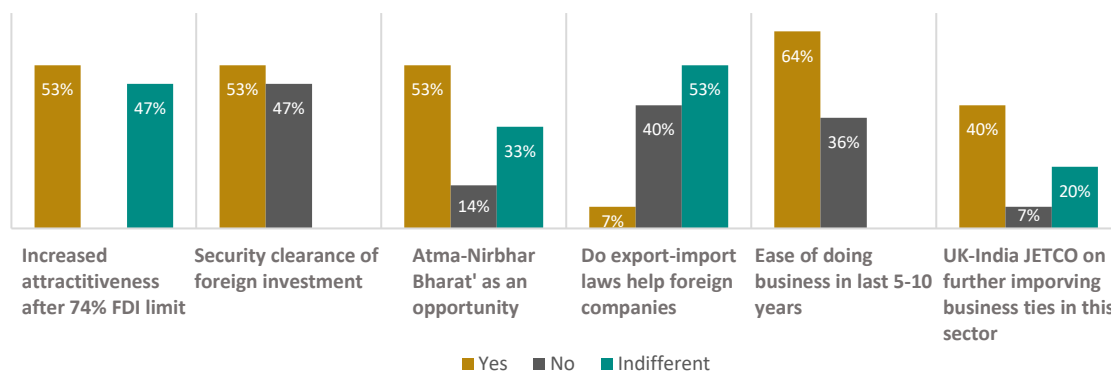
- 1 | **About the respondents**
- 2 | **Multi-parameter impact analysis**
- 3 | **Entry & operations in Indian market – FDI & Control**
- 4 | **Entry barriers & entry methods**
- 5 | **Key legal & regulatory impediments**
- 6 | **NCNC trials & impact of negative list**
- 7 | **Offset clauses in DAP, 2020**

## 1 | About the respondents



- More than 80% of the respondents rated India as one of the most important foreign markets for their company.
- 20% viewed India as a potential market for the future.
- A majority (74%) of Respondents are involved with the Indian Ministry of Defence or working with private defence companies in India.
- Most Respondents expressed interest in exploring new opportunities in India.

## 2 | Multi-parameter impact analysis



## 3 | Entry & operations in the Indian market - FDI & Control

The Government of India in 2020 liberalized the FDI limit in defence production from 49% to 74% under the Automatic Route. This was part of a series of reforms to boost self-reliance. It is noteworthy that 100% FDI is possible where it is likely to result in India gaining access to cutting edge technology. Some of the key findings of the survey are:

- 54% of respondents stated that FDI Reforms improved their confidence in the Indian aerospace and defence opportunity but the remaining 46% believe that this opportunity remains unchanged.
- A majority of respondents did not see any significantly adverse impact from control of JV remaining with Indian resident parties.
- On lack of clarity on procedural and other aspects pertaining to security clearance of foreign investment by Ministry of Home Affairs, 47% respondents indicated this to be a challenge for their India-centric plans while 53% indicated that it did not have any material impact on their plans for India.
- 67% of respondents were indifferent to whether or not the process of obtaining an Industrial License is cumbersome.

## 4 | Entry barriers & entry methods

- The following parameters were identified as the top entry barriers:

<b>Rank 1</b>	<b>Procurement process timelines</b>
<b>Rank 2</b>	<b>IP concerns Availability of finance</b>
<b>Rank 3</b>	<b>Offset challenges Transfer of technology requirements</b>
<b>Rank 4</b>	<b>Anti-bribery and corruption</b>
<b>Rank 5</b>	<b>Regulatory approvals</b>

- Procurement process timelines and IP concerns were ranked amongst the most restrictive business challenges
- India's FDI limit was ranked as the least restrictive factors for UK defence companies
- 87% of respondents were comfortable with transfer of technology requirements as part of the RFP process, with 13% indicating their desire for no technology transfer
- 47% cited licensing of technology to be the favourable mode of technology transfer
- 40% favoured assignment of IP with restrictions on sub-licensing as a preferred model for technology transfer
- 28.5% respondents indicated their discomfort with India's Ministry of Defence retaining the right to further improvise on the technology transferred as part of a contractual arrangement; 35.71% were comfortable with this arrangement provided there were provisions for enhanced pricing

