BSA | THE SOFTWARE ALLIANCE'S INPUT TO THE UK DEPARTMENT FOR INTERNATIONAL TRADE ON TRADE WITH INDIA

BSA | The Software Alliance[1] is the leading advocate for the global software industry before governments and in the international marketplace. Our members are enterprise software companies that create the technology products that power other businesses, offering tools such as cloud storage services, customer relationship management software, human resource management programs, identify management services, and collaboration software.

BSA supports the UK's forward-looking efforts to champion a modern digital trade agenda at bilateral, regional and multilateral levels. BSA | The Software Alliance welcomes the opportunity to provide input to the UK Department for International Trade on current trading arrangements with India in this respect.

(BSA responses to applicable questions appear in blue.)

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Do you know whether your members have faced, or are currently facing, challenges when attempting to trade or invest between the UK and India?

When it comes to digital economy governance, BSA is a strong proponent of legal frameworks that drive job creation and economic growth, appropriately protect privacy, empower all market participants to contribute to and benefit from unlocking the economic value of data, and encourage the uptake of innovative technologies such Artificial Intelligence tools and data analytics. We believe this approach is in the shared interest of both UK and Indian businesses, the public sector, and society more broadly.

Over the recent years, India has developed and updated its legal framework in an effort to strengthen its data protection regime, enhance the collective benefits of data while preserving its privacy, security, and proprietary nature – objectives that BSA wholeheartedly supports. That said, the current

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[1] BSA | The Software Alliance (www.bsa.org) is the leading advocate for the global software industry. Its members are among the world's most innovative companies, creating software solutions that help businesses of all sizes in every part of the economy to modernize and grow. With headquarters in Washington, DC, and operations in more than 30 countries, BSA pioneers compliance programs that promote legal software use and advocates for public policies that foster technology innovation and drive growth in the digital economy.
BSA's members include: Adobe, Akamai, Atlassian, Autodesk, Bentley Systems, BlackBerry, Box, Cloudflare, CNC/Mastercam, DocuSign, Dropbox, IBM, Informatica, Intel, Intuit, MathWorks, McAfee, Microsoft, Okta, Oracle, PTC, Salesforce, ServiceNow, Siemens Industry Software Inc., Slack, Splunk, Trend Micro, Trimble Solutions Corporation, Twilio, Workday, and Zoom.

design of digital policy in India raises some concerns, for some initiatives seek to, among others, initiate mandatory sharing/access to data (with both government and other businesses) and restrict cross-border data flows with local storage requirements.

Today's economy fuels on the ability of organizations, of all sectors and sizes, to move personal and non-personal data seamlessly across borders. In addition, flexibility and legal certainty are key drivers to facilitating an effective data sharing framework, safeguarding online privacy and security. As the UK prepares for possible negotiations with India, we stress the importance of ensuring that any Free Trade Agreement include a strong digital trade chapter that enshrines a shared commitment to cross-border data transfers and open digital trade disciplines. (see response to question 23 for more details).

Of the three priorities you have selected, which one is the most important and why?

(Priorities selected: i) Digital; k) Innovation; n) Intellectual Property)
Digital technologies increasingly enable goods and services trade, help build resilience and recovery, and further transform and grow the British economy. Across all sectors, companies in the UK and around the world are relying more than ever before on the ability to access data across international borders, to run and improve their internal operations and to connect with their value-chain and better service their customers. It is estimated that 75% of the value of data transfers accruing to traditional industries like agriculture, logistics, and manufacturing. These sectors are also primary contributor to UK exporting success. Digital trade – and digital technologies that enable it – must therefore be addressed as supporting UK growth and competitiveness across all economic sectors.

In broad terms, the UK stands to benefit from an ambitious digital trade agenda conducive to software-led innovation. In the context of FTA negotiations with India, this would translate through the following non-exhaustive list of objectives:

- preserve the ability of UK companies to transfer data across borders, and preclude governments from using privacy or security policies as disguised market barriers;
- strictly limit data localization requirements;
- prohibit from conditioning market access on the forced transfer of, or access to, software source code or algorithms;
- not impose customs duties on either the telecommunications value of electronic transmissions or the value of the information being transmitted,
- not undermine the use of encryption in commercial products by imposing restrictions on security technologies used to protect data in transit or at-rest, and avoid mandate on how encryption and other security technologies are designed or implemented,
- advance mutually beneficial approaches to cybersecurity, for instance by encouraging the mutual adoption of a voluntary, standards-based, outcome-focused cyber risk management.

These recommendations are detailed in prior BSA comments to the House of Commons' International Trade Select Committee (see: https://www.bsa.org/news-events/news/bsa-encourages-uk-to-champion-digital-trade-in-evidence-to-the-house-of-commons).

How many members/businesses does your group represent in total?

As of August 2021, BSA counts about 40 members globally (full list available on our website).

Does your organisation have a presence in, or operate in, India?

Yes

Please briefly explain the extent of your organisation's presence and/or operations in India.

BSA runs a public policy office in New Delhi, India, attached to our APAC regional hub in Singapore. In the 30 countries or so where we operate including India, we advocate for the global enterprise software industry on issues ranging from privacy and cybersecurity, to digital transformation and emerging technology. All our submissions and other material relevant to our engagement in the UK and India can be found on our website: https://www.bsa.org/

Have any of your members been in contact with your organisation about the prospect of a free trade agreement (or related talks) with India?

Yes

Where is your organisation primarily based?

BSA' global headquarters are in Washington DC, United States. Our EMEA regional hub which covers the UK market, is based in Brussels, Belgium.

For further information, please contact:
Isabelle Roccia
Director, Policy – EMEA
isabeller@bsa.org