STATE CONTROL OVER IMPORT AND EXPORT OF GOODS: FROM REGULATION TO LIBERALISATION IN INDIA

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ABSTRACT

Foreign trade plays a significant role in the economic development of a country by facilitating the movement of goods, services, capital and technology across national borders. In India, the regulation of imports and exports has undergone a substantial transformation from a highly controlled and protectionist regime to a more liberalised and market-oriented framework. In the initial decades after independence, the State exercised extensive control over foreign trade through import licensing, quantitative restrictions, high tariffs and other administrative mechanisms with the objectives of protecting domestic industries, conserving foreign exchange and promoting self-reliance. However, the economic crisis of 1991 marked a decisive shift in India's trade policy towards liberalisation, deregulation and greater integration with the global economy.

This article examines the changing nature of State control over the import and export of goods in India, with particular emphasis on the transition from direct administrative control to a regulatory and facilitative approach. It analyses the legal framework governing foreign trade, including the Foreign Trade (Development and Regulation) Act, 1992, the Customs Act, 1962, the Customs Tariff Act, 1975, the Foreign Exchange Management Act, 1999 and the Foreign Trade Policy. The role of the Directorate General of Foreign Trade and mechanisms such as import-export licensing, restricted and prohibited goods, strategic export controls and trade-remedial measures are also examined. The article further considers India's obligations under the World Trade Organization framework and the continuing need to balance free trade with national security, economic interests, public health and protection of domestic industries. It argues that liberalisation has not eliminated State control but has transformed its character from pervasive direct intervention to targeted regulation, facilitation and strategic oversight.

Keywords: Foreign Trade, Import Regulation, Export Control, Liberalisation, Protectionism, DGFT, Foreign Trade (Development and Regulation) Act, WTO, State Control.

I. INTRODUCTION

Foreign trade constitutes an essential component of a modern economy, enabling countries to obtain goods, raw materials, technology and other resources that may not be sufficiently available within their domestic markets, while providing opportunities for domestic producers to access international markets. Imports and exports therefore have a direct bearing on production, employment, prices, foreign exchange reserves and overall economic development. At the same time, unrestricted movement of goods across national borders may affect domestic industries, national security, public health, consumer interests and the balance of payments. Consequently, States have historically exercised varying degrees of control over international trade in accordance with their economic priorities and national interests.

In India, the history of foreign trade regulation reflects a significant transformation in the role of the State. During the early post-independence period, India adopted a protectionist and inward-looking economic policy. Import licensing, quantitative restrictions, high customs duties and foreign exchange controls were extensively employed to conserve scarce foreign exchange, protect domestic industries and promote economic self-reliance. The system gradually became associated with extensive administrative intervention, popularly described as the 'Licence-Permit-Quota Raj'. While these measures were intended to promote industrialisation and economic stability, excessive restrictions also contributed to inefficiency, reduced competition and limited integration with the international economy.

The economic crisis of 1991 marked a major turning point in India's approach to foreign trade. The New Economic Policy introduced in 1991 initiated a process of liberalisation, deregulation and global economic integration. Import licensing was progressively dismantled, quantitative restrictions were reduced, tariff barriers were lowered and export procedures were simplified. The State consequently moved away from acting primarily as a direct controller of foreign trade towards performing the functions of a regulator, facilitator and strategic overseer. The enactment of the Foreign Trade (Development and Regulation) Act, 1992 further provided the principal statutory framework for the development and regulation of India's foreign trade.

Liberalisation, however, has not resulted in the complete withdrawal of State control. The Government continues to regulate the import and export of goods through prohibited and restricted categories, licensing requirements, customs controls, strategic export controls, traderemedial measures and restrictions imposed in the interests of national security, public health, environmental protection and economic stability. The Directorate General of Foreign Trade (DGFT), the customs authorities and other regulatory institutions continue to play important roles in implementing these measures.

The contemporary approach therefore represents a balance between the objectives of free and facilitative trade and the legitimate regulatory interests of the State. India's participation in the World Trade Organization (WTO) framework has further influenced the manner in which trade restrictions are formulated and implemented. The central issue is no longer whether the State should control foreign trade, but rather the extent, nature and justification of such control within a liberalised and globally integrated economy.

1.1 Meaning and Importance of State Control over Foreign Trade

State control over foreign trade refers to the legal, administrative and institutional measures adopted by the government to regulate the movement of goods across national borders. Such control may take the form of tariffs, import and export restrictions, licensing, quotas, prohibitions, customs procedures, strategic trade controls and other regulatory measures. The purpose of such regulation is not necessarily to restrict international trade, but to ensure that foreign trade operates consistently with the economic, social, security and public-interest objectives of the State.

State regulation of foreign trade is important because international trade can have significant consequences for the domestic economy. Import restrictions may be used to protect vulnerable domestic industries, prevent the entry of harmful goods and conserve foreign exchange, while export controls may be necessary to ensure domestic availability of essential commodities or prevent the transfer of sensitive technologies. Thus, even under a liberalised trade regime, regulatory intervention remains necessary in carefully defined circumstances.

1.2 Need for Regulation of Imports and Exports

The regulation of imports and exports is justified by several economic and non-economic considerations. Historically, India relied upon import controls to protect infant industries and reduce dependence on foreign goods. In the contemporary context, regulation also serves purposes such as protecting national security, preventing illegal trade, safeguarding public health and the environment, maintaining fair competition and complying with international obligations.

At the same time, excessive regulation can create unnecessary barriers to trade, increase transaction costs and discourage investment and international business. Therefore, an effective foreign trade regime must maintain an appropriate balance between regulatory objectives and trade facilitation. The challenge for India is to ensure that necessary restrictions are transparent, proportionate and predictable while avoiding unnecessary administrative intervention.

1.3 Objectives and Scope of the Study

This article examines the evolution of State control over the import and export of goods in India, particularly the transition from a protectionist and highly regulated regime to a liberalised trade framework. It analyses the principal legal and institutional mechanisms governing foreign trade, with particular reference to the Foreign Trade (Development and Regulation) Act, 1992, the Customs Act, 1962, the Customs Tariff Act, 1975, the Foreign Exchange Management Act, 1999 and the Foreign Trade Policy.

The study also examines the role of the DGFT, the impact of the 1991 economic reforms and India's obligations under the WTO framework. Particular attention is given to the continuing relevance of State control through restricted and prohibited goods, licensing requirements, strategic export controls and trade-remedial measures. The article ultimately seeks to assess whether India's liberalisation process has resulted in the withdrawal of State control or merely transformed it from direct intervention into a more targeted form of regulatory governance.

II. EVOLUTION OF STATE CONTROL OVER FOREIGN TRADE IN INDIA

The evolution of India's foreign trade regime reflects a significant transformation in the economic philosophy and regulatory role of the State. From the colonial period, when India's trade was largely structured to serve imperial economic interests, India moved after independence towards protectionism, import substitution and extensive administrative control. This approach was gradually reconsidered during the 1980s and underwent a fundamental transformation following the economic crisis of 1991. The present framework combines trade liberalisation with continuing State regulation in areas involving economic interests, national security and public welfare.

2.1 Foreign Trade under the Colonial Regime

During the colonial period, India's foreign trade was largely organised in accordance with the economic interests of the British Empire. India functioned principally as a supplier of raw materials and an important market for British manufactured goods. Colonial trade policies did not primarily seek to develop India's domestic industrial capacity or achieve balanced economic development. The resulting structure of trade contributed to the dependence of the Indian economy on external markets and British manufactured products.