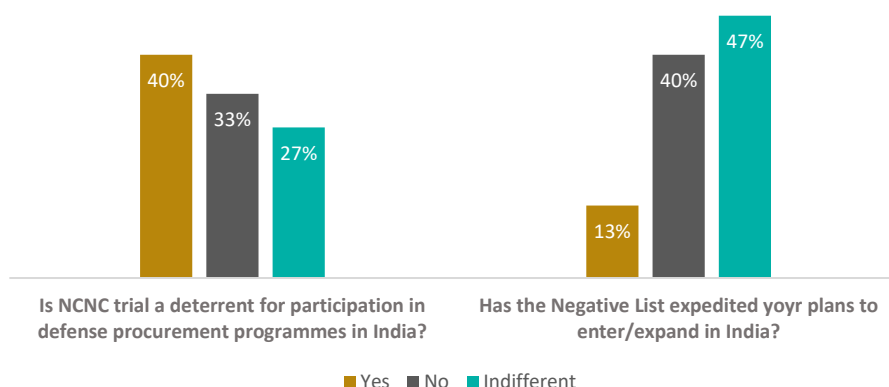
## 5 | Key legal & regulatory impediments

- Several aspects of India's legal and regulatory framework were identified as key impediments to doing business in India in the aerospace & defence sector.

<b>Rank 1</b>	<b>Judicial procedures and resolution time</b>
<b>Rank 2</b>	<b>Industrial license</b>
<b>Rank 3</b>	<b>Taxation</b>
<b>Rank 4</b>	<b>Incorporation of company</b>

- 56% respondents believe that India's judicial procedures and resolution timelines present a clear risk to operating in the country
- On export-import laws and regulations, there was mixed verdict with 46% respondents ranking this as a key challenge while 54% ranking this in a low to no-risk category
- Land acquisition was ranked as one of the least risky parameters
- Surprisingly, 45% of respondents ranked data protection as the lowest risk factor in terms of their India operations

## 6 | NCNC trials & impact of negative list



## 7 | Offset clauses in DAP, 2020

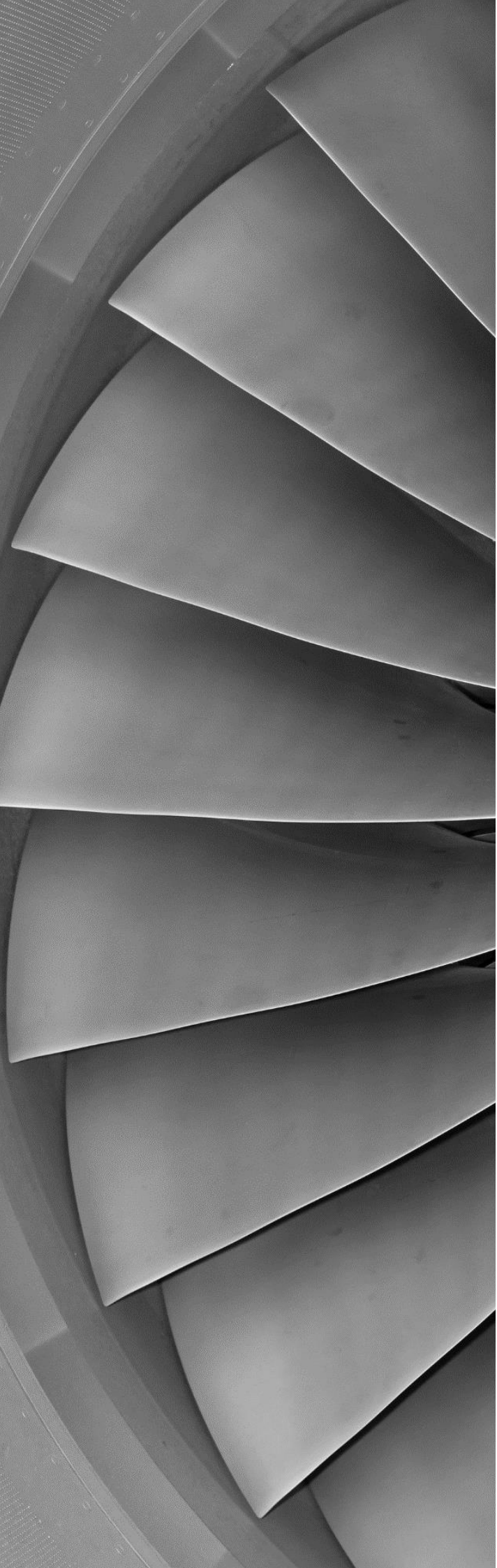
- Offset discharge avenues:
  - 7% respondents found the existing offset discharge avenues to be satisfactory
  - 27% found these to be unsatisfactory
  - Surprisingly, 66% were indifferent to the avenues of offset discharge (this may be because firms in this category do not have offset obligations to discharge)
- The threshold of INR 2,000 crore for offset obligation was regarded as the least onerous offset-related provision in DAP, 2020.
- Top 3 regressive offset clauses in DAP, 2020:
  - Avenues for discharge of offset obligations (direct purchase, investment in manufacturing, investment in ToT, acquisition of technology, etc.)
  - Method for discharging offset obligations (Indian Offset Partner, period for discharge, transfer of technology, etc.)
  - Penalties for failure to meet offset obligations



