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18 October 2022

Dear Dianne,

It was good to meet you on 11 October and I look forward to building a constructive relationship with you and your committee. I thank the International Agreements Committee (IAC) for the report '*UK- India free trade agreement: Scrutiny of the Government's Negotiating Objectives*'. I am writing in response to points raised in the report.

The Department for International Trade (DIT) has a clear objective and record of securing world class free trade agreements (FTAs) while reducing market access barriers so that UK businesses benefit from both, as set out in our Outcome Delivery Plan. The case for a UK-India FTA was based on these priorities as well as this Government's wider objectives, in particular deepening our economic relationship with Indo-Pacific region.

This region has some of the world's fastest growing economies, and a good agreement with India presents significant opportunities for the UK, to use our Brexit freedoms to promote free trade around the world. A good agreement with India also presents a huge opportunity to liberalise and increase trade with a growing market for British business and deepen ties with a region vital to UK strategic interests.

I have considered the recommendations made by the IAC and provided answers attached. Where it made sense to do so, I have grouped them and followed the order of the recommendations as made in the report.

I welcome the constructive relationship that has been built between the IAC and the Government. I am grateful for the positive comments that the IAC has made recognising the potential and opportunity of the UK-India FTA and have noted the areas of concern. I am hopeful that this response reassures the IAC that negotiators are taking an approach to these talks which seeks to achieve the best possible outcome for the UK. I look forward to updating the IAC in due course as the negotiations progress.

Best wishes,

A handwritten signature in black ink that reads "Kemi Badenoch". The signature is written in a cursive, flowing style.

THE RT HON KEMI BADENOCH MP

Secretary of State for International Trade and President of the Board of Trade

Response to International Agreements Committee's Report 'UK-India free trade agreement: Scrutiny of the Government's Negotiating Objectives'

Where it made sense to do so, the International Agreements Committee's recommendations have been grouped for replies. This document's responses follow the order of the recommendations as made in the report.

1. The potential economic gains from a comprehensive trade agreement with India are projected to be more significant than the benefits from trade agreements with Australia, New Zealand or Japan.

2. We welcome the Indian government's new approach to opening trade links and the positive momentum achieved.

I welcome the IAC's recognition of the opportunities that a trade agreement with India presents for UK businesses. India has a dynamic and fast-growing economy, which is estimated to be the world's third largest by 2050. Any improvement to our current trading relationship could bring significant benefits to UK businesses for years to come. The scoping assessment that we published January 2022 showed that a deal with India could be worth over £3 billion to the UK's GDP in the long run. A deal with India would strengthen the UK's trading agreements in the Indo-Pacific region, sitting alongside agreements with Australia and New Zealand, as well as seeking accession to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP).

Negotiations mark a new chapter in our trade relationship with India. In May 2021, Prime Minister Narendra Modi and the then Prime Minister Boris Johnson signed the 2030 Roadmap for India-UK Future Relations. The 2030 Roadmap included the UK-India Enhanced Trade Partnership (ETP), which set our ambition to double trade by 2030 and embark on FTA negotiations.

Alongside the FTA, the ETP is already unlocking opportunities for British businesses in India across industries such as food and drink and life sciences by improving market access. This includes lowering non-tariff barriers on fruit and medical devices to benefit British exporters, and securing mutual recognition on higher education academic qualifications, enhancing the competitiveness of the UK education sector.

3. India's history of relatively thin FTAs, historically protectionist policies and different regulatory approaches, mean that the barriers and challenges to trade with India are considerable and deep-rooted. Overcoming these barriers would require, in many areas, changes to India's domestic legislation, which could be a lengthy process.

4. India's record and context raises questions over whether—notwithstanding the Government's ambition—a comprehensive trade agreement is achievable in the short term and to a fixed deadline. An interim deal could lock in early gains, but it could also put off a more comprehensive deal if the UK makes too many early concessions.

