IMPACT OF WTO AGREEMENTS ON INDIA'S FOREIGN TRADE REGULATION

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ABSTRACT

India's accession to the World Trade Organization in 1995 marked a decisive turning point in the regulation of its foreign trade, extending a rules-based multilateral discipline into domains previously governed by discretionary licensing and quantitative controls. This article examines how the WTO's core agreements GATT 1994, the Agreement on Agriculture, TRIPS, GATS, the SPS and TBT Agreements, the Agreement on Subsidies and Countervailing Measures, the Trade Facilitation Agreement, and TRIMs have reshaped India's trade statutes, tariff structures, intellectual property regime and dispute-settlement engagement. Adopting a doctrinal and policy-analytical approach, the article traces the legislative consequences of these commitments, including successive amendments to the Patents Act, the enactment of the Protection of Plant Varieties and Farmers' Rights Act, and reforms to the Customs Act and Foreign Trade Policy, before evaluating sector-wise impact on agriculture, pharmaceuticals, services and textiles. It further examines landmark case law and policy episodes including the Novartis patentability dispute, the India–Solar Cells ruling, and the recurring challenge to India's Minimum Support Price mechanism that illustrate the practical limits WTO membership places on domestic regulatory autonomy. The article concludes that India's engagement with the WTO has been neither passive compliance nor wholesale resistance, but a continuing negotiation between multilateral obligation and domestic developmental priorities, and offers suggestions for how India might strengthen its position as the multilateral trading system enters a period of institutional strain and renewed negotiation.

Keywords: World Trade Organization; India; foreign trade policy; TRIPS Agreement; Agreement on Agriculture; dispute settlement.

1. Introduction

India became a founding member of the World Trade Organization (WTO) on 1 January 1995, when the institution replaced the General Agreement on Tariffs and Trade (GATT) as the principal body governing multilateral trade relations[1]. This transition was not a mere change of name; it marked the beginning of a rules-based regime that reached deep into domestic policy space, touching customs administration, intellectual property law, agricultural subsidies, services regulation and industrial licensing. For a country that had spent over four decades pursuing an inward-looking, import-substitution model of development, WTO membership coincided with and in many ways accelerated the liberalisation reforms that had begun in 1991.

From the 1950s through the 1980s, India pursued an import-substitution industrialisation strategy built around the Imports and Exports (Control) Act, 1947, an elaborate industrial licensing system often described as the 'Licence-Permit Raj', high tariff walls, quantitative restrictions on nearly all categories of imports, and a rupee that was not freely convertible on the current account until 1994. The balance-of-payments crisis of 1991 forced a decisive shift: the government devalued the rupee, dismantled large parts of industrial licensing, and opened the current account. Because the Uruguay Round negotiations were concluding at almost exactly the same moment, India's decision to join the WTO in 1995 was less a standalone choice than an extension of the reforms already under way, and separating the two strands of unilateral reform and multilateral obligation is often difficult in practice.

Three decades on, the WTO's influence on India's foreign trade regulation is visible at every level: in the statutes that govern import and export policy, in the tariff and non-tariff structures applied at the border, in the intellectual property regime that governs pharmaceuticals and agriculture, and in the diplomatic posture India adopts at Geneva. This article examines the institutional architecture of the WTO agreements most relevant to India, traces their impact on domestic legislation and sectoral policy, situates key case law and policy episodes within that framework, and considers the contemporary tensions that continue to shape India's engagement with the multilateral trading system.

[1] World Trade Organization, "Understanding the WTO: The Organization Members and Observers," wto.org.

2. Objectives and Research Questions

This article proceeds with the following objectives: first, to map the principal WTO agreements that bear on India's foreign trade regulation and the domestic legislation enacted or amended in response to them; second, to analyse the sectoral and institutional impact of these commitments, with particular attention to agriculture, intellectual property and industrial policy; third, to examine landmark case law and policy episodes that illustrate the practical operation and limits of these commitments; and fourth, to identify findings and offer suggestions on how India might better reconcile its multilateral obligations with domestic developmental priorities.

Accordingly, the article is organised around the following research questions:

- How has WTO membership altered the legislative and institutional architecture governing India's foreign trade?
- To what extent have specific WTO agreements particularly the Agreement on Agriculture and TRIPS constrained or enabled India's domestic policy choices in sensitive sectors?
- What do landmark disputes and case law involving India reveal about the balance between multilateral discipline and domestic regulatory autonomy?
- What reforms, at the domestic and multilateral levels, would allow India to better safeguard its developmental priorities within the WTO framework?