## CONCLUSION & RECOMMENDATIONS

On the whole, the survey results indicate the significant level of interest among the UK's aerospace and defence ecosystem for the opportunity presented by the Indian market, which is already one of the largest and most important markets globally. While reform progress is being made, there remain a number of operating challenges that act as headwinds to trade and investment by foreign firms.





## RECOMMENDATIONS

Creating a more enabling procurement and operating system in India will help India meet its targets for FDI in defence (which has under-performed till date), the success of which is critical to the success of Make in India. It will also help ensure India's forces get the equipment and cutting-edge technology they require.

At the same time, UK firms will benefit from greater participation in the India market. UK firms increasingly recognize that they have to co-create, co-develop and Make In India to succeed in India. Our recommendations support that intention. According to the survey respondents, here are the key improvements business is looking for:

<b>Rank 1</b>	<b>Improving bureaucratic processes and accountability</b>
<b>Rank 2</b>	<b>Regulatory certainty</b>
<b>Rank 3</b>	<b>Streamlined licensing procedures for this industry</b> <b>Better IP enforcement and stricter restrictions on onward transfer of IP</b>
<b>Rank 4</b>	<b>Effective single window clearance for project approvals</b>
<b>Rank 5</b>	<b>Better control by foreign partner over India operations</b> <b>Targeted policy stimulus through taxation and other incentives</b>

The Indian aerospace & defence market presents an attractive and significant opportunity for organizations across the supply chain. To fully exploit this opportunity and fulfil offset obligations, original equipment manufacturers and their suppliers should leverage India's competitive advantages in manufacturing and information technology by setting up units in India. The Government of India, private enterprises (both in India as well as the UK) as well as enablers such as UKIBC and the Department for International Trade will need to play a concerted role in order to ensure that UK companies are able to successfully leverage the present opportunity in India.

# ABOUT HSA

The legal profession is changing rapidly in light of market disruption, changing client expectations and technological developments. Established in 2003, HSA's focus on continuing evolution has enabled us to constantly adapt to emerging market dynamics and deliver consistent value to clients.

We are a full-service law firm that prides itself on combining knowledge, experience, and expertise to create outcome-oriented solutions and ensure our clients stay ahead of emerging opportunities and risks. Our areas of expertise include Projects, Energy & Infrastructure; Banking & Finance; Restructuring & Insolvency; Corporate & Commercial; Regulatory & Policy; Defence & Aerospace; Dispute Resolution; Environment, Health & Safety; Real Estate; Securities & Capital Markets; Technology, Media & Telecommunications; Taxation and Investigations.

We are a law firm built around people. We embrace collaboration while advising our clients and assemble teams of experts to bring the right talent to address every client issue. Our belief in delivering legal advice that recognizes each clients' strategic goals and business requirements allows us to offer pragmatic and implementable support across our platform of practices and sectors.

We measure our success by the service we provide to clients, irrespective of the size, scope and scale of the matter at hand. We are a team of 30+ partners and over 150 professionals based out of four offices across India's major cities.

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