

## **UK trade negotiations: Agreement with India**

### **Evidence submitted by the British Standards Institution**

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#### **Executive Summary**

1. BSI, the UK's national standards body, welcomes the launch of negotiations for a free trade agreement with India. There are significant opportunities to develop cooperation initiatives and structures to increase trade between our two countries. These opportunities come in areas of emerging technology such as building trust in the data protection frameworks that underpin digital trade, working together to develop platforms to set global standards for artificial intelligence or in the development of connected and autonomous vehicles.

2. BSI has a long history of cooperation with our Indian counterpart, the Bureau of Indian Standards (BIS). This includes through technical assistance to increase the ability of BIS to adopt international standards as a basis for Indian standards and to more effectively influence the work of international standardizing bodies such as ISO and IEC in line with India's priorities. BSI is in the process of agreeing an MoU with BIS to reflect the deepening of bilateral trade relations.

3. Standards are regularly used both in the UK and in India to support public policy objectives and, in a limited number of cases, as a means of regulatory compliance for products. The main difference between the UK and India is that in the UK, standards are mostly a voluntary means of compliance (other technical solutions can be put forward) whereas, where standards are referenced in regulations in India, their use tends to be made mandatory.

4. Differing technical regulations and national standards (included under what are known as 'technical barriers to trade') have come to represent a significant factor of trade friction globally in recent years. The common use of international standards, developed through international standardising bodies such as ISO and IEC, has been recognized by the WTO TBT Agreement as an important way of reducing technical barriers to trade globally.

5. Most FTAs include provisions on technical barriers to trade; most of these simply reiterate commitments both parties have made under the WTO TBT Agreement. The level of ambition in the TBT area in a bilateral FTA generally depends upon compatibility between the systems of domestic regulation. In the case of India, the Indian model of regulation is currently incompatible with that of the UK. This is due to the general approach taken to regulatory policy in India which tends to be more regulated and more state driven than the UK.

6. The priority for any FTA implementation with India, in the standards area, should be to begin the process of bringing the two regulatory environments more into convergence. This will be a long process and will involve cooperation at many levels including cooperation between Indian and UK regulators and also between standards bodies, for example to increase the use and adoption of international standards within India. Regulatory cooperation should, wherever possible, involve regulators from the Indian states to ensure that international standards are embedded within e.g. government procurement.

7. Given these very real differences and incompatibilities between India and the UK's approach to regulation and the use of standards, it is important that any TBT provisions agreed with India do not impact the UK's successful model of standards shaped by stakeholders including the very strong influence of consumers. This means avoiding granting the equivalence of technical regulation as part of FTA implementation or recognising Indian standards for regulatory compliance in the UK, on the same basis of British Standards.

8. Instead efforts should be focused on supporting India to increase its level of harmonization with international standards and increasing the references within Indian regulation to international standards. This would be the most effective way of reducing barriers to each other's markets. Currently only 30% of India's entire standards catalogue is harmonized with international standards. This compares to over 85% of British Standards developed either through international (ISO and IEC) processes or through the complementary European regional standards system.

9. In addition, the FTA should establish strengthened bilateral cooperation in the research and innovation fields to increase the pace of innovation in products and services and the ability of both countries to translate innovation into market success through the quick identification of needs and priorities for standardization. For this reason, BSI welcomes any initiative in the FTA negotiations to establish a strategic innovation dialogue and would recommend that such a forum include relevant stakeholders from the private sector, including standards bodies.

10. To reap the biggest rewards from cooperation between India and the UK in terms of increased trade, BSI believes that the priority should be a comprehensive trade agreement which focuses on non-tariff measures such as technical barriers to trade. Focusing purely on the limited area of tariff elimination - such as an early harvest deal - while

useful, will not address the deep-seated regulatory barriers that complicate market access to India and prevent India's from realising its potential as a global exporter.