The experience of colonial economic exploitation influenced the economic thinking of the leaders of independent India. After independence, self-reliance, industrialisation and reduction of excessive dependence on foreign goods became important objectives of economic policy. The State consequently assumed a central role in regulating both domestic production and international trade.

2.2 Post-Independence Protectionist Trade Policy

After independence, India adopted a planned economic model in which the State played a dominant role in economic development. Foreign trade policy was closely connected with the objectives of industrialisation, economic self-reliance and conservation of scarce foreign exchange. Import controls were considered necessary because India's industrial base was relatively weak and its foreign exchange resources were limited.

In the initial years after independence, India briefly adopted measures of progressive liberalisation by expanding the scope of the Open General Licence (OGL) system. However, the foreign exchange crisis of 1956–57 resulted in the restoration of comprehensive import controls.[1] Import restrictions were subsequently strengthened with the objective of conserving foreign exchange and protecting domestic industries.

The policy of import substitution became a central feature of India's economic strategy. High customs duties, quantitative restrictions, import licensing and foreign exchange controls were

[1] Ministry of Commerce and Industry, Government of India, "India's External Trade", Press Information Bureau, 3 August 2007.

used to discourage imports and encourage domestic production. The State sought to ensure that scarce foreign exchange was directed towards essential goods, capital equipment and other priority requirements.

2.3 Emergence of the Licence-Permit-Quota System

The system of State control became increasingly comprehensive during the following decades. The **Imports and Exports (Control) Act, 1947** provided the legal basis for governmental control over imports and exports. Under the Act, the Central Government could prohibit, restrict or otherwise control the import and export of goods.[2]The regulatory framework was supplemented by the Imports (Control) Order and administrative licensing procedures.

The import licensing system became one of the principal instruments of trade regulation. Goods could generally be imported only in accordance with the applicable licensing requirements, while the Open General Licence system permitted specified categories of goods to be imported without an individual licence. The Supreme Court in *Joint Chief Controller of Imports and Exports v. Aminchand Mutha* recognised the extensive regulatory framework governing import licensing under the 1947 legislation.[3]

During this period, State control extended beyond ordinary licensing. Certain goods were subject to **canalisation**, under which their importation was reserved for specified State trading enterprises. Quantitative restrictions, the actual-user policy, high tariffs and foreign exchange controls further restricted access to imported goods. These measures collectively contributed to what came to be popularly known as the **Licence-Permit-Quota Raj**.

The objective behind these controls was not merely protectionism. They were also intended to conserve foreign exchange, prevent unnecessary imports, protect infant industries and promote domestic industrialisation. Nevertheless, the extensive administrative nature of the system resulted in considerable government intervention in commercial decisions.[4]

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[2] The Imports and Exports (Control) Act, 1947, s. 3.
[3] Joint Chief Controller of Imports and Exports v. M/s. Aminchand Mutha, AIR 1966 SC 478.
[4] Ministry of Commerce and Industry, Government of India, supra note 1.

2.4 Limitations of the Protectionist Regime

The protectionist regime played an important role in the development of India's industrial base and in reducing immediate dependence on imported manufactured goods. However, prolonged protection also produced several economic and administrative difficulties. Excessive import restrictions reduced competitive pressure on domestic producers, while high tariffs and quantitative restrictions limited access to modern technology, capital goods and internationally competitive inputs.

By the 1980s, the limitations of the restrictive trade regime had become increasingly apparent. The Government consequently began introducing gradual reforms, including expansion of the OGL list, reduction of canalisation and introduction of export incentives.[5] These measures represented an initial movement away from comprehensive administrative control towards a more liberal trade regime.

The decisive transformation occurred in **1991**, when India faced a severe balance-of-payments crisis. The Government recognised that the existing system of import substitution and extensive quantitative controls could no longer adequately support India's economic requirements. The 1991 Budget expressly acknowledged that protection had been necessary during the early stages of industrial development but observed that import substitution had not always been efficient or selective.[4] The Government therefore initiated measures aimed at reducing import licensing, promoting exports and replacing quantitative restrictions with a more marketoriented system.

The reforms marked a fundamental change in the philosophy of foreign trade regulation. Import licensing was progressively dismantled, tariff barriers were reduced and greater emphasis was placed on export promotion and international competitiveness. The subsequent enactment of the **Foreign Trade (Development and Regulation) Act, 1992** provided a new statutory framework for the development and regulation of foreign trade. The Act empowered the Central Government to prohibit, restrict or otherwise regulate imports and exports and to formulate the country's export-import policy.[6]

Thus, the evolution of India's foreign trade regime may broadly be understood as a movement

[5] Government of India, *Budget Speech 1991–92*, Ministry of Finance, 1991

[6] The Foreign Trade (Development and Regulation) Act, 1992, ss. 3 and 5.

from colonial economic control, to post-independence protectionism and import substitution, and ultimately towards liberalisation accompanied by targeted State regulation. Liberalisation did not eliminate State control; rather, it changed the nature of such control from pervasive administrative intervention to a regulatory framework intended to facilitate trade while protecting legitimate economic, strategic and public interests.

III. LEGAL FRAMEWORK GOVERNING IMPORTS AND EXPORTS IN INDIA

The regulation of imports and exports in India is governed by a combination of statutory provisions, subordinate legislation, trade policy instruments and administrative institutions. The present framework seeks to facilitate international trade while enabling the State to regulate or restrict trade where necessary in the interests of economic development, national security, public health and other legitimate public purposes. The principal legal instruments include the **Foreign Trade (Development and Regulation) Act, 1992, the Foreign Trade Policy, the Customs Act, 1962, the Customs Tariff Act, 1975 and the Foreign Exchange Management Act, 1999**. The Directorate General of Foreign Trade (DGFT) and the Central Board of Indirect Taxes and Customs (CBIC) are the principal administrative authorities involved in implementing this framework.[7]

3.1 Constitutional Basis of Foreign Trade Regulation

The Constitution of India provides the basic legal foundation for State regulation of foreign trade. Parliament has exclusive legislative competence over matters relating to foreign trade under **Entry 41 of List I of the Seventh Schedule**, which specifically deals with trade and commerce with foreign countries and import and export across customs frontiers.[8] In addition, customs duties and other aspects of taxation relating to imports and exports fall within the Union's legislative competence.

The constitutional allocation of powers enables the Union Government to establish a uniform national framework for the regulation of international trade. At the same time, regulatory measures must operate within constitutional limitations, including principles of equality, reasonableness and protection of legitimate rights.

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[7] Ministry of Commerce and Industry, Government of India, *Foreign Trade Policy 2023*, Department of Commerce, 2023.

[8] Constitution of India, Seventh Schedule, List I (Union List), Entry 41.

3.2 Foreign Trade (Development and Regulation) Act, 1992

The **Foreign Trade (Development and Regulation) Act, 1992 (FT(D&R) Act)** is the principal legislation governing the development and regulation of India's foreign trade. It replaced the earlier Imports and Exports (Control) Act, 1947 and reflected the post-1991 shift from direct administrative control towards a more liberalised and regulatory framework.[9]

The long title of the Act itself indicates its central objective: facilitating imports into India and augmenting exports from India. Section 3 empowers the Central Government to make provisions for the development and regulation of foreign trade and to impose prohibitions, restrictions or other controls on imports and exports. Section 5 empowers the Central Government to formulate and amend the **Foreign Trade Policy**.[10]

The Act therefore establishes the basic statutory authority through which the Government can determine what goods may be freely imported or exported and what goods may be subject to restrictions, prohibition or licensing requirements.

