Information Technology Industry Council

June 10, 2014

Shri Narendra Modi
Hon'ble Prime Minister of India
South Block, Raisina Hill
New Delhi 110011

Dear Prime Minister Modi:

The Information Technology Industry Council (ITI) congratulates you and the National Democratic Alliance on your impressive victory in India's historic election. Our industry very much looks forward to working with you to set the stage for a new era of increased investment and trade in information and communications technology (ICT) goods and services. We applaud your recent statement that you are "a firm believer in the power of technology," and we believe that ICT holds the promise to help strengthen both the U.S. and Indian economies, drive economic growth and job creation, and spur global competiveness for the benefit of all.

ITI represents some of the largest foreign investors in India. Our member companies are engaged in manufacturing, software, and services, and are committed to India's growth and innovation. We welcome the opportunity for deeper dialogue and cooperation with your Government, and we seek to work together constructively on a range of issue areas critical to the development of India's ICT sector.

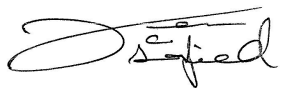
We note that many of your top ten priorities can be addressed by embracing technology and its diffusion through all sectors of the economy, including innovation, transparency, e-Governance, education, health, and sustainability. These are priority areas that can be helped by technology and would add to your stated goal of restoring confidence in India's bureaucracy. We are especially interested in collaborating to:

- ***Promote the power of technology***: Technology has driven India's explosive growth in mobile telecommunications as well as software and services. Wider deployment of broadband and other technologies has tremendous positive spillover impacts, generating growth, innovation, jobs, and efficiency across the entire economy.
- ***Increase transparency and predictability***: Regulatory risk and uncertainty pose one of the greatest challenges to succeeding in the global economy. A key underpinning of development in the ICT sector is good regulation that is transparent, open, and effective.
- ***Develop a sustainable environment for growth and investment***: By providing the right set of incentives and addressing often-cited concerns related to infrastructure, taxes, and labor issues, a robust ICT ecosystem can grow and thrive.

We have attached an annex that provides more detailed recommendations in these and other key policy areas that will help improve the business and investment climate in India. In the coming weeks, we intend to follow up with appropriate ministries on these suggestions.

Congratulations again on your impressive electoral victory. We in the tech community look forward to working hand in hand with your government on these important policy matters. There is much we can do together.

Respectfully,



Dean C. Garfield
President & CEO

Attachment: Annex on ITI Technology Policy Recommendations for the GoI

CC: Shri Arun Jaitley, Minister of Finance
Shri Ravi Shankar Prasad, Minister of Law and Justice, Technology and Communications and Information
Shri Prakash Javadekar, Minister of Environment, Forest and Climate Change
Smt. Nirmala Sitharaman, Minister of Commerce and Industry

Information Technology Industry Council

ANNEX:
Information Technology Industry Council (ITI)
Technology Policy Recommendations for
The Government of India
June 2014

The Information Technology Industry Council (ITI) is a trade association representing nearly 60 of the top global information and communications technology (ICT) companies. The majority of our member companies are some of the largest foreign investors in India and recognize the country's dynamism and great potential.

The Government of India (GoI) now has the opportunity to accelerate the promotion of policies to stimulate ICT usage and manufacturing in India and drive innovation and economic growth. Indeed, forward-leaning polices to promote ICT stand to play a major role in reversing the slowdown in growth of India's economy, the drop in foreign direct investment, and the deteriorating business environment. With this in mind, we would like to raise some current policy challenges and respectfully offer recommendations aimed at addressing them. It is our hope this is just the beginning of further dialogue between the ICT industry and the GoI, and we look forward to more detailed discussions on these issues.

Our primary focus here is to propose specific, concrete steps the GoI might consider in the near term on policies that are already impacting trade and investment in India. At the same time, we note there are also broader, fundamental policy issues, such as tax reform, that will require a longer term commitment to successfully address. ITI welcomes the chance to work together with the GoI to explore possible solutions to these challenges as well.

India and the United States, the two largest democracies in the world, are linked together as drivers of the tech sector. This critical relationship has, in turn, fueled economic growth throughout the world. Accordingly, we believe it is essential for there to be a healthy, regular dialogue between the United States and India governments and encourage both to recommit to the bilateral process under the U.S.-India ICT Working Group. The Working Group, which has not met for two years, provides a valuable opportunity for industry to interact with government officials and address critical areas of ICT policy in both countries. We hope this mechanism can be resumed and re-energized. In addition, we seek your support for the proposal made by the United States for a Joint Committee on Investment in Manufacturing to allow experts to identify the most successful policy tools to promote investment in manufacturing and create more jobs in our respective economies.

