

GOVERNMENT OF INDIA
MINISTRY OF COMMERCE AND INDUSTRY
DEPARTMENT OF COMMERCE
RAJYA SABHA
UNSTARRED QUESTION NO. 1510
ANSWERED ON 12/12/2025

INDIA-UK FTA

1510. SMT. SAGARIKA GHOSE

Will the Minister of COMMERCE AND INDUSTRY be pleased to state :-

- (a) reasons for prioritising voluntary licensing over compulsory licensing in intellectual property provisions of India-UK Free Trade Agreement;
- (b) whether this affects ability to issue compulsory licences for pharmaceuticals and essential technologies;
- (c) rationale for allowing UK firms access to Indian Government procurement contracts, including categories of contracts and threshold values for eligibility;
- (d) steps taken or proposed to ensure presence of UK firms in Government procurement does not disadvantage Indian companies, particularly Micro Small and Medium Enterprises (MSMEs); and
- (e) whether safeguards are in place to maintain India's policy autonomy with respect to compulsory licensing, such as in times of public health emergencies?

ANSWER

THE MINISTER OF STATE IN THE MINISTRY OF COMMERCE & INDUSTRY

(SHRI JITIN PRASADA)

- (a) Voluntary licensing is globally recognized as a preferred first step for licensing arrangements and for fostering collaborative approaches. It is the most expeditious form of licensing mechanism and assists in technology transfer and related know-how. Issuance of a compulsory license, while a policy option, is exercised in accordance with law and only where such emergency circumstances prevail. However, the trade agreement does not make voluntary licensing a precondition for compulsory licensing.
- (b) The agreement does not restrict India's use of Compulsory Licensing in any form. The Comprehensive Economic and Trade Agreement (CETA) explicitly reaffirms the right of both Parties to use all Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) flexibilities, including compulsory licensing under Articles 31 and 31bis of TRIPS. Voluntary licensing is not a precondition for compulsory licensing under the CETA. The agreement does not introduce any procedural delays, prior negotiation requirements, or additional thresholds that could restrict the issuance of compulsory licenses.
- (c) India gains guaranteed, non-discriminatory access to the UK's public procurement market, which is valued at over £90 billion (approximately \$122 billion) annually, including key entities like the National Health Service (NHS). This is a massive opportunity for Indian companies, particularly in IT, pharmaceuticals, and services.

Further, allowing foreign competition, albeit under controlled thresholds and categories, can increase competition, drive down costs, and lead to better value, quality, and technology adoption in government projects. Furthermore, with respect to Market Access commitments, UK has agreed for asymmetric thresholds for goods & services in favour of India wherein UK's thresholds for goods & services would be Special Drawing Rights (SDR) 130,000 while India would have a higher threshold of SDR 450,000 for goods & services. For the first time, UK, agreed to dilute several key provisions which are part of the World Trade Organisation Government Procurement Agreement as well as their other Free Trade Agreements (FTAs) like: (i) India specific carve-outs from principles of Non-discrimination and prohibition of offsets for accommodating India's Public Procurement Preference-Make In India (PPP-MII) & Micro and Small Enterprises(MSE) preferential procurement policies, (ii) applicability of Indian standards and technical specifications, wherever available and (iii) allowing India to retain flexibility in time period for processing tenders, as well as specific provisions to safeguard the interests of Indian suppliers under UK's Social Value regime.

- (d) The steps taken by Indian side are as under:
- i. High thresholds (contract value above which UK firms would be eligible to participate) of around INR 5.5 crores for goods and services contracts and around INR 60 crores for construction contracts ensure that domestic firms continue to enjoy exclusive access to participate in procurements below these values.
 - ii. UK firms are eligible to participate in Central government-level procurements only including their attached / sub-ordinate entities and specifically excludes sub-central (state / local government) level entities. Key sensitive Ministries such as Defence, Home Affairs, Department of Personnel and Training, Department of Space etc among others, are not part of the agreement
 - iii. Under the Public Procurement (Preference to Make in India) Order, while UK suppliers are eligible to bid for domestic tenders above the agreed thresholds as "Class-II local suppliers", Indian suppliers can also participate in such contracts on a competitive basis.
 - iv. Indian suppliers will continue to receive preferential treatment as "Class-I local suppliers".
 - v. India has also preserved its policy space to provide preference to MSMEs under the Public Procurement Policy for Micro and Small Enterprises Order by carving out the procurements made pursuant to this policy
- (e) Yes. Robust safeguards are built into the India-UK CETA to fully preserve India's policy autonomy on compulsory licensing, including during public health emergencies. The CETA reaffirms the rights of both Parties to utilise all flexibilities available under the TRIPS Agreement, including compulsory licensing under Articles 31 and 31bis. This preserves India's discretion to act in the public interest without additional conditions. India's powers under Section 84 (general compulsory licensing) and Section 92 (compulsory licensing in public health emergencies) of the Patents Act, 1970 remain fully intact. The CETA does not require any amendment or dilution of these provisions.