I agree that there are considerable barriers to striking a comprehensive FTA with India because it has been historically protectionist. It is not without reason that no G7 economy has signed an FTA with India. Before embarking on negotiations, DIT ran an extensive consultation to ensure that negotiators understood a wide range of UK business, civil society and public views on barriers, opportunities and risks. I also agree that any provisions that require changes to domestic legislation or that touch on domestic sensitivities could create delays or blocks to a deal: this is the case for both the UK and India. Whilst this creates

challenges for negotiations, it is also why it has been important that both sides have approached talks with high ambition and willingness to work pragmatically on a mutually beneficial deal.

Negotiations are ongoing, and any deal will need to work for both countries.

5. It is difficult to envisage that any deal with India would be as comprehensive as any deal the UK has agreed with other like-minded partners. There are therefore questions over how comprehensive the deal with India should be and its minimum requirements. It is regrettable that the UK Government has not set out the areas it would prioritise for inclusion. We believe it should. The very general, high level, indeed at times overly ambitious, Negotiating Objectives offer no clue as to the Government's negotiating priorities.

6. Given the challenges of securing a comprehensive deal with India, it is questionable whether the setting of an ambitious but arbitrary deadline for the conclusion of the negotiations is the right approach. The UK Government must not accept a poor agreement simply to meet a deadline. We welcome the Secretary of State's assurances that the Government will not compromise on the quality and scope of the FTA, and that it will only sign up to an agreement by Diwali if it works for UK businesses.

For any negotiating partner to make public its key asks of its interlocutor would compromise the ability of its teams to strike the best possible deal. Our negotiators are world-class, accomplished professionals who are aware of what economic areas constitute priorities for the UK and they are informed by the extensive consultation we held. Before launching talks with India, the UK Government ran a public call for input that shaped the objectives of these negotiations. Recommendations received from businesses, civil society groups, trade unions, public bodies and individuals all informed our objectives for this negotiation.

The aspiration to conclude the majority of talks by the end of October 2022 was agreed as a means to drive progress and ensure that both sides take the necessary decisions to reach an agreement. Only once talks have concluded can the Government take a decision on signing the deal, and this Government has been clear that it will not sign a deal unless it is in the UK's interest.

7. Unlike with Australia or New Zealand, there are substantial difficulties— and therefore costs—when doing business in India. These are not adequately captured by the Government's Strategic Approach and Negotiating Objectives but include a complex bureaucracy (which can change from state to state) and tax regime. The Negotiating Objectives thus come across as unrealistic. We call on the Government to engage with Parliament and wider stakeholders on how it is seeking to address these challenges, and which barriers are being prioritised.

8. Facilitation payments are common in India, yet modern international business standards condemn this. The Government must satisfy itself and press India on making progress towards meeting international business standards.

Every negotiation is different because every economy is different. There are considerable and deep-rooted barriers to trading with India and only some of these can be addressed through an FTA.

Within the FTA, we are pursuing objectives such as an article on taxation. This article would support the existing Double Taxation Agreement that we have with India and protect UK

sovereignty over tax policy. We will also seek to ensure that tax measures are not used by either India or the UK to breach core trade obligations. We aim to have a chapter on anti-corruption, which considers a broad range of obligations designed to combat the distorting impact of bribery and corruption in trade. This provides important reassurance to British and Indian businesses.

Outside of the FTA, the UK has been a strong supporter of India's efforts to improve their business environment. Since 2015 we have been a partner of India's Vision Statement, which sets out their ambitions for a transparent, rules-based regulatory framework. We also undertake extensive work at the federal and state level to address market access barriers that fall outside the remit of the FTA.

9. We also call on the Government to ensure that any agreement with India includes robust and enforceable provisions on non-circumvention and dispute resolution.

Most trade deals include a state-to-state dispute settlement mechanism for resolving disputes under the FTA. The Government anticipates that a dispute settlement mechanism in the UK-India FTA will broadly follow the World Trade Organization (WTO) Dispute Settlement Understanding, providing effective, timely mechanisms that promote compliance with the agreement and ensure that disputes are dealt with consistently and fairly.

