# IND0027 - Association of British Insurers (ABI)

## Introduction

1. The ABI welcomes the opportunity to respond to this inquiry into UK-India trade negotiations. Insurance and reinsurance is a global business and so many ABI members have a global presence. The UK insurance and long-term savings industry is the largest in Europe and the fourth largest in the world, after the US, China and Japan.

2. Several ABI members have had an established presence in India for decades and are committed to the market. They are keen to develop the UK-India financial services bilateral relationship further and they have identified India as a key market for growth opportunities. The launch of the UK-India trade negotiations is therefore very welcome.

3. India is slowly opening up some parts of its insurance market, however it continues to take a protectionist approach to reinsurance, particularly with domestic reinsurers being given preferential treatment. With the launch of the UK-India FTA negotiations, there is a unique opportunity for the UK to build on the recent positive progress and champion the importance of having equal treatment of domestic and UK reinsurers and investors.

4. While FTAs are legally binding agreements and offer certainty, we are mindful that securing meaningful provisions in an FTA on (re)insurance or financial services may prove to be very challenging given the different approaches the UK and India take. It would therefore be prudent for the UK to use all of its 'tools' available to help secure any liberalisation for the (re)insurance sector.

5. Recent positive developments have also been welcomed by our members, including the launch of a 2030 Roadmap[1] which included an announcement of an Economic Trade Partnership (ETP) in May 2021. We are pleased that the ETP recognised the importance of the annual UK-India Economic and Financial Dialogue (EFD), which has been taking place since 2007, and gave a commitment to continue to hold them. This was significant as there had been an absence of EFDs in 2018 and 2019.

6. Alongside the FTA, we would urge the UK Government to ensure that the annual UK-India EFD continues to take place. These senior level forums have a proven track record in deepening the bilateral relationship and securing incremental progress.

7. In addition to the EFD, we are conscious that visits from senior Ministers / VIPs in Government are appreciated, particularly in India, and so the UK

[1] https://www.gov.uk/government/publications/india-uk-virtual-summit-may-2021-roadmap-2030-for-acomprehensive-strategic-partnership/2030-roadmap-for-india-uk-future-relations

should not be afraid to continue to utilise its soft diplomacy to help bridge gaps in understanding.

**Key asks within UK-India FTA**

8. We set out below our key asks for the UK Government to secure within an FTA with India. We see the negotiations as an opportunity to address some long-standing issues that all foreign (re)insurers face today.

9. Data flows globally are essential to many industries and the economy, including (re)insurers. The transfer and processing of personal data across borders is an integral part of (re)insurers' business operations as they require data to price risk accurately.

10. India takes a protectionist view towards cross-border data flows. While the reason for this is often attributed to cyber security or protection of personal information, these measures have an adverse impact on the ability of (re)insurers to conduct business.

11. We would welcome the UK Government to secure legally binding commitments in an FTA with India on data for financial services, such as those in the recently agreed UK-Japan Comprehensive Economic Partnership Agreement (CEPA). For example, article 8.63[2] prohibits measures that restrict the free flow of cross-border data by financial services firms, while respecting the need to protect personal data, and prevent the need for data to be stored on local IT facilities.

12. (Re)insurers need to move data cross-border for many reasons, and preventing this can result in: difficulties obtaining information so that policyholders can be checked against international sanctions lists; difficulties in checking aggregations of cover on the same policyholder; and limitations on the ability to use intra-group service hub offices that are outside of that particular jurisdiction to help with the management of that business (e.g. underwriting or claims support); and makes pricing risk accurately challenging.

13. We would like to see the UK and India establish provisions in a future FTA for a formal financial regulatory cooperation mechanism and include commitments on financial regulatory cooperation to hold existing financial regulatory dialogues, such as the UK-India EFD and Financial Markets Dialogue. In our experience, we have found that regulatory cooperation is essential in building trust and mutual market understanding between regulators and can often resolve market challenges more easily.

