



ITI's India Priorities Summary

ITI, the global voice of the tech sector, represents the largest and most innovative technology and technology-enabled companies headquartered around the world. Our companies have a keen interest in India: the large and dynamic population, the educated workforce, and the clear appetite for new technology present a rare opportunity for industry and government to work together to bring new, innovative technologies to India while further building and preparing the workforce for the unique opportunities presented by the modern economy. Our companies, however, face many barriers to doing business in India. This paper outlines those issues in detail, presenting a compendium of technology policy priorities that the global technology sector faces.

Longstanding Priorities

For many years, certain measures have excessively limited the trade in goods in India. ITI has worked with the Indian government to find solutions to public policy problems that have the potential to negatively impact the ability of our companies to do business in India, but many issues remain. They include:

Compulsory Registration Order (CRO)

The CRO, intended to safeguard consumers from sub-standard electronic items, has been in place since 2013 and has been steadily expanding. It requires not only that companies test certain technology products at approved, India-based laboratories before selling them in India, but also mandates registration for individual factories, rather than product lines, and is often extremely time consuming and costly. ITI has engaged extensively on this issue and continues to demonstrate to the Indian government that this policy significantly impacts the ease of doing business in India.

Preferential Market Access for Government Procurement (PMA-G)

The PMA-G is a series of regulations, initially released in 2012, that define local content requirements (LCR) for certain electronic goods in order to be considered for public procurement. The PMA-G has continued to expand to apply to higher end, more complex products, effectively removing foreign technology companies from competition for government bids. ITI continues to emphasize the global nature of technology company supply chains, and that LCRs undermine those supply chains, resulting in lower quality products for higher costs for the Indian government.

Customs Duties on Information and Communications Technology (ICT) Goods

India has bound most of its tariffs on technology goods at zero after years of trade agreements and negotiations, particularly the Information Technology Agreement (ITA). However, on multiple occasions it has raised tariffs on those goods as part of its budget review process in 2014 and 2016 as well as, it is rumored, as part of its implementation of the new Goods and Services Tax (GST) in 2017. Low tariffs on technology products are essential for all sectors in the Indian economy and as such ITI continues to press India to honor its international commitments in this area.

Telecom Security Testing

In late 2009 and 2010, India's Department of Telecommunications (DoT) issued several vague new security regulations that govern commercial procurement of telecommunications equipment and



software by Indian telecommunications operators. This imposes a potentially inflexible security approval process for importation of goods, mandated forced transfer of technology to Indian companies as a condition of doing business, and the escrowing of source code and other sensitive design elements. Though these requirements have been continually delayed in implementation, ITI continues to express that these requirements will act as a *de facto* barrier to trade while doing little to protect Indian companies and citizens.

E-Waste

In March 2016, the Ministry of Environment, Forests and Climate Change (MoEF&CC) issued the new notification of E-waste Management Rules that require companies to dispose of a certain percentage of their products after they are sold and they reach their end of life (30% for the first two years, 70% after the 7th year) – despite 90% of waste disposal being handled by the informal sector. ITI continues to engage on this issue and to be involved as it goes into implementation.

Plastic Waste Management Rule

The India Plastic Waste Management Rule (PWMR) came into effect March 2016, restricting the use of certain types of plastic in packaging and requiring companies to pay for recovery of certain types of plastic waste. The rules are moving forward into implementation. ITI will follow closely and continue to engage as needed with both MoEF&CC and allied industry associations.

Transboundary Movement of Used and End-of-Life Equipment

Since 2013, MoEF&CC has been applying importation rules for e-waste and hazardous materials – which it expanded in 2015 to include used goods and parts. These rules effectively restrict importation of refurbished goods and goods imported for refurbishing, service, and repair – an important Indian industry. ITI continues to engage on this issue to ensure that these importation policies are in line with international norms and agreements.

ITI Views

The measures listed above limit the ability of international industry to share their innovations and invigorate the Indian economy. All industries rely on access to the latest technology for global competitiveness, and measures that slow or block the ability of these products and services from entering the market depress the ability of local industries to be global leaders. Furthermore, global companies use tightly integrated, global value chains to organize production, and they avoid placing parts of their production in countries with unpredictable regulatory regimes or high regulatory compliance costs. ITI will continue to work with global and local industry groups and government officials that understand the interconnectivity of the global economy and the potential of India to grow, and help create an enabling regulatory environment that empowers India to benefit from global commerce.

