UK INDIA
BUSINESS COUNCIL

STRENGTHENING UK-INDIA TRADE AND INVESTMENT THROUGH EASE OF DOING BUSINESS REFORMS

Summary report based on a submission to Government of India by UK India Business Council

SUPPORTING BUSINESS SUCCESS

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FOREWORD

Richard Heald, Executive Chair, UK India Business Council

At time of writing, 618 UK companies are deeply established in India, with a combined turnover of approximately INR 3,634 billion (GBP 40 billion) and employing around 466,460 employees. Especially pleasing is that these figures are growing, primarily due to two key reasons: the Comprehensive Strategic Partnership and 2030 Roadmap has given a clear direction to future relations, and, secondly, the hugely positive policies of the Government of India creating a business environment attractive to investors and conducive to growth.

Indeed, earlier this year, UK and Indian businesses announced more than GBP 1 billion in new investments and export deals in areas from software engineering to electric vehicles to healthcare. To further catalyse this positive momentum and for India to realise its real potential, it is vital that the Government of India continues to focus on Ease of Doing Business, a key metric for any business.

In essence, the report's recommendations are about reducing bureaucracy, simplifying legal and regulatory complexities and taxation, developing world class IP and infrastructure environments, and enshrining investor protection. UK businesses want to increase their investments in India so as to play an even more key role in India's development story. I invite all stakeholders of the bilateral relationship to read the Report.

Alan Gemmell, UK Trade Commissioner for South Asia

British Prime Minister Liz Truss and Hon'ble Prime Minister Modi have continued to set an ambitious agenda for the UK-India relationship including a commitment to double trade by 2030, which includes a comprehensive free trade agreement between our countries.

HM Government's scoping assessment shows that a comprehensive UK-India trade deal could increase UK's Gross Domestic Product (GDP) by £3.3bn by 2035, supporting jobs and investment in both the UK and in India.

The UKIBC and Department for International Trade colleagues across have worked with British business to help improve the environment for companies in India. This report will help us continue that work and support initiatives that both deliver for the UK economy and deepen our already strong partnership with India.

INTRODUCTION

Working in partnership with businesses, the Government of India and State Governments have taken many positive steps in recent years to make India an easier place to do business and a more attractive destination for investment. From the introduction of GST, to the reduction of the corporate tax rate, to stripping-out bureaucracy, we applaud Governments across India on this important and successful work.

In a continued spirit of partnership, the UK India Business Council has submitted, on behalf of businesses, a list of constructive recommendations that we believe will further improve India's business environment, stimulate new investment across states, and ultimately generate greater economic development and prosperity in India.

This summary report of our formal submission highlights the range of issues raised by businesses, all with the shared goal of improving the business environment, increasing trade and investment, and contributing to India's growth story.

Our submission is based on detailed interviews with 10 of the largest UK businesses invested in India, spanning banking and financial services, food and drink, education, consumer goods, energy, and advanced engineering and manufacturing. Combined, these businesses employ tens of thousands of people in India and are keen to increase their investment. As well as serving the Indian market, many of these businesses also export from India - making and servicing in India and exporting to the world.

At the time of publishing this report, the UK and India are negotiating an FTA, as part of a wider Enhanced Trade Partnership. The resulting Agreement will be important in growing trade and investment flows. However, the ease of doing business reforms that we outline in this report matter just as much. Businesses agree that ease of doing business and a fruitful business environment in both countries go hand-in-hand with the FTA.

The interest in the ease of doing business is in large part because UK businesses are already deeply established in India. UK investment into India is responsible for more than 400,000 direct jobs and 800,000 jobs indirectly. Accordingly, British businesses are committed to India's growth story. Our countries, as the fifth and sixth largest economies in the world, are important economic and strategic partners, and both countries will benefit from a stronger, closer India-UK relationship.

We are also working in the context of India's self-reliant goal, Atmanirbhar Bharat. Alleviating trade barriers and consolidating the ease of doing business will help India to increase its manufacturing capability and achieve the goal of a quantum leap in the economy. Facilitation of imports of inputs, components and raw materials will help to strengthen the country's manufacturing and industrial ecosystem, and lead to a marked rise in India's exports.

The ambition of the Enhanced Trade Partnership and the FTA to remove barriers to trade and make it easier for investors to enter and operate in both countries is welcome. The result will be increased economic and job growth in both countries, and an ever-more tightly bound India-UK partnership.

BUSINESS CHALLENGES

Businesses in both countries stand to gain a lot from a simplified and strengthened bilateral trading arrangement. India is an increasingly attractive investment destination, with many economists predicting it will be the world's third largest economy and third largest consumer market by 2030. At the same time, the UK is, like India, one of the world's largest economies, with particular strengths in its financial services sector and its science and technology base, which offer Indian companies great opportunities for collaboration in engineering, manufacturing, and life sciences, among other sectors.