2

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/929181/CS_Japan_1.2020_UK_Japan_Agreement_Comprehensive_Economic_Partnership__v1.pdf

14. India is a relatively restrictive market, particularly for reinsurers, and so there is an opportunity to build on precedents secured in the UK-Japan CEPA on regulatory cooperation which could allow for meaningful progress on our concerns.

15. The CEPA sets up a UK-Japan Forum which appears to have one of the most advanced regulatory cooperation on financial services frameworks set out in an FTA to date, and it is useful in providing a good level of detail on the issues to cooperate on, which agencies should be involved and the frequency of meetings. It should be used as a guide for the UK when seeking other trade agreements. However, the level of detail set out here is appropriate to Japan, the size of its financial services sector, the interconnectedness with the UK, and its own appetite for detail.

16. The US-Canada-Mexico Agreement (USMCA) provides another example of good regulatory cooperation with the establishment of the Financial Regulatory Forum. It not only facilitates discussions between the regulators but also recognises the importance of engaging with industry during regulatory dialogues, as appropriate.

17. Once regulatory dialogues between the UK and India become more formalised, discussions could cover wider issues, such as how to address discriminatory barriers that India imposes on UK financial institutions. For example, dialogues might explore how India could remove all remaining equity caps on UK businesses investing in the Indian insurance sector. In general, future UK regulatory diplomacy towards India should aim to encourage greater acceptance of recognition and deference.

18. We would welcome any efforts from the UK Government to liberalise crossborder trade in (re)insurance as much as possible, for example removing restrictions on writing cross-border marine, aviation and transport (MAT) insurance and non-MAT large commercial risk insurance.

19. It would also be helpful to look at removing the requirement for foreign insurers to operate in India through joint ventures.

## Using all the Government's trade tools to further liberalisation in India

20. While we are supportive of the UK-India FTA negotiations, we are mindful of the limitations of what can be agreed by India in terms of liberalising the (re)insurance sector. Our sector faces discriminatory treatment in several areas which, in an ideal world, we would like to be addressed in an FTA, however, we recognise that the Indian appetite for this may not allow for progress in all these areas. This is why other tools, such as the annual EFD, are equally important and should be pursued in parallel.

21. India increased the foreign direct investment (FDI) cap for insurers from

49% to 74% in 2021. We welcomed this important increase, which we had highlighted for several years, as it could result in greater competition and pricing of insurance products for customers in India. However, the rules also set out several restrictions on the management and control criteria for Indian insurance companies. This includes a requirement for the majority of directors, key management persons and at least the chairman of the Board/ managing director or CEO to be a resident Indian citizen.

22. We would therefore ask for these Guidelines to be eased to allow for full participation of foreign players in the Indian insurance market. The approach taken to changes to management control and any potential safeguards will impact on the decisions foreign insurers may take in response to the relaxation of the equity cap. It will shape – and potentially limit - how foreign players, including British insurers, approach future investments and share their extensive expertise to support the increase of insurance penetration and drive innovation.

23. While the Indian insurance regulator (IRDAI) has recently reviewed some of its rules on reinsurance regulations, preferential treatment with the domestic reinsurer GIC Re remains. Under the Order of Preference regulations from 2017, a tiered system was created whereby Indian insurers need to simultaneously seek quotes from at least four foreign reinsurers along with Indian reinsurers. Business will only go to the foreign player if the Indian reinsurer is unable to match the FRB's quote. As a result, India remains a closed market for foreign reinsurers and so we would ask for equal treatment.

24. The current system risks further withdrawal from the reinsurance market by foreign reinsurers and prevents them from bringing their global best practices to India. Further, it concentrates risk domestically with Indian reinsurers and so is counterintuitive to India's objective of becoming a potential reinsurance hub.

25. IRDAI has recently changed its approach to cross-border reinsurance under their cross-border registration (CBR) process. Reinsurers who have a foreign reinsurance branch (FRB) in India have to apply for CBR approval to be able to reinsure (write retrocession) their FRB. This approval is now limited to their FRB only and so they cannot conduct any further cross-border reinsurance. We would like this restriction to be removed.

