



The Bar Council

**House of Lords International Agreements Committee  
Inquiry into UK-India Free Trade Agreement (FTA)  
Bar Council written evidence**

## **About Us**

The Bar Council represents approximately 18,000 barristers in England and Wales. It is also the Approved Regulator for the Bar of England and Wales. A strong and independent Bar exists to serve the public and is crucial to the administration of justice and upholding the rule of law.

## **Scope of Response**

1. This short submission addresses questions 1 and 2 together, and question 9, focusing on the implications of the UK-India FTA for the legal services sector. It explores the opportunities and challenges arising from India's evolving regulatory framework for foreign lawyers and law firms.

**Question 1: How important is India as a trading and geopolitical partner for the UK?**

**Question 2: What are the potential benefits, opportunities or risks of the India FTA for the UK, and why? When do you anticipate such benefits being realised?**

## **Background and Current Context**

2. The Bar Council of England and Wales (BCEW) has maintained a longstanding and evolving relationship with India since 2005, when it began promoting the expertise of the English and Welsh Bar and strengthening professional ties through advocacy training, seminars, and professional exchanges. These early initiatives built mutual trust and laid the groundwork for deeper legal collaboration, especially with the Bar Council of India (BCI).
3. For the 20 or so years prior to a 2019 Supreme Court of India case, *Bar Council of India v. A. K. Balaji and Ors.*<sup>1</sup>, English and Welsh barristers (usually King's Counsel) were generally welcome to practise as advocates in India seated commercial arbitrations, though not in Indian courts. The numbers were thought to be relatively modest, around 100 such arbitrations a year, but were of significance to the English and Welsh profession in that they were well paid and a useful contribution to English and Welsh legal soft power. *Balaji* challenged the informal arrangements and (on their application) the Supreme Court determined that the BCI had the role of regulating foreign lawyers' provision of services in India.
4. In March 2023, the BCI introduced the Rules for Registration and Regulation of Foreign Lawyers and Foreign Law Firms in India, indicating a cautious liberalisation of India's

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<sup>1</sup> The Supreme Court diluted the permission granted by the Madras High Court, which allowed foreign lawyers the right to advise on a fly-in, fly-out basis and to appear in international commercial arbitrations in India, while providing BCI the liberty to frame appropriate rules on the entry of foreign lawyers and law firms in India.

legal services market so far as establishment of foreign law firms was concerned. The rules allow foreign lawyers to advise on home-country law, establish offices in India, all subject to BCI registration and oversight, and operate under the principle of reciprocity.

Unfortunately, there was nothing workable in the rules to allow for barristers to practise in arbitrations seated in India which were, as a result, understood to be tailing off.

5. In 2025 the BCI amended and expanded these rules, presenting these changes as steps toward structured regulation<sup>2</sup>. However, ambiguities in the framework persist and, in practice, have not facilitated meaningful access for barristers seeking to work on an occasional or “fly-in, fly-out” (FIFO) basis, as they previously had. The requirements for detailed client disclosure to the BCI (probably in breach of the terms of the arbitration agreement and/or client confidentiality), high fees and refundable deposits have rendered the regime unworkable for self-employed counsel. We are informed that only one such arbitration taking advantage of the new rules has taken place in the last six months or so. That arbitration itself is understood, unsatisfactorily, to have required two references to the regulator, the BCI, mid-arbitration hearing.
6. Alongside these developments, the BCEW—working with the Law Society of England and Wales (LSEW) and the UK Ministry of Justice (MoJ)—has engaged with the BCI to promote practical reform, including simpler procedures for FIFO work and better safeguards for confidentiality. In June 2023, the BCEW, BCI, and LSEW signed a tripartite Memorandum of Understanding (MoU) to strengthen cooperation and develop mutually beneficial regulatory frameworks<sup>3</sup>. The BCEW later participated in the BCI’s International Lawyers’ Conference in New Delhi in September 2023, where it engaged directly with Indian legal leaders on the implications of the new regime<sup>4</sup>.
7. The MoJ subsequently established a Legal Professions Committee as a platform for structured UK-India dialogue<sup>5</sup>. At their meeting in October 2024, BCEW then Chair Sam Townend KC and BCI Chair Manan Kumar Mishra discussed the need for regulatory clarity and proportionate treatment for visiting barristers. Later that month, the BCEW Chair met the Chief Justice of India, the Solicitor General, and senior Bar Associations, reaffirming the English Bar’s support for India’s ambition to become a global arbitration hub. With assistance from the UK High Commission, the BCEW also hosted receptions in Delhi and Mumbai to promote understanding of the evolving framework.
8. In February 2025, the Ministry of Law and Justice (MoLJ) published the draft Advocates (Amendment) Bill 2025, proposing government powers to regulate the entry of foreign lawyers under Section 49A<sup>6</sup>. The bill was withdrawn following strong objections from the BCI and widespread lawyer strikes<sup>7</sup>.