ENCOURAGING AND DEVELOPING A SUSTAINABLE ENVIRONMENT FOR GROWTH AND INVESTMENT

In support of the economic and investment objectives articulated by Prime Minister Modi among his Top Ten Priorities, ITI encourages the GoI to consider expediting actions on several specific items to spur innovation, investment, and growth.

Recommendations: In addition to longer term consideration to adjust incentive structures and tax systems to better attract investment, ITI encourages the GoI to consider expediting actions on the following items to spur innovation and growth:

- Extend manufacturing incentives for ICT products including those that apply to notebook PCs, desktops, and tablets under the Focus Product Scheme to manufacturers in Special Economic Zones (SEZ), in addition to those in Domestic Tariff Areas (DTA). Apart from the foreign exchange this policy could generate, continuing the policy has the potential of attracting additional investments in the component supply chain to serve markets in the Middle East, Africa, and Eastern Europe from an India export hub.

- Revisit the eight percent customs duties on imported telecom component parts to support telecom equipment manufacturing. These current customs duties penalize companies for importing components, thereby discouraging manufacturing and assembly in India.

- Encourage the Department of Electronics and Information Technology (DeitY) to work closely with industry stakeholders to ensure the effective and workable implementation of the revised Preferential Market Access Policy for government procurement (PMA-G) issued on December 23, 2013. On February 26, 2014, ITI joined four other associations in submitting a set of recommendations on PMA-G to DeitY. We hope that our recommendations are taken into consideration as DeitY drafts implementation guidelines. An overarching recommendation is that PMA-G should be effectively targeted to those electronic products with which India has manufacturing or input capacity.

- Join negotiations in Geneva to expand product coverage of the World Trade Organization's (WTO) Information Technology Agreement, which will help the Indian economy more fully integrate into the global supply chains, improve market access around the world to ICT exports from India, and reduce costs at home on growth- and jobs-promoting ICT inputs from abroad.

- Harmonize India's government procurement policies with global best practices as outlined in the WTO Government Procurement Agreement. Such a step would increase the government's access to the most cost-effective and innovative technologies, strengthening the use of technology in federal, state, and local governance.

- Remove the high VAT on mobile phones driving the importation of gray market products.

PROMOTING SOUND CYBERSECURITY POLICIES

Cybersecurity remains a shared concern of both the industry and governments. ITI and its members want to work together to identify and minimize the threats faced by India and the rest of the global community. ITI works closely with governments around the world to increase cybersecurity protection and stands ready to work with the new NDA government to develop innovative approaches to cyber and network security. This cooperation would build on recent interactions between global industry and the GoI.

In recent years, India has issued a number of cybersecurity-related policies, including the July 2013 National Cyber Security Policy and the Department of Telecommunication's telecom license amendments. We welcome the opportunity to have deeper engagement with the GoI on these and related polices to improve their workability and effectiveness.

Recommendations: We encourage the GoI to ensure that any security-related policies truly improve cybersecurity while not undermining innovation, interoperability, and international trade. To achieve this goal, the most effective cybersecurity policies: 1) leverage public-private partnerships; 2) reflect the borderless, interconnected, and global nature of today's cyber environment; 3) are flexible and able to adapt rapidly to emerging threats, technologies, and business models; 4) are based on effective risk management; 5) raise public awareness; and 6) focus on bad actors and their threats. With these principles in mind, we encourage the GoI to consider the following actions:

- Work with all interested stakeholders to review the National Cyber Security Policy 2013 and make necessary changes to ensure the policy is workable and is able to provide better security to Indians as well as encourage innovation. To facilitate this process we suggest the GoI consider creating a formal public-private advisory committee on the Policy's implementation consistent with the Recommendations of Joint Working Group on Engagement with Private Sector on Cyber Security.

- Consider issuing a government decree that ceases requirements to mandate the use of India-specific security standards and in-country-testing for security. Decisions about what products/services to procure and whether or where to test them are best left to telecom operators, vendors, and internationally accredited/recognized laboratories conducting testing that is in line with globally accepted test specifications and parameters.