26. While this may be an attempt by the IRDAI to keep capital in India, it is a major step backwards in India's approach to opening up its reinsurance market. It does not help to diversify risk globally and promote continued growth and recovery of global and national economies and so undermines the efficiency of reinsurance markets.

27. Globally we are seeing an increased trend for governments to limit the flow of personal data outside of a market and require data to be stored and processed within that market's borders. India's proposed Personal Data

Protection Bill 2019 includes several provisions to restrict the transfer of data outside of India. We would ask for the Indian Government to reconsider these data localisation measures, which limit the capacity of global reinsurers to spread risk globally and prevent domestic concentration of risk.

28. While the objective of the Bill is to ensure a freer and fairer digital economy in India, it places a number of requirements which will restrict the ability of (re)insurers to conduct their business. We appreciate that the reasons behind this are often attributed to concerns over cyber security and protecting privacy. However, data localisation measures severely restrict the ability of (re)insurers to conduct business, preventing them from continuing to offer services to individuals and businesses.

29. In terms of the UK Government helping to address this issue, we would suggest that the UK and India work together on an assessment framework for each country's data protection regime. In our view, this would help to provide confidence that both regimes are adequate to allow the free flow of data across borders for financial services, while respecting the need to protect personal data.

**Opportunities to cooperate with India**

30. Alongside addressing the (re)insurance sector's concerns, we see the FTA negotiations with India as an opportunity to enhance engagement and cooperation on areas of mutual interest. This would work to the strength of the UK's (re)insurance sector, who are experts in many of these fields.

31. India's population is ageing faster than previously thought and so their government is facing concerns about how to manage this challenge – similar to the UK Government – alongside managing a rising population. The Indian pensions system faces similar balancing issues in terms of providing advice and keeping costs low whilst increasing coverage. In June 2021, the Indian Government indicated that they were considering making changes to the National Pension Scheme (NPS) to help address the issue.

32. Given the similarities in experiences between the UK and India, our members would be keen to work with our counterparts to share the UK's experience and expertise, particularly highlighting the benefit of Automatic Enrolment (AE) for consumers. AE has been a major policy success in the UK, with over 10.6 million people saving into a pension scheme since its introduction in October 2012.

33. By utilising the power of inertia through opting people into a scheme, AE has helped to address the challenge of how to encourage people to save whilst keeping costs low, including the provision of advice. Specifically, its automatic nature removes the need for anyone to make a personal recommendation to join a scheme, which can be costly.

34. Addressing climate change is a global challenge that will need global cooperation. While India has not made commitments on climate change and biodiversity like the UK has, India has acknowledged the importance of meeting the Paris Climate Agreement goals. Further, both the UK and Indian regulatory bodies have highlighted the positive role that financial services can play in facilitating investment in a climate friendly manner.

35. We would welcome an inclusion in the FTA that commits both parties to regulatory cooperation and establishes a Forum where more granular discussions can take place. This Forum could discuss issues such as sustainable finance, including the development of taxonomies, and the implementation of the recommendations of the Task Force on Climaterelated Financial Disclosures (TCFD), (as has been recently supported by the G7's commitment to make it mandatory for corporates), and also biodiversity protection, including how to take forward the work of the recently launched Taskforce on Nature-related Financial Disclosures (TNFD).

36. It is important that nations committed to addressing climate change use these tools (amongst others) to work together to encourage a global response and to minimise unnecessary frictions/fragmentation for businesses that operate in these markets. The UK's support for the International Accounting Standards Board (IASB) to act as the global body for sustainability reporting is therefore very welcome.

37. Given that climate change and biodiversity are key UK Government priorities, there is an opportunity for this to be on both the trade and regulatory agenda. India is keen to attract foreign investment from the UK, largely to help its economic recovery post-pandemic, and keen themselves to invest in the UK. This is an opportunity for the UK to help drive up standards on climate (disclosure requirements / sustainability obligations).