With that said, businesses established in India have highlighted existing challenges to doing business and proposed solutions that would enable them to expand and enhance their operations in India, benefitting the country's economy and wider society.

1. LEGAL & REGULATORY IMPEDIMENTS

Policy stability is crucial for businesses, especially those with large scale investments. It is therefore important that the different policy legislations across the country are harmonised for the ease of investing and operating.

Legal and regulatory impediments remain a frustration according to businesses. Duplication of regulation wherein two sets of regulations are administered by two different arms of Government on the same issue was cited as a key issue. This occurs most commonly when the subject is on the concurrent list of the Constitution where the Central Government and State Governments can legislate, such as on labour laws, the environment, food, plastics, and personal care. This duplication leads to delays and financial costs to businesses.

Consistency in application across states and districts would really improve the ease of doing business. Several grey areas exist in compliance in India. For example, including in tax compliance, asset compliance and telecommunications compliance. Simplifying these processes will help to ensure that compliance is accurate, and enable businesses to scale in India, particularly into new states as the jurisdictional differences and across levels of Government (Central, State, and Municipal) are removed.

Businesses are not against legal and regulatory impediments. In fact, a strong legal and regulatory regime is an advantage for business certainty. Nonetheless, unnecessary, duplicated regulations are a disincentive to investment. Removing and reducing unnecessary regulations would promote faster closure of projects, enabling businesses to serve consumers with faster innovations, and expand operations.

In line with this view, the UKIBC's annual Doing Business in India survey, which gathers the views of UK businesses on India's business environment, has found that 'legal and regulatory barriers' has been cited as the most significant barrier to doing business, by quite some distance, every year since launching in 2015. On a positive note, the proportion of companies to select legal and regulatory barriers is falling, averaging more than 60 percent from 2015-2018, and now around 50 percent in both 2020 and 2021. So, still the number one issue to tackle but some evidence that progress is slowly being made.

2. TAXATION ISSUES

The perception around taxation and tax authorities has been underlined for improvement in India by businesses. From red tape, cumbersome process, retrospective amendments, governance issues, operational problems and lack of clarity, these issues have hindered the growth of a conducive environment for businesses over the years.

No doubt good progress has been made with the introduction of a 15 per cent direct tax rate, applicable to enterprises setting up new manufacturing units in India. Such a tax rate is among the lowest in the world and incentivises the manufacturing community to set-up units in India. It is a great enabler to reduce costs and pass on the benefits to end consumers and be competitive in the local markets.

However, the recent reduction in the corporate tax rate for domestic companies, coupled with the abolition of dividend distribution tax (DDT), creates significant disparity between the effective corporate tax rates applicable to foreign companies utilising a branch model, which is 43.68 percent, and domestic companies, which is 25.17 percent. This serves as a major disincentive for international businesses using this model, such as banks.

Any parent of a foreign bank in India is measuring the key metric of return on investment, specifically return on equity. The metrics help to determine whether investments should be made in India versus other competing countries, such as China or Vietnam. Thus, providing tax parity would lead to greater investments and development of the domestic market and the economy. This strongly incentivises the head office to invest more, whether in products, systems, or employment.

Tax parity in any sector is in the best interest and spirit of fair market competition. Moreover, the obligation to accord with fair and equitable treatment in foreign investments appears in the great majority of international investment agreements of which tax treatment is a part.

3. LAND ACQUISITION DIFFICULTIES

Businesses tell us that land acquisition, particularly from the public sector, requires further improvements. Conversion of land use is a long-drawn process, impeding business plans, and there are costs imposed on the subsequent sale of government-leased land to a third party. While it is fair for the Government to expect some part of the surplus to be shared with them, industry would like to see simplified rules.

In terms of the conversion of land use, business would welcome simplified rules on payment of unearned income, digitised land title documents, and making the title of the land accessible online. In addition, consistent rules relating to land permissions across the country will also support businesses with a presence throughout India.

Businesses also struggle to expand structures in India due to complex compliance requirements, particularly the structural compliances.

Together, reforms to make greenfield and brownfield acquisition and development simpler would help businesses to open more stores, factories, and other facilities, thus enabling them to expand faster, provide gainful employment, generate more revenue and contribute to greater prosperity through wider business expansion in India.

4. CONTRACT ENFORCEMENT

Unambiguous and predictable legislative rules that preserves the sanctity of contracts is a prerequisite for successful commercial transactions. Delays in arbitration and litigation upon a breach of contract often lead to economic losses, increased legal costs, and reduced revenues, eventually resulting in a reduced rate of return on investments.

