



November 3, 2021

The Honorable Katherine Tai  
United States Trade Representative  
Office of the United States Trade Representative  
600 17th Street NW  
Washington DC, 20508

Dear Ambassador Tai:

The undersigned associations in the chemicals, medical device, personal care products, technology, and toy industries represent thousands of businesses and workers that manufacture, supply, and sell innovative products fundamental to the fight against COVID, global economic recovery, climate change mitigation, and environmental sustainability. The U.S.-India commercial relationship is important to achieving these goals, but needs to be predicated on reciprocal market access, and the free flow of goods, services and data that minimize technical barriers to trade (TBT) and promote Good Regulatory Practices (GRP). The purpose of our letter, therefore, is to express our strong support that the U.S.-India Trade Policy Forum (TPF) focus on the need to minimize TBT and promote GRP, which in turn will improve the economic competitiveness and efficiency of both countries while promoting increased investment and trade in the bilateral commercial relationship.

The undersigned associations represent a broad and diverse set of industries, but there are many common regulatory challenges that require a sustained, cross-cutting trade policy and negotiations approach with the Government of India (GOI). Individually, we have tried to address TBT issues related to regulations in India with limited progress, and more recently, the GOI has instituted or proposed additional policies of concern. The TPF is the central bilateral dialogue around trade and is uniquely positioned to address many of these issues, which in turn will also support U.S. workers and American exporters.

To be clear, across all our industries, we support the GOI's sovereign right to regulate to protect consumers, human health, safety, and the environment. We also support India's efforts to achieve its economic growth and employment goals. However, in our collective view, India's increasing use of TBTs and lack of GRP suggest an industrial policy based on import substitution that harms sustainable development, its long-term prospects for domestic manufacturing, and undermines its goals to attract foreign direct investment (FDI) and create jobs. At the same time, India's TBTs diminish important opportunities for U.S. companies and workers to partner in India's future while unfairly discriminating against U.S. exports and investments. Ultimately these policies serve to prevent the United States and India from strengthening the economic pillar of their critical relationship.

More specifically, there is widespread and growing concern around some GOI policies such as mandatory data localization, mandatory local testing for conformity testing, increased reliance on India-specific standards, and preferential treatment of "Indian Entities" in several new and proposed policies. In this regard, we question whether India is meeting its international trade commitments, and in particular, commitments under the WTO Agreement on Technical Barriers to Trade. For the GOI to implement its TBT commitments, it should look first to international standards and more trade and investment-friendly regulatory measures, rather than adopting discriminatory domestic approaches. The GOI should also accept international testing to Indian standards and certification of this testing by internationally accredited bodies rather than require redundant, costly, and burdensome local testing. Similarly, the GOI is moving to force data localization via nearly a dozen sector-specific orders, requirements, and proposals. Indian exporters of goods and services do not face the same requirements when entering the U.S. market, which underscores the need for reciprocal and fair market access.

What is now necessary is a U.S. whole-of-government and cross-industry approach. We advocate for direct involvement of U.S. trade, economic, and regulatory agencies in discussions with India around GRP and TBTs. Such direct involvement will be essential to encourage Indian leaders and ministry officials to align with international best practices in these areas as well as to encourage FDI.

U.S. technical assistance and capacity building could help facilitate these objectives, including engagement with the Bureau of Indian Standards (BIS) and Indian regulators and ministries responsible for setting standards, overseeing conformity testing, and ensuring market surveillance and compliance (e.g., the Department of Chemicals and Petrochemicals (DCPC) and the Telecommunications Engineering Centre (TEC)). We therefore urge you to leverage the

considerable resources of federal technical and aid agencies to achieve change in India. Resources could include the Trade and Development Agency (USTDA), the U.S. Agency for International Development (USAID), Commerce's Commercial Law Development Program (CLDP), the National Institute for Standards and Technology (NIST), and the U.S. Federal Communications Commission's (FCC) Office of Engineering and Technology Laboratory Division. Industry stands ready to help shape and support these efforts, providing our knowledge, experience, and technical resources into any program launched by India and the United States at the TPF. Additionally, capacity building efforts to implement GRP, including sector-based case studies, would be an opportunity for industry to support these government-to-government efforts.

We look forward to working with the USTR team to support your engagement with India under the TPF and to implement its outcomes. We would welcome an opportunity to meet with you directly as you plan the agenda and opportunities for progress under the TPF.

We are committed to working with you in partnership and supporting a constructive U.S.-India engagement that enables all companies and their workforces, large and small, to understand and compete in the India market. Thank you for considering the above perspectives.

Sincerely,

AdvaMed  
American Chemistry Council (ACC)  
Information Technology Industry Council (ITI)  
Personal Care Products Council (PCPC)  
Telecommunications Industry Association (TIA)  
Toy Association  
U.S.-India Business Council  
U.S.-India Strategic Partnership Forum