## **Introduction**

### **The British Standards Institution, National Standards body for the United Kingdom**

11. BSI is the UK's National Standards Body, incorporated by Royal Charter and responsible independently for preparing British Standards and for coordinating the input of UK experts to European and international standards committees. BSI has a public function in support of the UK economy and society and brings together stakeholders to facilitate the development of good practice that is codified in voluntary standards.

12. BSI operates in accordance with a Memorandum of Understanding with the UK Government. BSI represents the UK view on standards in Europe via the European Standards Organizations CEN and CENELEC and internationally via ISO and IEC. BSI is a member of ETSI (The European Telecommunications Standards Institute) and provides support to DCMS through their membership of ITU (the International Telecommunication Union).

13. In its role as the UK's National Standards Body, BSI provides the infrastructure for over 13,000 experts, who are the voice of UK economic and social interests, to be influential in the international standards organisations. BSI has a public interest responsibility to develop and maintain the standards infrastructure to support UK business and consumers at home and internationally.

14. The UK is a global standards maker. BSI has been at the forefront of developing global good practice since the organization was created in 1901. The UK has been at the origin of many of the world's best-known international standards such as the ISO 9001 management system standard and other more recent standards such as the ISO 14001 environmental system standard and ISO 37001, the international anti-bribery standard. These, and others, were all originally based on British Standards.

### **BSI's response to this Call for Evidence**

15. In this response BSI will be responding primarily to the question as to how the terms of a new trade agreement between the UK and India are likely to affect BSI, BSI's business or organization, or those that we represent. We will limit this response to the area of BSI's remit on standards and related areas of technical regulation and conformity assessment.

### **The role of standards in international trade**

16. In the vast majority of cases, standards are voluntary good practice that provide a guarantee that a product or service will perform as expected. In the UK, a small number of British Standards – 13% of the total - are designated by government to provide a voluntary means of demonstrating compliance with regulatory requirements. Manufacturers are free however in the vast majority of cases to put forward alternative technical solutions that meet the essential safety requirements of regulation. In most other countries around the world, including India, wherever product standards are referenced in regulation, the use of that standard is made mandatory.

17. Technical regulations and standards form part of what are known as Technical Barriers to Trade or TBT. Over the last few decades, as the importance of tariffs has declined as a factor in global trade friction, non-tariff measures such as TBT have come to have a more significant impact on trade between countries. Compliance with multiple, conflicting regulatory requirements, including technical standards, is a significant cost element for companies looking to export into new markets and the complexity of demonstrating compliance with those requirements can in some cases discourage exporters from entering new markets altogether.

18. In order to reduce the trade friction arising from technical regulations, conformity assessment procedures and the mandatory use of differing national standards, the WTO Agreement on Technical Barriers to Trade (TBT Agreement) – one of the founding texts of the WTO - strongly encourages WTO members to make use of voluntary international standards as a basis for technical regulation where they exist, unless they are ineffective or inappropriate for the fulfilment of the objectives of that regulation.

19. International standards are developed within international standardising bodies, primarily the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC). These bodies bring together the views of all concerned national stakeholders through their respective national delegations (BSI convenes the national delegation for the UK). The development processes and governance build international consensus and therefore carry the necessary legitimacy to be considered global good practice.

20. Meeting the requirements of an international standard enables interoperability of products across multiple regulatory environments thus reducing costs linked to compliance. For this reason, international standards are said to constitute 'a passport to trade' and their use increases the global competitiveness of businesses. With lower costs of compliance, businesses can concentrate on investing in higher value aspects of product development such as product innovation.

21. BSI is committed to working to remove technical barriers to trade in the way standards are developed in the UK. BSI is a signatory to Annex 3 of the WTO TBT Agreement which is the Code of Good Practice for the Preparation, Adoption and Application of Standards. The Code of Good Practice commits standards bodies around the world to ensure that the preparation, adoption, and application of standards do not have the effect of creating unnecessary obstacles to trade. BSI also fulfils the function of WTO TBT Enquiry Point for Standards on behalf of the UK government.