3.2.1 Importer-Exporter Code and Licensing

Section 7 of the FT(D&R) Act provides for the **Importer-Exporter Code (IEC)**. Subject to the statutory exceptions, a person cannot make an import or export without an IEC issued by the DGFT or an authorised officer. The IEC serves as an important identification mechanism for persons engaged in international trade.

The Act also provides for licensing and authorisation mechanisms. Under Section 8, an import or export licence may be suspended or cancelled in specified circumstances, while Section 9 deals with the grant, renewal and refusal of licences.[12] These provisions enable the State to maintain regulatory oversight over transactions involving restricted goods and other controlled categories.

[9] The Foreign Trade (Development and Regulation) Act, 1992, No. 22 of 1992, Statement of Objects and Reasons; see also s. 20.
[10] The Foreign Trade (Development and Regulation) Act, 1992, Long Title.

3.2.2 Prohibition, Restriction and Enforcement

The FT(D&R) Act also provides enforcement mechanisms against violations of foreign trade regulations. Section 11 deals with contravention and penalties, while Sections 13 and 15 provide for adjudication and appeals. The Act further contains provisions relating to search, seizure, confiscation and penalties.[11]

Importantly, the 2010 amendments strengthened the framework for regulating specified goods, services and technologies, including strategic and dual-use items. The Act therefore operates not merely as a trade-promotion statute but also as an important instrument of State control over sensitive international transactions.

3.3 Role and Powers of the Directorate General of Foreign Trade

The **Directorate General of Foreign Trade (DGFT)** is the principal administrative authority responsible for implementing India's foreign trade policy. Section 6 of the FT(D&R) Act provides for the appointment of the Director General of Foreign Trade and assigns the DGFT responsibility for carrying out the foreign trade policy formulated by the Central Government.[12]

The DGFT performs several functions, including issuing authorisations and licences, administering the IEC system, implementing export promotion schemes, regulating restricted goods and issuing notifications and public notices relating to foreign trade procedures.

The role of the DGFT illustrates the transformation of the State's approach from direct control towards **regulation and trade facilitation**. Rather than determining every commercial transaction administratively, the DGFT establishes the regulatory conditions within which importers and exporters conduct international business.

3.4 Foreign Trade Policy

The **Foreign Trade Policy (FTP)** provides the operational framework for implementing the objectives of the FT(D&R) Act. The present FTP 2023 was notified under Section 5 of the

[11] Id., ss. 8 and 9.
[12] Id., ss. 11–14 and 15–17.

FT(D&R) Act. It contains provisions relating to imports and exports, authorisations, trade facilitation, export promotion and various procedural requirements.

The FTP adopts a broadly facilitative approach while retaining restrictions where necessary. Goods are generally classified as **Free, Restricted, Prohibited or subject to specific conditions**. Thus, liberalisation does not mean unrestricted trade in every category of goods. Instead, the policy permits free trade as the general rule while retaining targeted controls for specified goods and circumstances.

3.5 Customs Act, 1962

The **Customs Act, 1962** constitutes another major pillar of India's import-export regulatory framework. It consolidates and amends the law relating to customs and provides for the assessment and collection of customs duties, clearance of imported and exported goods, prevention of smuggling and enforcement of import and export restrictions.[13]

Section 11 empowers the Central Government to prohibit the importation or exportation of specified goods.[14] Sections 46 and 50 prescribe procedures for entry of imported and exported goods respectively. The Act also contains provisions relating to examination, assessment, confiscation, penalties, searches, seizure and prosecution.

Customs regulation therefore performs a dual function. It facilitates the legitimate movement of goods across India's borders while simultaneously preventing prohibited, restricted or illegally traded goods from entering or leaving the country.

3.6 Customs Tariff Act, 1975

The **Customs Tariff Act, 1975** provides the principal statutory framework for the imposition of customs duties on imported and exported goods. Tariffs serve both revenue and regulatory functions. Historically, high tariffs were an important instrument of protectionism; following liberalisation, tariff rates were progressively rationalised to facilitate international competition while retaining protection for selected domestic sectors.

[13] Ministry of Commerce and Industry, Government of India, *Foreign Trade Policy 2023*, ch. 1, para. 1.00.
[14] The Customs Act, 1962, No. 52 of 1962, Long Title.

The tariff framework also enables India to adopt trade-remedial measures such as antidumping and countervailing duties in accordance with applicable domestic and international law. Thus, customs tariffs continue to constitute an important, although more targeted, form of State intervention in foreign trade.

3.7 Foreign Exchange Management Act, 1999

The **Foreign Exchange Management Act, 1999 (FEMA)** regulates foreign exchange transactions associated with international trade. It replaced the Foreign Exchange Regulation Act, 1973 and reflects the liberalised approach towards foreign exchange management.

FEMA seeks to facilitate external trade and payments while promoting the orderly development and maintenance of the foreign exchange market in India.[15] Exporters and importers are consequently required to comply with applicable foreign exchange requirements relating to receipt of export proceeds, payments for imports and other crossborder transactions. The Reserve Bank of India plays a significant role in administering the foreign exchange framework.

3.8 SCOMET and Control of Strategic Exports

An important contemporary aspect of State control is the regulation of **Special Chemicals, Organisms, Materials, Equipment and Technologies (SCOMET)**. SCOMET controls exports of specified dual-use goods, technologies and other sensitive items that may have potential civilian as well as military applications.

The framework reflects the fact that liberalisation cannot extend indiscriminately to goods or technologies capable of affecting national security and international peace. Exporters dealing with SCOMET items may therefore require specific authorisation and must comply with enduse and end-user requirements.

The Indian legal framework demonstrates the transformation of State control over foreign trade. The State no longer exercises the pervasive licensing and quantitative controls characteristic of the pre-1991 regime. Instead, the FT(D&R) Act, Foreign Trade Policy, Customs legislation, FEMA and strategic export-control mechanisms establish a system in

[15] The Foreign Exchange Management Act, 1999, No. 42 of 1999, Preamble.

which **free trade is facilitated as a general principle, while targeted restrictions are retained for legitimate economic, security and public-interest objectives**.

IV. SHIFT FROM PROTECTIONISM TO LIBERALISATION

The transformation of India's foreign trade policy from protectionism to liberalisation represents one of the most significant changes in the country's economic history. For several decades after independence, India relied upon import substitution, high tariffs, quantitative restrictions, import licensing and extensive administrative controls to protect domestic industries and conserve foreign exchange. Although this approach contributed to the development of a domestic industrial base, its prolonged use resulted in inefficiencies, reduced competition and limited India's integration with the world economy. The economic crisis of 1991 provided the immediate impetus for a fundamental restructuring of this system.

4.1 Economic Crisis and the New Economic Policy, 1991

By the beginning of the 1990s, India was facing a serious balance-of-payments crisis, accompanied by declining foreign exchange reserves, high fiscal pressures and increasing external debt. The existing system of import controls and protectionism was no longer considered adequate to address the structural weaknesses of the economy.

In response, the Government introduced the **New Economic Policy, 1991**, based broadly on the principles of liberalisation, privatisation and globalisation. The reforms sought to reduce excessive State intervention, encourage competition, improve efficiency and integrate the Indian economy with international markets.[16]Foreign trade reforms constituted an important part of this broader economic restructuring.

The **Export-Import Policy, 1992–1997** subsequently provided a systematic framework for reforming India's trade regime. It sought to simplify import procedures, reduce licensing requirements and create a more favourable environment for exports.[21]

4.2 Removal of Import Licensing and Quantitative Restrictions

One of the most important aspects of liberalisation was the gradual dismantling of the

[16] Government of India, *Statement on Industrial Policy*, Ministry of Industry, 24 July 1991. [21] Government of India, Ministry of Commerce, *Export-Import Policy 1992–1997*, New Delhi, 1992.

elaborate import licensing system. Under the earlier regime, a large number of goods could be imported only after obtaining government authorisation. Liberalisation progressively shifted goods from restricted licensing categories to the **Open General Licence (OGL)** or free-import category.