3. Legal Framework

The WTO administers a single package of agreements that emerged from the Uruguay Round of trade negotiations (1986–1994), concluded at Marrakesh. Unlike the GATT, which dealt almost exclusively with trade in goods, the WTO's mandate extends to services, intellectual property, agriculture, technical standards, sanitary measures, subsidies, anti-dumping, safeguards, trade facilitation and investment measures. Membership requires a country to accept this entire package the principle of the 'single undertaking' rather than picking and choosing individual agreements. For India, this meant that commitments made in areas of bargaining strength, such as textiles, were balanced against obligations in areas where domestic policy space was far more constrained, such as patents and agricultural subsidies.

3.1 GATT 1994 and Tariff Bindings

GATT 1994 requires members to bind their tariffs at negotiated ceiling levels and to apply the Most Favoured Nation (MFN) principle. India's tariff bindings are generally higher than its applied rates, giving policymakers room to raise duties without breaching international commitments. At India's most recent WTO Trade Policy Review, applied MFN tariffs on non-agricultural products averaged around 12.4 per cent, while the overall average applied MFN tariff across all tariff lines stood at 15.8 per cent[2]. Compliance with GATT disciplines required India to convert quantitative restrictions into tariffs, phase out most quotas by the early 2000s, and simplify its Export-Import (EXIM) policy documentation through the Foreign Trade (Development and Regulation) Act, 1992, which replaced the restrictive Imports and Exports (Control) Act of 1947.

3.2 Agreement on Agriculture (AoA)

The AoA rests on three pillars market access, domestic support and export subsidies. Domestic support is classified into 'boxes': the Amber Box captures trade-distorting support tied to production, the Blue Box covers production-limiting programmes, and the Green Box covers minimally distorting support such as research and infrastructure spending. Developing countries are permitted trade-distorting support up to 10 per cent of the value of production the 'de minimis' limit. India's Minimum Support Price (MSP) mechanism is measured against a reference price fixed using 1986–88 international prices[3], a baseline that has not been updated in four decades even as MSPs have risen with inflation, causing the calculated subsidy figure for staples such as rice to repeatedly appear to breach the ceiling.

3.3 Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)

TRIPS required India to overhaul its patent law. The Patents Act, 1970 which had permitted only process patents in the pharmaceutical and agrochemical sectors was amended in phases (1999, 2002 and, decisively, 2005) to introduce product patents[4]. TRIPS also required India to

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[2] WTO Secretariat, Trade Policy Review India, WT/TPR/S/488, 26 May 2026.

[3] WTO, Agreement on Agriculture, Article 6 and Annex 3 (external reference price for market price support calculations).

[4] The Patents (Amendment) Act, 1999; The Patents (Amendment) Act, 2002; The Patents (Amendment) Act, 2005, Government of India.

extend protection to plant varieties, prompting enactment of the Protection of Plant Varieties and Farmers' Rights Act, 2001[5], a sui generis framework rather than a patent-based one. Geographical indications, copyright and trademark law were similarly updated, giving India a modern intellectual property architecture.

3.4 GATS, SPS/TBT, and Trade Remedies

The General Agreement on Trade in Services (GATS) extended multilateral disciplines to services, covering cross-border supply, consumption abroad, commercial presence and the movement of natural persons (Mode 4); India has been a vocal advocate for liberalising Mode 4 to ease the movement of its skilled professionals abroad. The SPS and TBT Agreements permit countries to protect human, animal and plant life and to set product standards, provided such measures are science-based, non-discriminatory and proportionate. The Agreement on Subsidies and Countervailing Measures and the Anti-Dumping Agreement discipline industrial subsidies and permit duties against dumped or subsidised imports; India has become one of the most frequent users of anti-dumping measures among WTO members, with corresponding rules incorporated into the Customs Tariff Act, 1975 and administered by the Directorate General of Trade Remedies.

3.5 Trade Facilitation Agreement and TRIMs

The Trade Facilitation Agreement, concluded at Bali in 2013 and in force since 2017[6], obliges members to simplify customs procedures and adopt risk-based inspection, prompting India's Customs Single Window and related amendments to the Customs Act, 1962. The Agreement on Trade-Related Investment Measures (TRIMs) prohibits local-content and trade-balancing requirements inconsistent with national treatment, a discipline of direct relevance to India's industrial and renewable-energy policy, discussed further in Part 5 below.

3.6 Domestic Legislative Response

The cumulative effect of these agreements has been a substantial rewriting of India's foreign trade law over three decades. Key instruments include:

- The Foreign Trade (Development and Regulation) Act, 1992, and successive Foreign

[5]The Protection of Plant Varieties and Farmers' Rights Act, 2001, Government of India.
[6]WTO Trade Facilitation Agreement, entered into force 22 February 2017.