- Continue to promote the GoI and industry participation in Common Criteria Recognition Agreement (CCRA) working groups to develop new Protection Profiles that meet India's identified security needs.

- Invite global industry stakeholders to participate in the Joint Working Group on Cyber Security.

PROTECTING THE ENVIRONMENT VIA TECHNOLOGY

ICT manufacturers recognize that they have a critical role to play in promoting global sustainability efforts by continuously improving environmental, energy, and performance characteristics of their products. As a result of our members' abiding dedication to product stewardship and technological innovation, the high-tech and electronics industries continue to achieve significant and sustained environmental innovation throughout the entire product lifecycle: from environmental design to energy efficiency, beneficial reuse, and proper end-of-life management.

Recommendations: We applaud the GoI for making environmental and sustainability policies for ICT a top priority. In order to achieve these regulatory objectives, we believe there are several key actions that the GoI might consider to ensure successful implementation of changes that are just now being implemented. These include efforts to:

- Align India's Restriction of Hazardous Substances (RoHS) requirements with those of the European Union (EU). This includes allowing use of spare parts manufactured prior to the implementation of India's e-waste rules to update functionality or upgrade capacity of Electrical and Electric Equipment. In order to ensure research and development (R&D) activities are continued in India, we suggest R&D equipment be excluded from the scope of the rules. More broadly, to meet the GoI's environmental and sustainability policy goals while not impeding trade, it would also be beneficial for the GoI to consider providing an exemption list that is aligned with EU RoHS.

- Withdraw or delay implementation of several key components of India's Waste Electrical and Electronic Equipment (WEEE) requirements, including unnecessary recycling targets for producers. In addition, we advocate for a single-authorization process, rather than a state-by-state process. Industry has seen that when implemented elsewhere, recycling targets have not proven to be an effective policy for addressing e-waste. In addition, single authorization offers a streamlined and simplified solution for what would otherwise be an extremely burdensome set of administrative requirements for both industry and the GoI.

- Support qualified implementation of the Hazardous Waste Amendment so that certain kinds of used electrical and electronic equipment, including equipment used for R&D purposes, are not automatically treated as "waste" or "hazardous waste" to allow manufacturers to meet service requirements and extend the useful life of products. We greatly appreciate the efforts of the Ministry of Environment and Forests in this area and encourage the further establishment of streamlined approval and import processes for used electronic equipment.

STRENGTHENING REGULATORY COHERENCE AND PREDICTABILITY

Regulatory risk and uncertainty pose one of the greatest challenges to a company's ability to succeed in the global economy. Traditional costs associated with taxes on imports have been far surpassed by those resulting from unique and overly burdensome technical standards and regulations that must be met before a product makes it to the marketplace. These barriers have an especially significant impact on the ICT industry, where the rapid evolution of technologies makes delays in getting products to market a critical concern. Redundant testing and certification can drive up costs for companies and consumers alike, limit choice, and often prevent the latest innovations from reaching markets. In addition, governments need to consider the complexity of global supply chains and the required advance time to make changes to respond to new or updated regulations. Many of these issues can be avoided by global stakeholder engagement early in the regulatory process, including holding public consultations and notifying proposed changes to the WTO.

In 2013, DeitY issued a Compulsory Registration Order (CRO) requiring new electronics equipment imported into or sold in India to be tested by domestic labs, registered with the Bureau of Indian Standards, and then be specially labeled prior to going on the market. Subsequent implementation of the CRO was a major challenge, as companies waited in line to comply with the requirements after the implementation date, but before the GoI created adequate laboratory capacity to test the products in scope. As a result of frequent updates and changes to these regulations, manufacturers have been forced to try to make costly, last-minute adjustments to their global supply chains in an attempt to avoid disruption to orders from their customers in India. This ongoing lack of certainty and globally unique approach threatens to halt or seriously delay import of these products, which are vital to India's economic recovery.

Separately, though it is slated for implementation in June, the Department of Telecommunication's proposed security testing program is missing key information about the product scope, testing requirements, and certified laboratories. ICT companies need at least 12 months lead time to adjust manufacturing and supply chains to comply with new regulatory requirements. While ITI supports efforts to enhance the safety and security of ICT products, the government's development and implementation of these policies have been challenging, leading to enormous disruptions in the Indian economy.