38. There is an opportunity to cooperate further on innovation and InsurTech. Under the first Modi Government (22nd Government), India underwent many positive reforms to help digitise its economy and encourage its citizens to move towards a cashless society. Mobile phone reach and usage is very high, and some insurers are taking advantage of this opportunity to increase awareness and coverage of insurance products.

39. FinTech has played a crucial role in supporting the Indian Government's policy of 'Digital India' and 'Made in India' and its role in improving outcomes for consumers and increasing financial inclusion was recognised in the 9th UK-India EFD in 2017.

40. UK insurers are at the forefront of digital innovation, driving developments in InsurTech further. Given that India is still undergoing changes in this area, we would encourage the UK Government to share its own experience and expertise in regulating innovative digital concepts, such as the Financial Conduct Authority's Regulatory Sandbox.

In 2019, the IRDAI has also expressed an interest in the FCA's Sandbox and the Global Financial Innovation Network (GFIN). The ABI subsequently facilitated an introduction with the FCA, with a view to encourage them to join the GFIN. We view this as beneficial as GFIN: facilitates market discussions and comparisons on FinTech between participant regulators; developing relationships and building trust between regulators.

41. In 2020, the IRDAI has announced its own sandbox initiative, which involves several sandboxes that are sector specific. While this is positive, we would suggest these are merged to allow for maximum innovation and ideas to be tested on a cross-sectoral basis.

42. The UK, and in particular the (re)insurance sector, should have access to talented individuals who are specialists in insurance. For the UK's financial service sector to maintain its position as a global financial hub, we will need to ensure that experts are able to be recruited. This access to talent should be permitted on a reciprocal basis.

43. The UK and India should also prioritise strengthening processes supporting the movement of people across borders. Negotiators should mutually agree faster turnaround times for Indian (and UK) business visas and reduce the costs to businesses of sponsoring high-skilled work visas. Visa application fees should not exceed the cost of processing an application.

44. In addition, negotiations should pursue the following goals:
    - Mutually agree a new flexible work/travel visa that combines the efficiency of a visa-free business travel regime with the flexibility of a short-term work scheme. The UK should try to agree a new visa system with India whereby internationally mobile staff can, without first needing to obtain a visa, transfer to their employer's home/host country office for up to six months to work, conduct work experience, provide short-term cover, support internal projects or deliver services to clients.

    - Mutually agree more flexible Intra-Company Transfer (ICT) visa requirements. At the moment, recipients of UK Tier 2 ICT visas need to be long-established employees of an overseas branch of a UK sponsor. The UK should agree new terms whereby workers in overseas branches do not need to have worked in the UK for a particular time period before applying for their Tier 2 visa. The UK should also commit to this newly negotiated Tier 2 ICT visa class offering a two-year exemption from the Immigration Skills Charge (ISC), or else applying a reduced rate.

    - Mutually agree a list of permissible activities for high-skilled work visas that is at least as clear and comprehensive as that contained within the UK's own Immigration Rules. The more detail that can be agreed on which activities are permitted the better for employers and individuals. This may be a more viable approach than attempting to negotiate an upgrade to India's commitments under GATS Mode 4.

## About the ABI

The ABI is the voice of the UK’s world-leading insurance and long-term savings industry. A productive and inclusive sector, our industry supports towns and cities across Britain in building back a balanced and innovative economy, employing over 310,000 individuals in high-skilled, lifelong careers, two-thirds of which are outside of London.

The UK insurance industry manages investments of over £1.6 trillion, pays nearly £16 billion in taxes to the Government and supports communities across the UK by enabling trade, risk-taking, investment and innovation. We are also a global success story, the largest in Europe and the fourth largest in the world.

The ABI represents over 200 member companies, including most household names and specialist providers, giving peace of mind to customers across the UK.