10. While the gains from an FTA with India are projected to be more significant than those from an FTA with Australia, New Zealand or Japan, they are more uncertain. India's economic landscape is rapidly evolving and we call on the Government to set out how it will ensure that the agreement takes account of and can respond to changes in the Indian economy, so that any final agreement continues to work for the UK long term.

The UK Government will only sign a final agreement that works for the UK in the long term. As part of our negotiations, the UK and India will agree mechanisms to review the deal and ensure that it remains fit for purpose. Utilisation of FTAs is paramount to their success, and as part of this there will be monitoring commitments and committees that regularly meet to review the deal.

The Agreement

11. A trade agreement should include the substantial reduction of Indian tariffs and other charges on UK goods.

One of the UK's objectives is to secure significant tariff removal or reduction across a range of goods, including in sectors that India have previously protected in FTAs. With a projected middle class of 250 million people by 2050, any reductions to India's tariffs on UK exports will be advantageous for UK businesses now and into the future. We are clear that reducing tariff barriers must sit alongside reducing non-tariff barriers, for instance, customs or technical barriers to trade, to ensure we are perusing the best deal possible that supports UK businesses.

12. There are concerns about the business environment of India. As a result, the standard provisions in customs and trade facilitation, TBT and SPS will not be sufficient for UK businesses. The Government must go further in lowering 'at and behind the border' barriers to ensure that UK businesses are not disadvantaged in the Indian market.

13. While consumers may benefit from trade deals through cheaper goods and greater choice, the Government should not agree regulatory equivalence that would result in reduced standards or lower consumer protection.

Any trade deal must uphold the safety and quality of products in our market. Negotiators are working on an FTA that gives assurance to UK businesses on these matters, including through chapters covering Technical Barriers to Trade (TBT), Customs, and Sanitary and Phytosanitary (SPS). These support our promotion of the use of international standards while upholding the strong standards that we have for imported products.

14. There are opportunities for the UK to secure greater market access in services—in particular as India does not have any commitments at WTO level with regards to legal, accounting and audit services. However, India’s lack of WTO services commitments and domestic regulatory framework also point towards the challenges of securing a deep agreement on services. The Government should prioritise improvements that provide a solid environment for UK business.

15. There are other improvements that could be delivered on mutual recognition of qualifications, and financial services regulatory dialogues. We call on the Government to provide a more detailed view of the services benefits from this FTA, including a consideration of the complementarities between the UK and Indian services sectors.

I agree with the IAC’s view on the opportunities for the UK services sector in India. A significant number of UK companies and business organisations pointed to the opportunities but also the challenges of operating in an uncertain market in our public consultation. UK services exports to India doubled in the decade up to 2019, and in 2021 services accounted for 43% of total UK-India trade. This is driven by a growing demand across all sectors, including notable increases in travel, finance, and business services. Likewise, outside of the US and Europe, the UK imports more services from India than anywhere else, largely driven by growing imports of IT and business services. This clear complementarity means our FTA can benefit both nations and gives us a strong position from which to grow UK-Indian trade.

In this negotiation the UK is seeking to fortify the existing position of UK services providers in the Indian market to provide stability, as well as seeking to create new opportunities in key domestic export sectors, such as professional, business, and financial services, where UK companies are currently prohibited from operating. The UK will also explore provisions to facilitate the recognition of professional qualifications where there is interest from regulators, or to provide momentum to expand on our existing economic dialogues, such as those in financial services.

16. Mobility is important to services economies, and it is therefore right that both the UK and India have substantive demands in this area. However, the Government’s approach to mobility schemes and the temporary movement of businesspeople between the UK and India in an FTA remains unclear, including on the limits of access, and should be clarified.

17. The Negotiating Objectives do not set out the Government’s position on alleged Indian demands to exempt certain Indian workers from making National Insurance contributions in the UK. If the Government intends to agree to those demands, it must conduct an impact assessment.

We call on the Government to spell out the likely costs, to what extent Indian workers would have access to UK benefits, and the implications for other non-British nationals working in the UK.