Emerging Priorities

Like many countries around the world, India is considering how to best approach new trends and developments in digital technologies. These technologies (such as cloud computing, the internet of things, etc.) change the pace at which people communicate and heighten concerns about data privacy, security, access, and enforcement while raising questions about how to capture the most transformative



benefits of the internet. In this vein, India has released several draft regulations and consultations to solicit comments and views from interested stakeholders. These include:

Encryption

In September of 2015, the Government of India (GOI) briefly released a “draft national encryption policy,” but withdrew the policy after 48 hours following a widespread backlash from industry, civil society, and consumer groups. Currently, GOI is taking a more deliberate, consultative approach to drafting the policy, coordinated by the Ministry of Electronics and Information Technology (MeitY). ITI has, and continues to be, actively engaged with policy makers to help GOI adopt a constructive policy approach to encryption.

Internet of Things (IoT)/Machine to Machine Communications (M2M)

MeitY, DoT, and the Telecom Regulatory Authority of India (TRAI) have all explored the need for a policy governing IoT and M2M – two closely related issue areas. IoT/M2M technologies promise great benefits for the Indian economy, and, though many of the discrete issues around these technologies overlap with other issue areas, consultations and draft regulations in this area often consider regulations that implicate cross-border data flows, cybersecurity, and privacy. As such, ITI utilizes these discussions as an additional forum for discussing the need for open policies in these areas that promote technology in the Indian economy.

Cloud Computing

In June of 2016, TRAI released its “Consultation Paper on Cloud Computing” for comment. This comprehensive and well thought out paper addressed the many potential regulatory issues associated with cloud computing, including data flows, security, privacy, standards, and more. ITI responded to this consultation and continues to follow policy developments in the area.

Software Policies

On multiple occasions, GOI has considered providing preferences to locally developed software, including the GOI Request for Proposal (RFP), which gives preferences to open source software, as well as MeitY’s 2016 “Draft National Software Policy.” ITI has promoted an open market for software products that drive the daily use and innovation of technology products both in government and in the private sector.

Data Retention

In 2016, a committee representing multiple GOI ministries was formed to create a policy enforcing Rule 67c in the IT Act of 2008, which states that data should be stored by intermediaries (such as telcos and web-hosting services) for a minimum time period as specified by the government. Because this rule is vague, the committee has promised to release a consultation paper before finalizing this policy, which could have far-reaching implications on civil rights and business operations.

ITI Views

In all of these areas, India has an opportunity to create a positive, flexible environment for encouraging the use and development of quickly changing digital services and technology. Rigid regulatory regimes, by contrast, will discourage the use and diffusion of digital services and technologies – something that India cannot afford to do if it wishes to accelerate economic development for its people.



Cross-Cutting Priorities

India has the opportunity to reap the vast benefits in the increasingly digital global economy, but restrictive or heavy handed regulatory regimes threaten to do the opposite. Throughout all of ITI's longstanding and emerging priorities, there are several identifiable themes:

Protectionism

India is keenly interested in developing and growing a domestic technology sector, but has widely adopted an import substitution model rather than an export promotion model of doing so. This policy decision has resulted in several measures that discriminate against foreign technology companies, reducing their ability to do business in India. Protectionist policies threaten to stall the development of Indian industries by restricting their access to state-of-the-art goods and services.

Cross-Border Flows and Data Localization

Many of India's consultations and draft regulations have considered restrictions on the ability of data to move across borders or requirements to store data locally. Often, the purpose of these potential measures has been to increase the security of data or protect the privacy of Indian citizens. Allowing data to flow freely around the world is an essential first step to realizing the benefits of the global economy. Data is a key element of new technologies, and the ability of companies to transfer that data to facilities around the world for storage and processing is the foundation of their ability to provide high-quality, low-cost services that invigorate innovation and economic growth.

Privacy Protection

A common theme of many consultations and draft measures pertaining to the use of data has been questions about how to best protect the privacy of Indian citizens. This is certainly a legitimate and serious concern, but one that is not unique to India. In many of these potential measures, India has primarily considered restrictions of the flow of data rather than an interoperable, internationally oriented approach. Protection of user privacy is essential for building trust in technology, and many countries around the world have already done much to create frameworks to that end. Any privacy regulations that India adopts should be inspired by and interoperable with these approaches, allowing data to flow freely while upholding strong protection of Indian citizens' personal information.

ITI's Strategy for Engagement

ITI looks forward to working with Indian government officials and local and international industry groups to build coalitions around development-oriented policy positions. We believe that India can only achieve the goals set out in Prime Minister Modi's Make in India and Digital India initiatives if India takes an export-oriented economic position focused on enhancing Indian citizens' ability to take advantage of all that the technology sector has to offer. We will continue to leverage our global expertise by providing productive inputs into policy development processes, such as comment periods on draft regulations and consultations, while engaging with Indian officials to share our experiences in markets around the globe.