Trade Policies (most recently the Foreign Trade Policy, 2023).

- Amendments to the Patents Act, 1970 (1999, 2002, 2005) to introduce product patents and comply with TRIPS.
- The Protection of Plant Varieties and Farmers' Rights Act, 2001, and the Geographical Indications of Goods (Registration and Protection) Act, 1999.
- Amendments to the Customs Act, 1962 and Customs Tariff Act, 1975 to align tariff structures, valuation rules and trade remedy procedures with WTO disciplines.
- Sectoral regulatory reforms in banking, insurance and telecommunications flowing from GATS commitments.
- Creation of institutions such as the Directorate General of Foreign Trade and the Directorate General of Trade Remedies to manage notification obligations and dispute preparedness.

4. Analysis of the Topic

4.1 Agriculture and Food Security

Agriculture has experienced the most politically sensitive impact of WTO membership. Several members, including the United States, Australia, Canada and Ukraine, have formally questioned India's market price support for rice and wheat, placing it at 87 per cent for rice and 67–75 per cent for wheat against an allowable level of 10 per cent[7]. While India has not been compelled to dismantle its MSP system, the recurring disputes over subsidy calculation have kept food security policy under constant international scrutiny, shaping India's negotiating priorities at every Ministerial Conference.

4.2 Pharmaceuticals and Public Health

The shift to product patents raised early fears that medicine prices would rise sharply once Indian firms could no longer manufacture patented drugs through alternative processes. India's

[7] "Certain Measures of India Providing Market Price Support to Rice and Wheat: Communication from Argentina, Australia, Canada, Ukraine and the United States," WTO document G/AG/W/250, 11 November 2024.

use of TRIPS flexibilities compulsory licensing provisions and the heightened patentability bar under Section 3(d) of the Patents Act has allowed its generics industry to remain among the largest in the world by volume, earning India recognition as the 'pharmacy of the developing world', while still meeting its treaty obligations.

4.3 Services, Textiles and Industrial Policy

India's services sector, particularly information technology and IT-enabled services, has been a net beneficiary of the more open trading environment GATS helped foster globally, even though India's own market-access offers have been comparatively cautious in sensitive sub-sectors such as retail and legal services. The phase-out of the Multi-Fibre Arrangement, completed under WTO rules by 2005[8], removed quota restrictions that had earlier both protected and constrained Indian textile exports, exposing the sector to full global competition while also opening larger markets.

4.4 Special and Differential Treatment, and the Question of Graduation

A recurring thread running through India's engagement with every WTO agreement is the principle of Special and Differential Treatment (S&DT) the recognition that developing countries need longer transition periods and lower reduction commitments. India's growing share of world trade has led some developed-country members to argue that it should 'graduate' out of certain flexibilities, particularly regarding industrial subsidies and export incentive schemes. India has resisted blanket graduation, arguing that aggregate trade volumes conceal enormous variation in per-capita income and that hundreds of millions of its citizens remain dependent on subsistence agriculture.

4.5 Investment and Industrial Policy

Although the WTO's core disciplines concern trade rather than investment as such, TRIMs and the ASCM indirectly shape India's approach to foreign direct investment and industrial policy, requiring India to design schemes such as production-linked incentive programmes with care to ensure they operate as production subsidies rather than as import-substitution or export-contingent measures likely to draw challenge, as elaborated through case law in Part 5.

[8]WTO Agreement on Textiles and Clothing, quota system phased out by 1 January 2005.

5. Important Case Laws and Policy Examples

5.1 Novartis AG v. Union of India (2013)

In this landmark decision, the Supreme Court of India upheld the constitutional validity of Section 3(d) of the Patents Act and denied a patent for a beta-crystalline form of imatinib mesylate (marketed as Glivec), holding that the substance did not demonstrate the enhanced therapeutic efficacy required for patentability of a new form of a known substance[9]. The ruling is widely regarded as a defining moment in India's use of TRIPS flexibilities to prevent 'evergreening' of pharmaceutical patents, preserving access to affordable generic medicines while remaining compliant with India's treaty obligations.

5.2 India Certain Measures Relating to Solar Cells and Solar Modules (DS456)

The United States successfully challenged the domestic-content requirements under India's Jawaharlal Nehru National Solar Mission before a WTO panel and, on appeal, the Appellate Body, which found the requirements inconsistent with India's national-treatment obligations under GATT and TRIMs[10]. The ruling required India to redesign parts of its renewable-energy procurement policy and remains a cautionary example of how WTO commitments can constrain instruments used to promote domestic manufacturing capacity, even in strategically important sectors such as clean energy.