Trade and immigration are separate policy areas. Immigration policy is our overarching approach to the movement of people and border controls, whereas mobility refers to the temporary movement of businesspeople for specific purposes. FTA discussions can include business mobility provisions that support businesses and consumers, and which promote the interests of both countries.

The UK typically agrees business mobility provisions that bind-in existing rules, helping UK businesspeople have certainty in their access to partner nations. There will not be agreement to anything which undermines the principles or functioning of the UK's borders, or the UK's ability to control immigration.

18. The Government should seek provisions that ease restrictions on foreign direct investments in India and strengthen protections for investors.

19. There is a strong case for including investor-state dispute settlement (ISDS) provisions in an agreement with India, yet the Government does not mention ISDS in its Negotiating Objectives.

20. We call on the Government to clarify its overall policy towards ISDS, on other mechanisms for investment protection, and whether it is seeking ISDS in its FTA with India (as we believe it should). Whichever mechanism is put in place, it must be independent and enforceable.

The Government wants to make it easier for UK businesses to invest in India, providing them with legal certainty and the confidence to operate in the Indian market. The Government will also seek to provide sufficient protections to UK investors and guarantees that they receive fair and non-discriminatory treatment, including access to adequate remedies, if these guarantees are broken.

The inclusion of Investor State Dispute Settlement (ISDS) in any agreement is considered where it is in the UK's national interests and where there is agreement with partners and businesses that it can play a useful role in supporting the bilateral investment relationship. Where the UK negotiates ISDS it will be in line with modern international best practice, meaning that the mechanism delivers fair outcomes of disputes, has independent arbitrators bound by high ethical standards, and that proceedings are transparent. The UK has already negotiated investment agreements with ISDS provisions with over 90 trading partners.

21. UK businesses make a strong case for the inclusion in FTAs of provisions which ban the localisation of data and support cross-border data flows, while consumer groups rightly seek to ensure that UK citizens' personal data will be protected.

However, provisions preventing unjustified data localisation and allowing the free flow of data in India would require changes to India's domestic legislation and would require a complicated and lengthy process.

We call on the Government to explain how it is aiming to deliver UK business and consumer interests in this context

UK and Indian negotiators are exploring a wide range of commitments that would support consumers and businesses to participate in digital trade. This includes consideration of data

flows. Both sides are mindful of the need to respect domestic sensitivities, including legislative changes, and to also include provisions in the deal which allow us to review and adapt the deal as our economies evolve.

22. India's intellectual property (IP) regime provides significantly fewer protections than the UK's IP regime. A trade agreement should commit India to strengthening its IP protections, but we note that there are limits to what can be achieved in the short term.

23. We welcome that the Government is seeking a balance between securing patent provisions while reflecting wider public interests, including the production of affordable medicines by India. We invite the Government to explain how this balance can be achieved.

23. We welcome that the Government is seeking a balance between securing patent provisions while reflecting wider public interests, including the production of affordable medicines by India. We invite the Government to explain how this balance can be achieved.

24. In line with other FTAs, we welcome the Government's ambition to ensure protection for UK Geographical Indications (GIs).

I agree that both intellectual property and innovation are important elements of ambitious FTA negotiations. The Government's approach to intellectual property (IP) in every FTA, including this one, is to strike a balance between supporting research and innovation.

The UK is seeking FTA provisions that enable us to support and champion further growth and innovation in IP, ensuring that industries which rely on the period of exclusivity provided by patent protection can recoup investment on research and development in new medicines. This is while ensuring that the system facilitates the entry of generic medicines upon patent expiry, providing competition and cheaper prices for consumers, developing countries and to public health agencies. In addition to our work on the FTA, the UK remains committed to the Doha Declaration on the TRIPS Agreement and Public Health, and its agreed flexibilities that support access to medicines.

We are also keen to seek effective protection for our Geographical Indications (GI) via India's GI system. GIs are valued by UK consumers and producers alike and contribute to the UK's growing reputation for high quality food and drink, enjoyed around the world. Many stakeholders have emphasised the importance of GIs and the Government worked closely with them when designing the new UK GI schemes.