Recommendations: ITI encourages the GoI to consider taking the following steps to promote better regulatory coherence and predictability in relation to the CRO and telecom security testing:

- Leverage existing international resources and agreements (e.g. foreign test reports, mutual recognition programs, etc.) for product testing and certification. This is critical to avoid unnecessary costs and delays in getting products to the Indian market. The CRO requires testing to an Indian standard for product safety that is identical to an international version to which ICT products are already tested. The approval process under the Bureau of Indian Standards could be greatly streamlined by giving manufacturers the option to provide test reports issued by labs approved under the IECEE CB Scheme, an international mutual recognition program in which India participates.

- Remove the requirement under the CRO for testing and registration of ICT products based on a per product, per factory basis and have approvals based on product families under the responsibility of the brand owner. We believe it is important to recognize that risk and manufacturing processes vary greatly between types of electrical products. A one-size-fits-all approach to regulating for safety is unlikely to succeed in achieving its objectives. Accordingly, we encourage the GoI to revisit its interpretation of the BIS Act and not apply the same per factory requirement to low risk ICT equipment whose manufacturing is tightly controlled by the brand owner in the same way it is applied to "white goods".

- Reconsider the appropriate product scope of the CRO. ITI supports the stated goals of the CRO to increase product safety and protect India's consumers. We believe that these goals can be reached while broadening the CRO's definition of Highly Specialized Equipment (HSE), which is installed, maintained, and operated by professionals in commercial or industrial locations and poses little risk to the public.

- Base CRO labeling and re-registration (due to expiration) requirements on international norms. Given the complexity of global supply chains and ICT manufacturing, it is important to consider the transition time necessary for product and package labeling changes and re-registration/re-testing. ITI recommends that the GoI follow globally accepted practices for these requirements to ensure the long-term success of the CRO.

- Rescind the May 31, 2011 Department of Telecommunication's License Amendment and launch a Telecom Security Council of India (TSCI) to develop meaningful and effective security policies to address network and cybersecurity in the telecom sector that can be implemented in the first year of the new government. The Amendment and its vague requirements related to security testing have created enormous uncertainty for India's telecom operators and have inhibited investment in cutting-edge network technology.

FACILITATING SUPPLY CHAINS THROUGH STANDARDIZATION

Global ICT standards facilitate global supply chains that enable companies in many parts of the world to collaborate on building complex and competitive products. For customers, global standards enhance choice and ease of use, and encourage competition that provides customers with lower costs. As markets expand, voluntary global ICT standards play a key role in facilitating international trade. Global standards can be regionally adopted to meet local environmental, cultural, health and safety requirements.

Recommendations: The ICT industry looks forward to actively engaging the GoI on standardization issues, including through further joint dialogue with the United States government and the GoI. We therefore propose the following:

- Promote a series of workshops and exchanges with the GoI and the National Institute of Standards and Technology and the U.S. ICT industry to share information on our respective approaches to ICT standardization and to identify opportunities for leveraging the diverse global standardization ecosystem to advance Indian and U.S. business interests.

- Host a conference with representatives of global standards development organizations, fora and consortia, to gain a better understanding of opportunities for Indian industry participation in activities critical to their business.

- Hold a consultative process which includes global stakeholders before the BIS Amendment Act is re-tabled in parliament.

RETAINING A MULTI-STAKEHOLDER APPROACH TO INTERNET GOVERNANCE

By any measure, the Internet has been a global phenomenon nearly beyond measure, spurring growth in communications, access to information, and economic opportunity. This success is due in no small part to the current multi-stakeholder approach to Internet governance that guides technology and policy decisions. Multi-stakeholder collaboration has produced a stable, predictable environment that has successfully absorbed new technologies and demands in a seamless and cost-effective manner, helping to facilitate continuing innovation and attract investments that are spreading economic benefits in India, the United States, and around the globe. Changes to the multi-stakeholder model could unnecessarily politicize the Internet and jeopardize its success.

***Recommendations**:* We recommend that India and the United States double down in their efforts to work together to promote retention of the multi-stakeholder approach to Internet governance. In support of this, we recommend the following:

- Develop joint India-U.S. strategies for event such as the ITU Plenipotentiary conference in October 2014.
- Collaborate on ways to increase Indian participation in multi-stakeholder organizations, such as the Internet Society and the Internet Engineering Task Force.
- Organize exchanges between Indian and U.S. businesses and universities to share insights on Internet-based career opportunities made possible via the multi-stakeholder governance model.