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<sup>2</sup> Bar Council of India ‘[Bar Council of India Amends Rules for Registration and Regulation of Foreign Lawyers and Foreign Law Firms in India, 2022, earlier gazetted on 10th March, 2023, AND Restricts Practice to Foreign and International Law, Prohibits Indian Law Practice and Litigation, Ensuring Protection for Indian Advocates](#)’ 14 May 2025

<sup>3</sup> Bar Council ‘[Memorandum of Understanding signed with Bar Council of India](#)’ 6 June 2023

<sup>4</sup> Bar Council ‘[Sam Townend KC speech on International Arbitration to BCI International Lawyers Conference](#)’ 25 September 2023

<sup>5</sup> Later renamed the Legal Profession Committee

<sup>6</sup> Department of Legal Affairs ‘[Advocates \(Amendment\) Bill, 2025](#)’ 2025

<sup>7</sup> Times of India ‘[Facing lawyers’ ire, government withdraws draft advocates bill](#)’ 24 February 2025

9. In June 2025, the BCI formed a review committee, chaired by Cyril Shroff, Managing Partner of Cyril Amarchand Mangaldas, to assess these issues. On 22 August 2025, Sam Townend KC submitted the BCEW's formal representation urging reform of the FIFO regime, transparency, and reciprocity. Early reports on the committee's forthcoming recommendations suggest limited progress towards a workable or balanced model.
10. More recently, between 9 and 18 October 2025, Barbara Mills KC, current BCEW Chair also visited India, and along with Sam Townend KC, once again engaged with the BCI and other stakeholders<sup>8</sup>.

#### *Potential Benefits, Opportunities and Risks*

11. Bringing legal services within the scope of the FTA could deliver major gains for the UK legal sector. Clearer regulation and mutual recognition of professional standards would enable UK barristers and solicitors to advise more effectively on cross-border transactions, arbitration, and investment matters involving Indian clients. Liberalisation would also strengthen the global position of English law, expand UK legal exports, and encourage collaboration between UK and Indian firms in advocacy, ethics, and dispute resolution. A stable and transparent framework would build investor confidence and support wider trade objectives.
12. The absence of legal services from the FTA is therefore a missed opportunity. Without reciprocal access or a workable entry regime, the UK risks losing influence in a market that has long benefited from English legal expertise. The existing BCI rules—marked by high fees, limited FIFO permissions, and intrusive disclosure requirements—would end up discouraging participation by UK barristers, weakening professional links and reducing India's appeal as an arbitration venue.
13. Unless reformed, these barriers will continue to frustrate both countries' ambitions: India's to become a global arbitration hub, and the UK's to expand its professional-services exports. Including legal services in the FTA on a reciprocal and proportionate basis could yield benefits in the long-term, through renewed participation in India-seated arbitrations and deeper professional cooperation.

#### **Question 9: The deal was concluded without reference to legal services. Could you comment on the implications of this, and offer reflections on possible avenues for improving access?**

14. It is disappointing that the question of access to the Indian legal services market was not addressed in the FTA. The introduction of regulatory supervision for non-court-based dispute resolution, such as arbitration, appears to be unique to India through the world. It is undoubtedly having a chilling effect upon the prospects of the English and Welsh Bar taking on work in India, and appears to be inconsistent with the Government of India's stated objective to become an international hub of arbitration. India can only be such a hub if it is truly international in nature.
15. Although the Government of India withdrew the proposed Advocates (Amendment) Bill 2025—which would have provided the government direct authority to regulate the entry of

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<sup>8</sup> Bar Council '[Bar Council of England and Wales visit India](#)' 8 October 2025

foreign lawyers and law firms—the current framework now operates without legislative backstop. India's liberalisation remains administrative rather than legislative, and the BCI retains discretion to alter or suspend the rules.

16. The Bar Council strongly supports the deepening of legal cooperation between the UK and India. A well-calibrated FTA can deliver tangible benefits to both legal systems, enhance professional mobility, and contribute to the wider economic relationship. There are alternatives, but the omission of legal services from the FTA was a disappointment.

**The Bar Council**

**October 2025**