Often linked to maintaining the sanctity of a contract are issues of tax administration or tax dispute resolution. To overcome these issues, businesses would welcome a streamlined approach to tax dispute resolution, and the adoption of international best practices.

Confidence in contract enforcement and dispute resolutions would result in greater investment in terms of resources and manpower, and lead to enhanced confidence in transfer of technology and investment.

5. INTELLECTUAL PROPERTY

The perception around taxation and tax authorities has been underlined for improvement in India by businesses. From red tape, IP is well accepted across the world as a vital driver for growth across all sectors and disciplines. A strong, reliable IP environment both supports and rewards innovation. Although India's national IP legislation is largely harmonized with global standards, businesses have identified instances, particularly in copyright and patent legislation, where "anti-competitive" practices have occurred.

For brands in particular, intellectual capital is the main source and engine of growth. Accordingly, lack of enforcement of IP rights is problematic and can stifle innovation. Businesses gave examples of counterfeit items in circulation, which means consumers are being treated unfairly and the brand owner is disadvantaged.

It was noted that the e-commerce channel is becoming an increasing source for selling of counterfeit products and, post pandemic, this channel has assumed considerable importance, thus heightening the problem of counterfeit products and breakdown of intellectual rights.

Governments should continue working together to strengthen IP enforcement to give investors more confidence, and Indian consumers greater protection. For example, streamlining and simplifying practices in IP administration and increasing opportunities to protect IP assets for mutual benefit.

Businesses require confidence that they are able to protect and fully commercialise their IP when operating in a market. Ensuring strong regulations that are met by responsive enforcement would thus give businesses the extra confidence needed to bring their technology and innovations to India. As well as a positive for investment generally, doing so would support IP-rich innovations and technology transfer, two key drivers of growth.

6. CUSTOMS AND LOGISTICS

Goods passing through customs in India regularly face procedural delays. These include penalties on re-exports, value additions, repairs, and the import of second-hand goods. While some progressive reforms have been welcomed, such as faceless assessment, there continue to be gaps which affect businesses, particularly in the electronics and manufacturing sector.

The difficulty of demonstrating compliance with complex regulations, for example on labelling, product testing and other customs procedures, increases the costs and complexity of exporting to India and has been highlighted by many businesses as a deterrent to doing business in and with India.

We understand that the difficulty in simply getting information about requirements in India often discourages UK SMEs from doing business with India. Furthermore, customs procedures are also a challenge for the Indian importer and their end customers, who are also required to complete certain procedures which can lead to buyers pulling out of deals.

By addressing these gaps through adoption of global best practices in standards and customs, ensuring a reliable policy environment and improving logistics, India can enhance its exports and attract fresh investments to further develop its economy, including notably the manufacturing sector due to the need for inputs and materials.

In addition, through the improvement of import and export clearance procedures/rules, India will cut delays. This will result in reduced cost for importers/exporters and improve ease of doing business, thereby, improving India's reputation among global investors and help to increase trade volumes for India.

7. BANKING/LENDING REFORMS

UK banks with a presence in India would welcome a review of the Priority Sector Lending (PSL) rules. A bank with more than 20 branches is treated at par with domestic banks with regard to PSL targets, and this tends to make it rather restrictive as foreign banks bring a different type of expertise and niche to the market.

In certain cases, foreign banks are better able to serve and fully participate towards cross-border financing, trade finance and sustainable financing, rather that support PSL targets for agriculture, for example. Agriculture and allied sectors are slightly beyond their reach in terms of domestic knowledge, capabilities, and the geographic reach required to India’s rural areas. Thus, PSL directly limits the ability of UK companies to contribute to sustainable financing in India, including towards sustainable infrastructure financing, and other important areas not in the PSL domain.

Businesses recommend a broader set of priority sector lending requirements. Areas such as sustainable finance, infrastructure financing and investment in sovereign green bonds could be included in the range of PSL targets, allowing foreign banks to leverage their strengths for India and align with the global movement in the banking/finance sector simultaneously.

Sustainability projects often have large capital requirements and long break even cycles, and thus need the support of long-term financing at affordable rates.

8. INFRASTRUCTURE

When making investment decisions, comparing the pros and cons of two or more potential investment destinations in different parts of the world, businesses factor in such issues as road and transport infrastructure, and several businesses highlighted this as an area where many of India's competitors held an advantage.

Improving existing infrastructure and connectivity would lead to reduced damages to goods, seamless supply and access to goods, and the overall development of the domestic supply chain. In addition, this would raise the physical capital base.

Improving warehouse infrastructure at ports will increase capacity and efficiency, and reduce damage caused by excessive storage of goods.

The transformation of India's road building programme over the last decade has been impressive. Sustaining this improvement to the road infrastructure would greatly accelerate improvements to India's food supply chains, particularly cold chain infrastructure. This would encourage investment by processed food manufacturers who would be able to access and service more parts of the country.