22. BSI's policy is to adopt international standards as British Standards in order to ensure that the collection of around 37,500 national standards reflects the latest international consensus on good practice. This means that the same national standard will meet the needs of UK companies both on the domestic market as well as in the rest of the world. This policy also contributes to the UK economy's openness to global trade and investment.

23. The UK standards catalogue today consists of over 85% of international or European regional standards which have been influenced by UK stakeholders including consumers, regulators, and other interested parties as well as business and industry. By ensuring that national standards reflect the latest international consensus, BSI is playing its role in reducing trade friction globally while ensuring that all those in the UK with a stake in a specific international standard have the greatest possible influence in its development.

### **The contribution of bilateral FTAs**

24. Trade agreements represent an opportunity to work together with trading partners to remove technical barriers to bilateral trade and, where possible, to go beyond basic WTO commitments under the TBT Agreement. Each negotiation is unique and each trading partner will have different priorities however, in order for trade agreements to deliver most effectively on their potential in the area of standards and regulation, it is important that a number of key parameters for success are met.

25. At the very least, TBT provisions should include a definition of international standard which reflects UK practice and ensures that UK interested parties have had a systematic opportunity to influence the international consensus through their national delegation. The agreement should also contain provisions for cooperation between governments on issues related to technical regulation, standards and conformity assessment and the encouragement of national standards bodies to cooperate within their areas of responsibility. Finally, a specific TBT committee should be created, involving national standards bodies where relevant, to assist in addressing specific standards-related issues linked to market access.

26. Standards also play a role in increasing opportunities for bilateral trade in other areas of trade agreements, most notably in creating the conditions for cooperation around developing rules to govern areas of emerging technology linked to digital trade such as artificial intelligence and connected and autonomous vehicles. It is important that cooperation around digital trade and related data provisions go hand in hand with the common identification of relevant international standards and gaps in international standards. In some cases, where international standards have yet to be developed, standards bodies from both countries can work to develop common bilateral standards that can then be promoted to the international level. Such activities are beneficial for both countries as they establish the basis for global consensus and provide first move advantage to economic operators.

### **Getting the approach right to a future trade agreement with India**

#### **The context**

27. When approaching FTA negotiations with India in areas linked to regulation and standards, the UK government should be aware that the Indian regulatory environment is different to that of the UK, reflecting that country's regulatory traditions and level of economic development. The Indian government has traditionally used regulations to pursue industrial policies aimed at economic development and self-sufficiency, which are more statist than the UK's approach and tends to favour domestic producers. In addition, a multiplicity of regulations, registration and licensing requirements at federal and state level leads to a regulatory environment that can be difficult to navigate for foreign importers.

28. The Indian standardization system today is more heavily influenced by government than is the case for its UK equivalent. India has an ambition to upgrade its National Quality Infrastructure (Standardization, Metrology, Conformity Assessment, Accreditation) and launched its first India National Strategy for Standardization in 2018, providing a blueprint for the development of India's National Quality Infrastructure. A robust and internationally recognized system of quality infrastructure is essential for a country to be able to access export markets.

29. India does not have the same level of alignment on international standards as the UK. According to the latest figures available from the Bureau of Indian Standards Annual Report 2020-2021, only 30% of Indian standards were harmonized with international standards as of March 2021. This percentage has barely shifted since 2013. Whereas there is an increasing awareness of the need to use international standards for export markets, the Bureau of Indian Standards has been slower to adopt international standards for the domestic market.

30. Where standards are referenced in regulation, unlike in the UK where they remain a voluntary means of compliance, the Indian government makes their use mandatory, in many cases through Quality Control Orders. The majority of these mandatory standards are not based on international standards.

31. Despite this, India is looking to engage more systematically in international standardization work through ISO and IEC to name but two international standardizing bodies. The Bureau of Indian Standards now sits on the ISO Council. Through bilateral cooperation, BSI has been supporting the Bureau of Indian Standards to increase the effectiveness of its engagement in international standardising bodies and its ability to align Indian standards on international standards.