The objective was to replace administrative allocation of imports with market mechanisms. Importers were increasingly permitted to determine their requirements according to market conditions rather than relying upon government licences.

Quantitative restrictions were also progressively removed. This process culminated in the elimination of India's remaining quantitative restrictions on imports of consumer goods, agricultural products and certain other items in 2001, following India's dispute with the United States before the WTO.[17]

The removal of quantitative restrictions significantly changed the nature of State control. Instead of determining the quantity of goods that could enter the country, the State increasingly relied upon tariffs, standards and other regulatory measures to manage imports.

4.3 Reduction of Tariff Barriers

Tariff reform formed another important component of liberalisation. India's pre-reform tariff structure was characterised by exceptionally high customs duties and multiple tariff rates. Such duties provided substantial protection to domestic industries but also increased the cost of imported raw materials, machinery and other inputs.

Following the 1991 reforms, customs duties were progressively reduced and the tariff structure was rationalised.[18] The reduction of tariffs exposed Indian producers to greater international competition and encouraged improvements in productivity, efficiency and quality.

However, tariff protection was not completely abandoned. India continued to use customs duties to protect certain sensitive sectors and to pursue legitimate economic policy objectives. Thus, liberalisation represented a reduction and rationalisation of protection

[17] *India — Quantitative Restrictions on Imports of Agricultural, Textile and Industrial Products*, Report of the Appellate Body, WT/DS90/AB/R, 22 August 1999; see also WTO, *India — Quantitative Restrictions on Imports*, WT/DS90.
[18] Government of India, Ministry of Finance, *Economic Survey 1991–92*, New Delhi, 1992.

rather than its complete elimination.

4.4 Liberalisation of Export Procedures

The reform process also placed greater emphasis on promoting exports. Earlier policies had often treated exports primarily as a means of earning scarce foreign exchange. Following liberalisation, export promotion increasingly became an instrument for integrating Indian producers into international markets.

Export procedures were simplified, export incentives were introduced and exporters were provided with greater access to imported inputs and capital goods. The establishment and expansion of export promotion schemes, Export Processing Zones and subsequently **Special Economic Zones (SEZs)** further supported India's export-oriented approach.

The **Special Economic Zones Act, 2005** provided a statutory framework for the establishment and development of SEZs with the objective of promoting exports, investment and employment.

4.5 Changing Role of the State: From Controller to Regulator

The most significant consequence of liberalisation was the transformation in the role of the State. Under the protectionist regime, the State frequently acted as a direct controller of the volume, nature and conditions of imports and exports. After liberalisation, the emphasis shifted towards **regulation, facilitation and strategic oversight**.

The enactment of the **Foreign Trade (Development and Regulation) Act, 1992** reflected this change. The Act expressly seeks to facilitate imports and augment exports while empowering the Government to impose restrictions where necessary.[19] The Directorate General of Foreign Trade consequently became increasingly important as an institution responsible not simply for controlling trade but also for facilitating and promoting it.

The present framework therefore follows a relatively liberal principle: goods are generally permitted to be imported or exported unless they fall within prohibited, restricted or otherwise regulated categories. At the same time, the State retains powers to intervene for

[19] The Foreign Trade (Development and Regulation) Act, 1992, Long Title and ss. 3 and 5.

reasons such as national security, public health, environmental protection, conservation of foreign exchange and protection of domestic economic interests.

4.6 Impact of Liberalisation on India's Foreign Trade

Liberalisation substantially increased India's engagement with the global economy. Greater access to imported capital goods, technology and intermediate inputs improved opportunities for domestic industries, while export-oriented policies expanded access to international markets. Increased competition also encouraged domestic producers to improve efficiency and product quality.

At the same time, liberalisation created challenges. Domestic industries that had previously operated behind high tariff barriers faced greater competition from foreign products. Certain sectors became more dependent upon global supply chains, while fluctuations in international markets increasingly affected the Indian economy.

Therefore, the transition cannot be viewed simply as a complete replacement of State control by free trade. Rather, it represents a change in the nature of State intervention. Direct administrative controls were substantially reduced, while targeted regulatory mechanisms were retained to address economic, strategic and public-interest concerns.

V. INTERNATIONAL FRAMEWORK AND WTO

The liberalisation of India's foreign trade cannot be understood independently of the international legal framework governing trade in goods. India's integration into the global trading system has progressively subjected its import and export measures to internationally agreed rules, particularly those developed under the **General Agreement on Tariffs and Trade (GATT)** and, since 1995, the **World Trade Organization (WTO)**. The WTO framework seeks to promote predictable and non-discriminatory international trade while recognising that States may impose certain restrictions to protect legitimate public interests. India's domestic foreign trade laws and policies are therefore increasingly required to operate consistently with its international obligations.

5.1 GATT and the WTO Framework

The **General Agreement on Tariffs and Trade, 1947 (GATT)** established the basic multilateral framework for international trade in goods. Its principal objective was to reduce tariffs and other barriers to trade and to eliminate discriminatory treatment in international commerce. India was an original contracting party to GATT and participated actively in the development of the multilateral trading system.

The establishment of the **World Trade Organization on 1 January 1995** marked a major development in international trade law. The WTO provides an institutional framework for administering multilateral trade agreements, facilitating negotiations, monitoring trade policies and resolving disputes between Member States.[20]

For India, WTO membership has had an important influence on the formulation of import and export policies. While India retains the sovereign authority to regulate foreign trade, such regulation must generally be exercised consistently with applicable WTO obligations.

5.2 India's Obligations under the WTO

India is a founding member of the WTO and is bound by the agreements forming part of the WTO legal framework. The principal agreements relevant to trade in goods include **GATT 1994, the Agreement on Agriculture, the Agreement on Technical Barriers to Trade, the Agreement on Sanitary and Phytosanitary Measures, the Agreement on Subsidies and Countervailing Measures and the Agreement on Implementation of Article VI of GATT 1994**.

These agreements influence India's ability to impose tariffs, quantitative restrictions, technical regulations and trade-remedial measures. India's domestic laws and policies must therefore be interpreted and implemented with due regard to its international commitments.

The WTO framework has consequently contributed to a shift from discretionary and purely domestic trade controls towards a system based increasingly on **rules, transparency and predictability**.

5.3 Quantitative Restrictions and Tariff Regulation

One of the fundamental WTO disciplines concerns quantitative restrictions. **Article XI of GATT 1994** generally prohibits prohibitions or restrictions on the import or export of goods

[20] Marrakesh Agreement Establishing the World Trade Organization, 15 April 1994, 1867 U.N.T.S. 154, art. III.

other than duties, taxes or other charges.[21] The provision reflects the principle that tariffs should ordinarily be preferred to arbitrary quantitative controls because they provide greater transparency and predictability.