25. The Negotiating Objectives on climate and the environment are overly generic and appear to lack ambition. We welcome the commitment to reaffirm both countries' commitments under the Paris Agreement. But greenhouse gas emissions are likely to rise as a result of the FTA and the Government should set out how it plans to mitigate them.

26. We call on the Government to provide an estimate of the potential carbon leakage that may result from an FTA with India.

27. The Government should include transport emissions and carbon leakage in its estimate of the change in overall greenhouse gas emissions associated with a UK-India FTA (and any other FTAs).

28. The trade relationship offers an opportunity to collaborate with India on the environment and climate. The environment and climate chapter should include a commitment to collaborate on carbon emissions trading schemes in the future. It would be helpful to understand how the Government's priorities on international trade link into its broader environmental and climate objectives. As we noted in our report on the UK-Australia FTA, a lack of tie-up of trade policy with the UK's climate objectives is again apparent.

29. The Government should consider how it can support India's decarbonisation efforts.

30. The Government should negotiate traceability provisions to guard against the import of goods linked to deforestation.

The UK is seeking provisions in this FTA that support the Government's ambitions on the environment, climate change and achieving our international obligations. However, the Government also recognises that climate change and environmental issues represent a large set of policy issues that cannot be solved with any single trade treaty.

As well as seeking environment chapters in FTAs, the UK is also pursuing our climate and environmental objectives in multilateral trade fora such as the WTO and undertaking a range of other measures that support clean growth, green exports and attracting investment into UK green sectors.

While the UK will be seeking environmental provisions within the FTA, the Government is clear that carbon leakage will most effectively be tackled through an international approach. Our approach to a UK-India FTA, as set out in our strategic objectives at launch of talks, serves to reinforce and support our wider efforts to address our climate change and environmental objectives. An example of the UK's wider efforts to tackle carbon leakage, the Industrial Deep Decarbonisation Initiative, will be the leading demand-side initiative for industrial decarbonisation. This is co-led by the UK and India and seeks to build consensus on the harmonisation of emissions reporting.

At signature, the Government will publish a full impact assessment, which will include further analysis of the impact of the final agreement on the environment.

31. The generic Negotiating Objectives on labour do not go into sufficient detail. It is unclear whether the Government is seeking to encourage better labour conditions in India, despite the Objectives' focus on the UK's international commitments. Because of the lower levels of labour protections in India, it is unclear whether a non-regression objective is meaningful.

32. The Government should either seek to strengthen labour protections informally, through co-operation mechanisms established in the trade deal, or formally, by requiring minimum levels of protection. It should discuss options with stakeholders, including development organisations and trade unions.

The Government is proud of its record on labour protections and no FTA will undermine that. International labour standards and assurances no side enforces domestic labour protections in order to gain a trade advantage are important provisions to protect workers and ensure a level playing field for businesses. The Government has been clear throughout that any agreement must protect our regulatory sovereignty, which is why provisions are being sought regarding labour protections to provide assurances for workers and businesses without undermining our sovereignty.

The Government remains committed to working closely with key stakeholders on the FTA programme to support the UK's leading role in encouraging better labour protections for workers across the world and through participating in fora including the G20, the G7, and the UN.

33. We call on the Government to include a dedicated consumer chapter, as well as a chapter on innovation that focuses on strengthening cooperation.

The Government recognises the importance of both policy areas in our trade relationship with India. On consumer protection, we are working closely with India to identify provisions that protect consumers when buying goods and services in each other's markets as well as promoting open and fair competition for our businesses.

34. The Government should consider the trade diversion impacts on India's neighbouring developing countries and any possible mitigating measures that it could take.

The Government considers the effects of trade diversion and publishes anticipated impacts in both the scoping assessment at launch and the impact assessment at signature. The UK-India FTA scoping assessment considered the risk of short to medium term effects on some developing countries' exports to the UK as a result of trade diversion. Textiles, clothing and footwear sectors in neighbouring countries were identified as potentially more likely to be negatively impacted through trade diversion by greater UK-India trade liberalisation. As part of the FTA, we are seeking to agree provisions that covers development, which are intended to enable us to monitor the impact of the FTA on other developing countries.