### **Priorities in negotiations**

32. BSI welcomes the start of trade agreement negotiations with India and encourages the UK government to focus on three main priorities in FTA negotiations which will help to remove regulatory barriers to UK exports of products and services and ease the process of market access to India for UK exporters. In order to get the most success out of the agreement, we support the conclusion of a comprehensive deal that addresses non-tariff barriers such as regulations and standards as well as tariff reduction and is focused on longer term removal of technical barriers to trade through regulatory cooperation between UK and Indian regulators.

### **Prioritize regulatory cooperation**

33. In FTA negotiations and in the implementation of any agreement, the UK should prioritize regulatory cooperation looking to gradually make regulation more compatible, notably through working with Indian regulators to replace prescriptive regulation with high level essential requirements, looking at where standards can offer a more trade enabling alternative to regulation and supporting the Indian government to base more Indian technical regulations on international standards. It is important to ensure that state level regulators are included in regulatory cooperation activities so that good practice around the use of international standards is embedded at state level (in for example government procurement) as well as at the federal level.

34. In parallel to work between regulators, BSI continues to work on a bilateral basis with our counterparts in the Bureau of Indian Standards to support the greater adoption of international standards as Indian standards to further ease access to global markets for Indian companies while removing barriers to trade for international companies seeking to access the Indian market.

### **Ensure full reciprocity in measures to remove TBT**

35. Ensuring full reciprocity in any FTA and maintaining the autonomy of UK regulatory policy is crucial and will be especially challenging with India given the regulatory system. Government should ensure that no TBT provision intentionally or unintentionally calls into question the UK's co-regulatory model based on partnership between government and stakeholders in setting the technical requirements deemed sufficient to satisfy the requirements of regulation and the presumption of conformity given to voluntary standards that have been developed by UK stakeholders including businesses, consumers and regulators.

36. UK government should be particularly cautious of mechanisms in FTAs to give positive consideration to the equivalence of technical regulation. Whereas any move to make regulation more compatible is welcome, implementing such frameworks could lead to the recognition, on an equivalent basis as British Standards, by the UK of Indian national standards that have not been shaped and influenced by UK stakeholders as is the case with international standards, adopted as British Standards and have not had the same oversight by UK regulators.

37. Given the very different regulatory culture in India, it would be particularly difficult to ensure that recognising technical regulation as equivalent would lead to genuine, reciprocal improvement of market access conditions for both Indian and UK companies. This is because in a complex regulatory environment like that of India, it is challenging for commitments made in trade agreements to filter down to those administrators making decisions on the ground. The greater risk would be of Indian business gaining enhanced access to the UK's open market for goods with little increased reciprocal gain for UK businesses looking to access the Indian market. The picture of market access in India is further complicated by a federal structure with state level regulatory requirements.

#### **Maximize potential for cooperation with India in international fora**

38. The UK, through BSI, is a leader in international standards and currently has the third highest number of participating members of ISO technical committees of all 167 ISO members. As a founding member of ISO and IEC, the UK is present at every level of governance in these organizations. The UK manages international committees in areas as diverse as sustainable finance, nanotechnologies and occupational health and safety. India is increasingly engaging in the international standardising bodies and has recently taken up a position on the ISO Council, the main decision-making body for the organization. India currently has 486 participating members in ISO committees

39. The UK is in a unique position to support India's increased engagement in the international standardisation community through the momentum generated by an FTA in areas of mutual interest for both countries. Such cooperation is beneficial for the UK as it supports the UK's influence in international standardization. For this reason, it is important that the TBT chapter in the FTA creates a framework for encouraging the respective national standards bodies of the UK and India to cooperate where there is an interest to do so, both bilaterally and within international standardizing bodies.

40. Cooperation with like-minded trading partners in a variety of fora such as international standardizing bodies provides a useful complement to government's engagement and priorities in multilateral bodies such as the WTO. Building networks through international technical standardization has the potential to support government priorities in strategic areas of importance for the UK national interest such as cooperation around new standards for emerging technology to uphold multilateral governance bodies and prevent technology capture by single countries or in response to global challenges such as the threat posed by climate change.