India's gradual removal of quantitative restrictions during the 1990s was therefore significant both as an element of domestic economic reform and in the context of its WTO obligations. In the *India — Quantitative Restrictions* dispute, the WTO Appellate Body upheld the finding that India's balance-of-payments justification could no longer sustain several quantitative restrictions maintained on imports.[22]

However, the WTO system does not completely prohibit State intervention. GATT permits restrictions in certain circumstances, including measures necessary to protect public morals, human, animal or plant life and health, and measures relating to national security.[23]

5.4 Most-Favoured-Nation and National Treatment Principles

The WTO framework is based upon important principles of **non-discrimination**. The Most Favoured-Nation (MFN) principle under Article I of GATT requires a Member to accord generally equivalent trade advantages to like products originating in or destined for other WTO Members.[24]

The principle of **National Treatment**, contained in Article III of GATT, requires imported products, once they have entered the domestic market, to be treated no less favourably than like domestic products with respect to internal taxation and regulation.[25]

These principles restrict the ability of States to discriminate arbitrarily against foreign products. At the same time, WTO law permits certain exceptions and special treatment for developing countries, allowing Members to pursue legitimate development objectives within the limits of their international obligations.

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[21] General Agreement on Tariffs and Trade, 1994, art. XX.
[22] *India — Quantitative Restrictions on Imports of Agricultural, Textile and Industrial Products*, Appellate Body Report, WT/DS90/AB/R, adopted 22 September 1999.
[23] Id., art. III.
[24] Id., art. XX.
[25] Id., art. XXI

5.5 Permissible Restrictions and Exceptions

WTO law does not require complete removal of State control over foreign trade. Several provisions recognise circumstances in which governments may legitimately restrict trade. **Article XX of GATT 1994** contains general exceptions permitting measures, subject to specified conditions, relating to public morals, protection of human, animal or plant life or health, conservation of exhaustible natural resources and other recognised public interests.[26]

Similarly, **Article XXI** permits measures taken for essential security interests in specified circumstances.[27] These provisions demonstrate that the international trading system seeks to balance trade liberalisation with the regulatory autonomy of States.

India may therefore impose restrictions on imports or exports where such measures are justified under applicable domestic and international law. The important requirement is that such measures should not constitute arbitrary or unjustifiable discrimination or disguised restrictions on international trade.

5.6 Balance between Free Trade and National Interests

The WTO framework has significantly influenced India's transition from protectionism towards liberalisation. However, international trade law does not require States to abandon their regulatory functions. Instead, it attempts to establish a balance between **trade liberalisation and legitimate governmental objectives**.

India continues to regulate certain imports and exports for reasons including national security, food security, public health, environmental protection and protection against unfair trade practices. Anti-dumping duties, countervailing measures and safeguards are examples of WTO recognised mechanisms through which a Member may respond to particular trade circumstances.

The contemporary approach therefore represents neither complete free trade nor unrestricted State control. India's foreign trade regime operates within a framework in which **liberalisation is the general policy, while targeted and rule-based restrictions remain**

[26] World Trade Organization, *Understanding the WTO*, World Trade Organization, Geneva
[27] Peter Van den Bossche and Werner Zdouc, *The Law and Policy of the World Trade Organization: Text, Cases and Materials*, 4th ed., Cambridge University Press, Cambridge, 2017.

available for legitimate public purposes.

VI. CONTEMPORARY STATE CONTROL OVER FOREIGN TRADE

The liberalisation of India's foreign trade regime has substantially reduced the direct and pervasive controls that characterised the pre-1991 period. However, liberalisation has not resulted in the complete withdrawal of the State from foreign trade. The contemporary approach is based on the principle of facilitating legitimate trade while retaining targeted restrictions where necessary to protect national security, public health, domestic industries, the environment and other public interests. The State therefore exercises control through a combination of statutory restrictions, licensing, customs procedures, strategic export controls and trade-remedial measures.

6.1 Prohibited and Restricted Goods

Under the present foreign trade regime, goods are broadly classified as **Free, Restricted or Prohibited**, subject to the conditions prescribed under the Foreign Trade Policy and the relevant schedules of the ITC (HS) classification. Goods classified as 'Free' may ordinarily be imported or exported without a specific authorisation, subject to applicable laws and regulations. Restricted goods require an authorisation or licence from the competent authority, while prohibited goods cannot ordinarily be imported or exported.[28]

This system demonstrates the change from the earlier licensing regime. Licensing is no longer imposed indiscriminately upon a broad range of goods; instead, it is primarily directed towards goods requiring special regulatory supervision.

The power to impose such restrictions derives principally from **Section 3 of the Foreign Trade (Development and Regulation) Act, 1992**, which empowers the Central Government to make provisions for prohibiting, restricting or otherwise regulating imports and exports.[28] The Government may consequently modify the import or export status of goods through notifications issued under the Act and the Foreign Trade Policy.

[28] The Foreign Trade (Development and Regulation) Act, 1992, No. 22 of 1992, s. 3.

6.2 Import and Export Licensing

Licensing remains an important instrument of contemporary State control, particularly in respect of restricted and sensitive goods. The Directorate General of Foreign Trade administers the authorisation system and issues licences where the applicable policy requires prior governmental approval.

The **Importer-Exporter Code (IEC)** is also an important component of the regulatory framework. Under Section 7 of the FT(D&R) Act, a person is generally required to obtain an IEC for undertaking an import or export transaction, subject to prescribed exemptions.[29] The IEC enables the authorities to identify and monitor persons engaged in international trade.

The present licensing system is therefore more selective than the comprehensive import licensing system that existed before liberalisation. Its purpose is primarily regulatory rather than protectionist.

6.3 Strategic and Dual-Use Goods

National security considerations have become an increasingly important dimension of modern export control. India regulates the export of specified **Special Chemicals, Organisms, Materials, Equipment and Technologies (SCOMET)**, which include dual-use goods and technologies capable of having both civilian and military applications.[30]

Exports of specified SCOMET items require authorisation in accordance with the applicable provisions of the Foreign Trade Policy and the Handbook of Procedures. The licensing process may consider factors such as the nature of the item, intended end-use, end-user and the possibility of diversion.

Strategic export controls demonstrate that even a liberalised trade regime cannot permit unrestricted international movement of goods and technologies that may affect national security, international peace or India's international commitments.

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[29] Id., s. 7.

[30] Ministry of Commerce and Industry, Government of India, *Foreign Trade Policy 2023*, Chapter 10; Directorate General of Foreign Trade, *Handbook of Procedures 2023*, Government of India.

6.4 Anti-Dumping, Countervailing and Safeguard Measures

Liberalisation exposes domestic industries to international competition. Consequently, the State retains trade-remedial mechanisms to address situations in which imports cause or threaten to cause injury to domestic producers.

Anti-dumping measures may be imposed where goods are exported to India at less than their normal value and such dumping causes material injury to the domestic industry. The legal framework is primarily contained in **Section 9A of the Customs Tariff Act, 1975**, read with the relevant rules.

Countervailing measures address the adverse effects of subsidised imports from foreign countries. The Customs Tariff Act provides for countervailing duties in accordance with India's international obligations under the WTO Agreement on Subsidies and Countervailing Measures.[31]

Safeguard measures provide temporary protection to domestic industries where increased imports of a product cause or threaten to cause serious injury. Section 8B of the Customs Tariff Act, 1975 provides the statutory basis for imposing safeguard duties in specified circumstances.[32]

These measures do not represent a return to the protectionist regime. Rather, they constitute internationally recognised forms of **rule-based trade regulation** intended to ensure fair competition and prevent serious injury to domestic industries.

6.5 National Security, Public Health and Environmental Restrictions

The State may also restrict imports and exports to protect interests extending beyond ordinary economic considerations. Restrictions may be imposed in relation to national security, public order, public health, environmental protection and the prevention of trade in dangerous or harmful goods.

The **Customs Act, 1962**, particularly Section 11, empowers the Central Government to

[31] The Customs Tariff Act, 1975, s. 9; Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995.
[32] The Customs Tariff Act, 1975, s. 8B; Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997.

prohibit or restrict the import or export of specified goods for reasons including the protection of public health, prevention of smuggling, conservation of natural resources and other specified public interests.[33] Customs authorities also possess powers of examination, seizure and confiscation to enforce these restrictions.