5.3 The Rice and Wheat Market Price Support Dispute

Beyond formal adjudication, the sustained diplomatic challenge mounted by major agricultural exporters against India's rice and wheat support programmes conducted through committee questioning rather than a panel proceeding illustrates how the AoA's outdated reference-price methodology can generate recurring friction even absent a final ruling, keeping India's food-security architecture perpetually exposed to challenge.

5.4 The Bali Peace Clause (2013)

The interim 'Peace Clause' agreed at the 2013 Bali Ministerial Conference shields developing

[9]Novartis AG v. Union of India, (2013) 6 SCC 1 (Supreme Court of India).
[10]WTO, India Certain Measures Relating to Solar Cells and Solar Modules, Appellate Body Report, DS456, 2016.

countries operating public stockholding programmes for food security from legal challenge pending a permanent solution[11]. India's success in securing this interim protection and its continued advocacy for a permanent solution at successive Ministerial Conferences stands as a leading example of how India has used coalition diplomacy to safeguard core domestic policy instruments within the WTO's rule-making process.

5.5 The Basmati Rice (Geographical Indication) Episode

The attempt by a private United States company to patent rice lines derived from Indian Basmati varieties in the late 1990s, though only partly litigated, catalysed India's enactment of the Protection of Plant Varieties and Farmers' Rights Act, 2001 and the Geographical Indications of Goods (Registration and Protection) Act, 1999, and remains a frequently cited policy example of how TRIPS-driven pressures reshaped India's approach to protecting traditional agricultural knowledge and geographical indications.

6. Findings and Suggestions

6.1 Findings

The analysis above yields several findings. First, the asymmetry of the Uruguay Round bargain under which developing countries accepted stringent TRIPS and services obligations in exchange for agricultural liberalisation promises by developed economies that have been only partially fulfilled continues to disadvantage India in agricultural negotiations. Second, the AoA's outdated reference-price methodology is structurally biased against countries with historically high food-price inflation, generating disputes that are more a function of measurement than of genuine trade distortion. Third, India's use of TRIPS flexibilities, exemplified by Novartis, has successfully preserved public health interests without breaching treaty commitments, demonstrating that compliance and domestic policy space are not always mutually exclusive. Fourth, the Solar Cells ruling shows that industrial policy instruments relying on local-content requirements remain highly vulnerable to challenge, requiring careful redesign of future schemes. Finally, the prolonged paralysis of the WTO's Appellate Body, arising from a blockage of new appointments since 2019[12], has weakened the enforceability of

[11] WTO, Ministerial Decision on Public Stockholding for Food Security Purposes, Bali, 2013 (WT/MIN(13)/38).
[12] WTO Dispute Settlement Body, minutes of meetings on Appellate Body appointments, 2019 onward; Appellate Body membership fell below the quorum required to hear new appeals.

dispute outcomes generally, reducing the practical value of litigation as a means of resolving trade disputes.

6.2 Suggestions

- India should continue to press, through coalition diplomacy with other developing countries, for a permanent solution on public stockholding that replaces the interim Peace Clause with a durable legal safeguard.

- Domestic industrial and renewable-energy schemes, including production-linked incentive programmes, should be designed from the outset to avoid local-content or export-contingency features that could draw a TRIMs or ASCM challenge, drawing on the lessons of the Solar Cells dispute.

- India should support reform proposals aimed at reviving a functioning two-tier dispute settlement system, since a credible Appellate Body strengthens smaller and developing members' ability to enforce rulings against larger trading partners.

- Negotiators should continue to resist a permanent e-commerce moratorium and premature investment facilitation disciplines until agricultural market-access asymmetries are addressed, while remaining open to calibrated compromises that protect India's digital and manufacturing policy space.

- Domestic safety nets for farmers exposed to import surges should be strengthened so that WTO-consistent trade opening does not disproportionately burden smallholders during periods of global price volatility.

7. Conclusion

Three decades of WTO membership have transformed India's foreign trade regulation from a closed, licence-based system into one governed by bound tariffs, transparent procedures, product-patent protection and enforceable if currently weakened dispute settlement. The agreements and case law examined in this article show that India has not simply had these disciplines imposed on it; it has actively contested, interpreted and, where necessary, resisted them in defence of its distinct developmental priorities, from food security to affordable medicines. As the multilateral trading system enters a period of renewed uncertainty, marked by institutional strain and new negotiating frontiers, India's experience offers an instructive case study in how a large developing economy can use, shape and sometimes push back against a rules-based global trade order while continuing to integrate deeply within it.

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