It is also worth noting that financing will be key to developing India's infrastructure, and UK institutions are keen to support.

SELF-RELIANT INDIA

When making investment decisions, comparing the pros and cons of two or more potential investment destinations in different UK companies interviewed for this submission expressed their views on Atmanirbhar Bharat both as an opportunity as well as a challenge.

Firstly, as an opportunity, as it allows investors to be part of India's journey to a USD 5 trillion economy, permitting companies to help India evolve its indigenous ecosystem and increase their footprint to explore new and expanded markets.

The initiative also offers avenues for employment generation, creation of value products and services (especially in sunrise sectors such as agriTech, healthTech, and defence and security) along with deepening cooperation in financial services, especially in the bond market where Indian government bonds can be included into the global indices. In all cases, UK companies are keen to support India's ambition to manufacture quality and locally produced goods.

At the same time, the view was also expressed that some policies, such as high tariffs on certain products and local content requirements in public sector procurement, deter investment as they impact new market entrants.

There was also the view that, for some products India is currently a developing market and that local industry may not have the required immediate appetite, capacity and capabilities to support indigenous manufacturing. The defence sector was cited an example.

Moreover, India needs to also ensure workers have the appropriate and competitive skill sets to help the nation to achieve its ambitions. The National Education Policy (NEP) is welcome in this regard, and UK industry is optimistic that the NEP will help India to fulfil its fullest potential through high quality educational opportunities. At the same time, UK universities and higher education institutions want to support and encourage the transfer of talent between our countries which can be achieved through holistic education, cross-promotion of cultures, and encouraging learning through diverse platforms which are innovative and promote enhanced learning.

The Government of India has stressed that the self-reliant approach is about "integration, not isolation". Nevertheless, as set out in a recent UKIBC report: Road to a India-UK Free Trade Agreement: Enhancing the Partnership and achieving Self-Reliance, it will be important that the Government of India and State Governments are aligned with the larger objective to support businesses and their investments through this initiative.

CONCLUSION

When making investment decisions, comparing the pros and cons of two or more potential investment destinations in different UK Businesses recognise the tremendous progress that has been made since 2014 to improve the ease of doing business across India, and want to continue to work with the Government of India and State Governments to achieve even more.

Policy certainty and consistency is key for any investor, and businesses warmly welcomed the scrapping of the country's retrospective taxation laws in 2021. Similarly, the introduction of GST has been widely appreciated, for two key reasons: simplifying taxation; and removing discrepancies between states. Businesses highlighted these examples of positive reforms, partly to recognise the benefits they bring, but also to make the point that reforms can happen and that they make a difference.

As well as addressing legal and regulatory complexities, taxation, and other bureaucratic hurdles, businesses reiterated the importance of investment in infrastructure, education, and healthcare to support the Indian people and open opportunities to all of society to excel. Opening education, infrastructure, healthcare, and defence sectors for foreign investment will enable UK and other international businesses to play their part towards the shared goal of benefitting India's economy, consumers, and wider society.

Digitalisation will also be a cornerstone of any globally competitive economy's future. Businesses welcome further development of State level portals, more use of India's cutting-edge RegTech to remove paper processes, and the reintroduction of e-visas.

The businesses that contributed to this submission are in India for a range of reasons, including: to manufacture and export; to service Indian partners; to service Indian consumers; to carry out R+D for their global operations; and to benefit from India's talent pool. What they all have in common is that they are committed to India. The reforms outlined in this submission are therefore made by businesses that believe in India and that want to contribute to the country's success.

Successful negotiation of an India-UK FTA would enable more UK and Indian business to provide their products and services to more customers across both countries. It would also facilitate greater collaboration between UK and Indian companies opening further opportunities, including in third countries. This will translate into more jobs, growth and prosperity in both our countries. With that said, the FTA is one part of the wider India-UK economic relationship under the Comprehensive Strategic Roadmap agreed by our Prime Ministers in May 2021.

To truly maximise the growing potential of the bilateral relationship, our countries have agreed to work together under the 2030 Roadmap across trade and investment, healthcare, climate action, defence and security, and the unique people-to-people connect or living bridge, that binds our countries together. The issues highlighted in this submission will go a long way to progressing the trade and investment relationship, and indeed enabling action in all these key areas.

UK INDIA
BUSINESS COUNCIL

WHO ARE WE?

The UK India Business Council is a strategic advisory and policy advocacy organisation with a mission to support businesses with the insights, networks, policy advocacy, services, and facilities needed to succeed in the UK and India. We believe passionately that the UK-India partnership creates jobs and growth in both countries, and that UK and Indian businesses have ideas, technology, services and products that can succeed in India and the UK respectively.

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