Public health concerns may, for example, justify restrictions on the importation of unsafe products, narcotic substances or goods that fail prescribed safety standards. Similarly, environmental considerations may justify controls over hazardous substances, endangered species and other environmentally sensitive goods.

6.6 Emergency-Based Export Restrictions

The contemporary trade regime also demonstrates that the State may intervene during exceptional economic or public emergencies. Export restrictions may be introduced where unrestricted exports could adversely affect domestic availability or prices of essential commodities.

Such measures have been used in relation to food grains and other essential commodities during periods of domestic shortage or market instability. The **Essential Commodities Act, 1955** and notifications issued under the foreign trade framework may operate together in regulating the availability and movement of essential goods.

Emergency restrictions illustrate the continuing tension between export promotion and domestic welfare. While exporters benefit from access to international markets, the State may intervene where domestic food security or essential consumption requirements are at risk.

6.7 Customs Enforcement and Prevention of Illegal Trade

Customs administration constitutes another important form of contemporary State control. The Customs Act, 1962 provides powers relating to the examination and assessment of goods, search and seizure, confiscation and imposition of penalties.[34] These powers are essential for preventing smuggling, undervaluation, misdeclaration and the illegal movement of prohibited or restricted goods.

[33] The Customs Act, 1962, No. 52 of 1962, s. 11.

The customs framework therefore performs both **facilitative and enforcement functions**. Modern customs administration increasingly relies upon risk management, electronic documentation and data-based assessment to facilitate legitimate trade while focusing enforcement resources on high-risk consignments.

6.8 Nature of Contemporary State Control

The contemporary Indian system demonstrates that liberalisation has transformed rather than eliminated State control over foreign trade. The State has moved away from blanket restrictions, extensive import licensing and quantitative controls towards **targeted, transparent and rule-based intervention**.

The general policy is to facilitate legitimate international trade, while retaining regulatory powers for clearly identified purposes. The modern regulatory framework consequently seeks to balance three competing objectives: **promotion of international trade, protection of domestic economic interests and preservation of national and public interests**.

The effectiveness of this approach ultimately depends upon the transparency, predictability and proportionality of restrictions. Excessive or frequently changing controls can create uncertainty for businesses, whereas carefully designed regulation can promote both trade facilitation and legitimate governmental objectives.

VII. JUDICIAL APPROACH TO STATE CONTROL OVER FOREIGN TRADE

The judiciary has played an important role in defining the extent of governmental power over imports and exports. Indian courts have generally recognised that foreign trade is an area in which the State possesses considerable regulatory authority. At the same time, the exercise of such power remains subject to statutory limits and constitutional principles. Judicial decisions have therefore contributed to the development of a balance between governmental control over foreign trade and the interests of importers, exporters and other commercial entities.

7.1 Judicial Recognition of State Power to Control Foreign Trade

The Supreme Court has consistently recognised that the State possesses extensive powers to regulate, restrict or prohibit imports and exports in the public interest. In ***Daruka & Co. v.***

Union of India,[34] the validity of restrictions and canalisation of mica exports under the Imports and Exports (Control) Act, 1947 was challenged on the grounds, inter alia, of violation of Articles 14 and 19(1)(g) of the Constitution.

The Supreme Court upheld the regulatory framework and recognised the wide power conferred upon the Government under Section 3 of the 1947 Act to prohibit, restrict or otherwise control imports and exports. The Court emphasised that the right to carry on trade does not prevent the State from imposing reasonable restrictions in the larger public interest. The decision is significant because it demonstrates the judicial acceptance of **State intervention in foreign trade where such intervention is supported by legislation and public policy considerations**.[35]

7.2 Import Licensing and Conditions Attached to Licences

The judicial approach has also recognised that an import licence is not merely a commercial entitlement but operates within the regulatory framework created by the Government.

In ***Dy. Chief Controller of Imports & Exports v. K. T. Kosalram***,[36] the Supreme Court considered the interpretation of conditions attached to an import licence issued under the Imports and Exports (Control) Act, 1947. The Court examined the scope and effect of the conditions imposed upon the importer and recognised the importance of interpreting an import licence within the broader statutory and policy framework governing import control.

Similarly, in ***East India Commercial Co. Ltd. v. Collector of Customs***,[37] the Supreme Court dealt with the consequences of violation of conditions attached to an import licence. The Court recognised that a breach of a condition imposed under the import-control framework could attract customs consequences and that the authorities were entitled to take action where goods had been imported subject to legally enforceable restrictions.

These decisions demonstrate that **import licences and authorisations are regulatory instruments**, and persons obtaining them must comply with the conditions attached to their

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[34] *Daruka & Co. v. Union of India*, (1973) 2 SCC 617; AIR 1973 SC 2711.
[35] Id.
[36] *Dy. Chief Controller of Imports & Exports v. K. T. Kosalram*, (1970) 3 SCC 82; AIR 1971 SC 1283.
[37] *East India Commercial Co. Ltd. v. Collector of Customs, Calcutta*, AIR 1962 SC 1893; (1963) 3 SCR 338.

grant.

7.3 State Trading and Canalisation of Imports and Exports

During the protectionist period, the Government frequently used **canalisation**, under which particular commodities could be imported or exported only through designated State trading agencies. The Supreme Court considered the validity and operation of such arrangements in several cases.

In ***M. Jhangir Bhatusha v. Union of India***,[38] the Court considered a system under which the import of specified edible oils had been entrusted exclusively to the State Trading Corporation. The Court examined the distinction between existing contractual commitments and the subsequent introduction of State monopoly over imports.

The decision illustrates the considerable regulatory authority available to the State in organising the channels through which particular commodities may enter the country. At the same time, the case demonstrates the importance of examining the effect of a change in trade policy upon pre-existing contractual arrangements.

7.4 Restrictions on Exports and Changing Government Policy

A particularly significant decision concerning export restrictions is ***State Trading Corporation of India Ltd. v. Union of India***.[39] The case concerned a Government decision imposing a ban on the export of silver. The appellants challenged the restriction, particularly in relation to contracts entered into before the prohibition.

The Supreme Court examined the power of the Government under Section 3 of the Imports and Exports (Control) Act, 1947 to prohibit, restrict or otherwise control exports. The case demonstrates that **foreign trade policy may be changed in response to prevailing economic and public-interest considerations**, and traders cannot necessarily claim an absolute right to continue exporting goods merely because such exports were previously permitted.

The judgment is particularly relevant to the contemporary regime because foreign trade

[38] *M. Jhangir Bhatusha v. Union of India*, (1989) 3 SCC 601; AIR 1989 SC 1713.
[39] *State Trading Corporation of India Ltd. v. Union of India*, (1994) Supp. 3 SCC 40; 1994 AIR SCW 2613.

policies may similarly be modified through notifications and amendments to the applicable policy framework. The decision highlights the continuing importance of State flexibility in responding to changing economic circumstances.

7.5 Judicial Approach under the Liberalised Trade Regime

The liberalisation of India's economy did not eliminate judicial scrutiny of foreign trade regulation. Instead, courts increasingly examine whether restrictions imposed by the executive are supported by the governing legislation and whether the authorities have acted within the scope of their statutory powers.

The Supreme Court's approach may be seen in ***Union of India v. Asian Food Industries***,[40] where the Court considered an export restriction imposed on pulses. The dispute involved the effect of a subsequent prohibition on export upon transactions that had already been entered into. The Court examined the relevant Export-Import Policy and the statutory power under the foreign trade legislation.