Government engagement and consultation

35. The published Negotiating Objectives are very general, at times overly ambitious and even unrealistic. We call on the Government to provide more detailed and concrete Objectives for future negotiations.

36. We reiterate our recommendation that the Government should publish a trade policy, showing how it links into broader foreign policy, security, defence and other domestic objectives, as well as labour, women's and human rights, and the environment. This will enable trade policy to be understood in relation to other priorities and enable us to assess the impacts and trade-offs.

DIT's trade strategy is to have an open trade environment that boosts growth, opens new markets to UK exports, and enhances our national security. This is accomplished through both proactive trade negotiations and the right protections against unfair practices, both at bilateral and multilateral level, while also promoting exports and investment. This strategy will adapt to global challenges and evolving strategic context while continuing to pursue our economic and international interests. The Department will continue to publish strategic cases for each new FTA, which places the trade agreement within our wider strategic approach.

Within the Government's wider objectives, UK-India FTA-specific negotiating objectives published by the Government are based on the extensive input and feedback received from a wide range of stakeholders as a result of a 14-week public consultation. During negotiations the Government has continued to engage closely with stakeholders to ensure that our policy positions take their needs into account.

37. While we do not expect the Government to share sensitive negotiating information in a public letter, round updates should at least give an indication of what has been discussed, where progress has been made, and provide a flavour of the obstacles encountered and choices faced by negotiators. The Committee should not have to rely on press reports for this information.

The Government always endeavours to provide best available information to Committees and Parliament, while respecting the sensitivities of negotiations. DIT regularly offers Committees private briefings by experts involved in negotiations, including UK-India FTA negotiation officials.

38. We thank the devolved administrations for the evidence they submitted. In the absence of detailed information provided by the UK Government on the discussions it has had with the devolved administrations, it is vital that we hear from them directly. We reiterate our open invitation to the devolved administrations and legislatures to raise with us any issues they consider to be significant.

39. While we accept that the negotiation of trade agreements is a reserved competence, trade agreements will have a significant impact not just on devolved policy areas, but also on devolved economies more generally (even in reserved areas) and interests.

40. We remain concerned about the adequacy of the information shared with the devolved administrations regarding matters that are reserved, such as tariff liberalisation for sensitive goods.

41. We call on the Government to ensure that consultation with the devolved administrations is comprehensive, transparent, detailed and timely, and that their views are represented throughout the negotiations, including on reserved matters that may have an impact on them. The quality of engagement with the devolved administrations must not be compromised by the pace of the negotiations.

This Government regularly engages with the devolved administrations (the Scottish Government and Scottish Parliament, the Welsh Government and Welsh Senedd and the Northern Ireland Executive and the Northern Ireland Assembly) as we progress through negotiations. This includes extensive consultation through the development of the mandate, as well as ongoing dialogue and updates on how the negotiations are progressing.

The broad structures used by DIT to engage the devolved administrations (DAs) are well-established and have been reported to the IAC on previous occasions. These structures, coupled in the future with extensive information sharing, mean that the UK Government has provided the DAs with all the tools they require to represent their views on FTA negotiations.

In addition to engaging directly with the DAs, there is regular engagement with Scottish, Welsh and Northern Irish businesses through our DIT teams based in the nations and the Territorial Offices.

42. We welcome that the Government has conducted a modelling review to provide a more detailed sub-national assessment of the impact of FTAs. We look forward to receiving assessments with more detailed information on the impact of FTAs on the nations and regions of the UK.

A trade deal with India could present opportunities for companies of all sizes and from all corners of the UK. As set out in the Department's scoping assessment and regional and

nations factsheets that were published at launch of negotiations, the UK Government assesses that all nations and regions could see an increase in economic output as a result of a UK-India FTA.