The case demonstrates an important feature of the liberalised regime: although the Government has substantial authority to alter foreign trade policy, the exercise of that power must be examined with reference to the applicable statutory provisions, policy framework and the particular circumstances of the transaction.

7.6 Judicial Recognition of the Regulatory Nature of Foreign Trade Policy

A significant modern development is the judicial recognition that the **Foreign Trade Policy is essentially a policy instrument involving economic considerations**, and courts generally exercise restraint in substituting their own views for those of the executive in matters of economic policy.

In ***Director General of Foreign Trade v. Kanak Exports***,[41] the Supreme Court considered the interpretation and application of the Foreign Trade Policy and the authority of the Government to modify trade-related benefits. The Court examined the statutory framework of the FT(D&R) Act and recognised the importance of giving effect to the policy formulated

[40] *Union of India v. Asian Food Industries*, (2006) 13 SCC 542; AIR 2007 SC 2376.
[41] *Director General of Foreign Trade v. Kanak Exports*, (2016) 2 SCC 226.

by the competent authorities.

The case is important in understanding the relationship between judicial review and executive economic policy. Courts may intervene where there is illegality, arbitrariness or violation of statutory requirements, but they ordinarily do not substitute judicial preferences for legitimate economic policy choices.

7.7 Judicial Balance between State Control and Commercial Interests

The judicial approach to foreign trade can therefore be broadly understood through three principles.

First, **the State possesses wide regulatory power** over imports and exports because foreign trade directly affects national economic interests, foreign exchange, security and public welfare.

Secondly, **such power must have a legal foundation**. Regulatory measures must be traceable to the relevant statute, rules, notifications or trade policy, and authorities must act within the limits of the power conferred upon them.

Thirdly, **commercial interests do not automatically prevail over legitimate public interest**. A trader does not possess an unconditional right to import or export a particular commodity merely because such activity was previously permitted. Foreign trade policy may change in response to economic and national requirements.

The judicial approach therefore reflects the broader transformation discussed in this article. Even though India has moved from extensive protectionism towards liberalisation, the judiciary has continued to recognise the State's power to regulate foreign trade. The important change is that contemporary State control operates within a more structured statutory and international framework, requiring greater emphasis on legality, transparency and consistency with established trade rules.

VIII. RECENT TRENDS AND FUTURE OF FOREIGN TRADE REGULATION

India's foreign trade regulation is presently undergoing a transition from conventional administrative regulation towards a more **digital, facilitative, technology-driven and**

globally integrated framework. While liberalisation remains a central objective, recent developments demonstrate that the State continues to exercise strategic control over sensitive goods, technologies and sectors. The **Foreign Trade Policy 2023 (FTP 2023)** reflects this approach by emphasising ease of doing business, reduction of transaction costs, automation, e-commerce exports, export promotion and streamlining of strategic export controls.[42]

8.1 Digitalisation and Trade Facilitation

One of the most significant developments in India's foreign trade administration is the increasing use of digital technology. The DGFT has progressively shifted licensing, authorisation, certification and other trade-related procedures to online platforms. FTP 2023 emphasises paperless and contactless processing, automation and risk-based systems, thereby reducing physical interaction between traders and government authorities.[43]

Digitalisation has changed the nature of State control. Instead of relying primarily upon physical inspection and manual licensing, regulatory authorities increasingly use electronic documentation, data exchange and risk-management systems. This enables the State to facilitate low-risk transactions while directing greater scrutiny towards potentially high-risk consignments.

India's trade facilitation framework also seeks to improve coordination between customs, DGFT, ports and other agencies. The National Trade Facilitation Action Plan emphasises transparency, technology, simplification of procedures and risk-based assessment.[44]

8.2 E-Commerce and Cross-Border Trade

The rapid growth of digital commerce is creating new opportunities and challenges for India's foreign trade regulation. FTP 2023 specifically recognises **e-commerce exports** as an emerging area and provides for the development of e-commerce export hubs and simplified procedures for cross-border shipments.[45]

[42] Ministry of Commerce and Industry, Government of India, *Foreign Trade Policy 2023*, Department of Commerce, 2023.
[43] Id., paras 1.07 and 1.09.
[44] Directorate General of Foreign Trade, Government of India, *Foreign Trade Policy 2023*, para. 1.06.
[45] Ministry of Commerce and Industry, Government of India, "Foreign Trade Policy 2023 announced", Press Information Bureau, 31 March 2023.

The expansion of cross-border e-commerce is particularly significant for **micro, small and medium enterprises, artisans, weavers and small manufacturers**, as digital platforms can provide access to international consumers without requiring a conventional large-scale export infrastructure. The Department of Commerce has also been developing mechanisms for integrating courier and postal exports with customs and DGFT systems.[46]

The future regulatory challenge will be to maintain simplified procedures while ensuring effective compliance with customs requirements, taxation, consumer protection, intellectual property rights, data-related requirements and foreign exchange regulations.

8.3 Strengthening Strategic and Technology-Based Export Controls

Another important trend is the increasing importance of strategic trade regulation. The international movement of advanced technologies, dual-use goods, specialised chemicals and sophisticated equipment can have implications for national security and international peace.

India has consequently continued to strengthen its **SCOMET** framework. FTP 2023 specifically identifies the streamlining of SCOMET policy and regulation of high-end dual-use technologies as an emerging area. [47] This indicates that liberalisation is increasingly accompanied by selective restrictions based upon the nature, end-use and end-user of particular goods and technologies.

The future of export control is therefore likely to involve greater use of technology-based screening, end-user verification and international cooperation rather than broad restrictions on entire categories of trade.

8.4 Logistics, Infrastructure and Trade Competitiveness

Foreign trade regulation is increasingly being viewed together with logistics and infrastructure. Efficient ports, customs facilities, railways, roads, warehousing and digital logistics systems are essential for reducing the time and cost associated with international trade.

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[46] Ministry of Commerce and Industry, Government of India, *Annual Report 2024–25*, Department of Commerce, 2025.

[47] Ministry of Commerce and Industry, Government of India, *Foreign Trade Policy 2023*, Chapter 10.

The **National Logistics Policy, 2022** seeks to improve the efficiency of India's logistics ecosystem through digital integration, multimodal connectivity, infrastructure development and regulatory coordination.[48] The policy is particularly relevant to foreign trade because delays in customs clearance and movement of goods can substantially increase transaction costs.

The future regulatory framework is therefore likely to place greater emphasis not merely on reducing legal restrictions but also on **reducing the practical cost and time of compliance**.

8.5 Integration with Global Value Chains

India's foreign trade policy is increasingly directed towards deeper participation in **global value chains (GVCs)**. Modern manufacturing frequently involves the movement of raw materials, components and intermediate products across several countries before a final product reaches consumers.

FTP 2023 emphasises export competitiveness and integration with global markets.[49] To participate effectively in GVCs, India needs predictable customs procedures, competitive tariffs, reliable infrastructure and efficient import of intermediate goods. Consequently, future trade regulation is likely to focus increasingly on facilitating the movement of production inputs while maintaining appropriate safeguards.

8.6 Self-Reliance and Strategic Trade Policy

At the same time, India's contemporary trade policy reflects an attempt to balance global integration with **economic resilience and strategic self-reliance**. The objective is not to return to the closed and protectionist regime of the pre-1991 period, but to reduce excessive dependence on foreign sources in strategically important sectors.

This approach became particularly significant following global supply-chain disruptions and geopolitical uncertainties. Restrictions on selected imports, export controls on essential commodities and measures supporting domestic manufacturing illustrate the continuing role

[48] Ministry of Commerce and Industry, Government of India, *Foreign Trade Policy 2023*, Chapter 10.
[49] Ministry of Commerce and Industry, Government of India, "Foreign Trade Policy 2023 announced", Press Information Bureau, 31 March 2023.

of the State in protecting strategic economic interests.

The challenge is to ensure that such measures remain targeted and proportionate. Excessive protectionism could reduce competition and efficiency, whereas excessive dependence on external sources may expose the economy to supply disruptions.

8.7 Future Balance between Liberalisation and Regulation

The future of India's foreign trade regulation is likely to be characterised by a **hybrid model**. The State is expected to continue promoting liberalised trade, export growth and international integration while retaining stronger controls over strategically sensitive goods, critical technologies and essential commodities.

The principal movement will therefore be from **direct control towards intelligent regulation**. Digital platforms, automated approvals, risk-based customs assessment, electronic documentation and data-driven monitoring can allow legitimate trade to move more freely while enabling authorities to identify high-risk transactions.

Greater transparency and predictability will also be essential. Foreign trade policy frequently responds to changing domestic and international conditions, but sudden regulatory changes may create uncertainty for businesses. A stable and transparent framework, combined with adequate consultation and reasonable transition periods, can improve confidence among importers, exporters and foreign investors.

8.8 Future Direction of India's Foreign Trade Regulation

The future regulatory framework should seek to achieve three interconnected objectives: **trade facilitation, strategic protection and global competitiveness**. Digitalisation should continue to reduce procedural burdens; customs and DGFT systems should become increasingly integrated; and regulatory decisions should increasingly rely upon risk assessment rather than blanket restrictions.

India's long-term objective should therefore not be understood as complete deregulation. Rather, it should be the creation of a system in which legitimate trade is **free, fast and predictable**, while State intervention is targeted towards clearly identified economic, security, environmental and public-interest concerns.

Thus, the future of foreign trade regulation in India lies neither in a return to the extensive controls of the pre-1991 period nor in an unrestricted free-trade model. It lies in a **modern regulatory State that facilitates international commerce while retaining the capacity to protect legitimate national interests**.

IX. SUGGESTIONS AND RECOMMENDATIONS

The transformation of India's foreign trade regime from protectionism to liberalisation has substantially improved market access and reduced unnecessary administrative controls. However, the continuing need to regulate imports and exports requires a careful balance between **trade facilitation, domestic economic interests and national security**. The following measures may further strengthen India's foreign trade regulatory framework.

9.1 Simplification of Regulatory Procedures

Import and export procedures should be further simplified and standardised. Multiple registrations, approvals, documentation requirements and overlapping compliances can increase transaction costs, particularly for small and medium-sized enterprises. A simplified and integrated regulatory process would improve ease of doing business and encourage greater participation in international trade.

9.2 Greater Transparency and Predictability

Foreign trade restrictions should be based on clear and publicly accessible criteria. Sudden changes in import or export policies can create uncertainty for traders who have already entered into international contracts. Wherever circumstances permit, adequate notice, stakeholder consultation and reasonable transition periods should be provided before significant policy changes are introduced.

9.3 Reduction of Regulatory Overlap

The involvement of multiple authorities in foreign trade can sometimes result in duplication of procedures and compliance requirements. Greater coordination between the **DGFT, Customs, RBI, ports and other regulatory authorities** is necessary. An integrated regulatory mechanism would reduce delays and make the overall trade process more efficient.

9.4 Strengthening Digital Trade Facilitation

Digitalisation should be further expanded through paperless documentation, automated approvals, electronic certificates and integrated customs and DGFT platforms. Risk-based assessment should increasingly replace blanket physical inspections, allowing low-risk consignments to receive faster clearance while directing enforcement resources towards highrisk transactions.

9.5 Support for Small and Medium Exporters

Small and medium enterprises face greater difficulties in understanding complex foreign trade procedures and meeting international compliance requirements. The Government should strengthen awareness programmes, training, digital assistance and simplified export procedures for such businesses. Better access to information and institutional support can enable a wider section of domestic producers to participate in global markets.

9.6 Maintaining Strategic Controls

Liberalisation should not result in the removal of necessary controls over strategic and sensitive goods. SCOMET items, dual-use technologies, critical minerals and other strategically important products should continue to be subject to appropriate end-use and end-user verification. However, such controls should remain targeted and proportionate so that legitimate commercial trade is not unnecessarily restricted.

9.7 Balancing Domestic Protection with Competition

The State should protect domestic industries where genuine injury arises from unfair trade practices or sudden import surges, but protection should not become a substitute for improving competitiveness. Anti-dumping, countervailing and safeguard measures should therefore be used in accordance with law and international obligations and should not result in prolonged or excessive protection.

9.8 Strengthening India's Integration with Global Value Chains

India should continue reducing unnecessary barriers to the import of raw materials, components and capital goods required for export-oriented production. Competitive access to international inputs, efficient logistics and predictable customs procedures are essential for India's participation in global value chains. Trade regulation should therefore support both **domestic manufacturing and international economic integration**.

9.9 Ensuring Consistency with WTO Obligations

India's trade restrictions should remain consistent with its obligations under the WTO framework. Measures adopted for national security, public health, environmental protection or economic reasons should be carefully designed so that they are transparent, proportionate and legally defensible. This would reduce the possibility of international trade disputes while preserving India's legitimate regulatory autonomy.

9.10 Need for a Balanced Regulatory Model

The ultimate objective should not be complete deregulation or a return to the restrictive system of the past. India requires a **balanced regulatory model** in which legitimate trade is facilitated through simple and predictable procedures while State intervention is retained for clearly identified economic, strategic, security and public-interest purposes.

The transition from protectionism to liberalisation should therefore be understood as a transition **from excessive control to intelligent regulation**. The effectiveness of India's future foreign trade policy will depend upon its ability to maintain this balance while making Indian businesses more competitive in the global economy.

X. CONCLUSION

The evolution of India's foreign trade regime demonstrates a fundamental transformation in the role of the State. In the decades following independence, foreign trade was characterised by extensive State intervention through import licensing, quantitative restrictions, high tariffs, foreign exchange controls and other protectionist measures. These controls were adopted with legitimate objectives such as conserving foreign exchange, protecting domestic industries, promoting self-reliance and supporting planned economic development. However, prolonged protectionism also resulted in reduced competition, administrative complexity and limited integration with the global economy. The economic crisis of 1991 marked a decisive turning point. The subsequent liberalisation process progressively dismantled excessive import controls, reduced tariff barriers and simplified export procedures. The enactment of the Foreign Trade (Development and Regulation) Act, 1992 provided a new statutory framework reflecting the changing philosophy of foreign trade regulation. India subsequently became more closely integrated with the multilateral trading system through its participation in the World Trade Organization.

However, liberalisation has not meant the complete withdrawal of the State from foreign trade. Contemporary regulation continues through prohibited and restricted goods, licensing requirements, customs controls, strategic export controls, anti-dumping and safeguard measures and restrictions based on national security, public health, environmental protection and domestic economic interests. The State has therefore moved from being a **direct controller of foreign trade to a regulator, facilitator and strategic overseer**.The judicial approach has also recognised the wide regulatory authority of the State while emphasising that such authority must operate within the limits of the governing legislation and established legal principles. The international framework under the WTO has further encouraged India to replace arbitrary and excessive restrictions with more transparent, predictable and rule-based measures.

The future of India's foreign trade regulation lies in maintaining an appropriate balance between **liberalisation and legitimate State control**. Digitalisation, risk-based customs administration, e-commerce, strategic trade controls and integration with global value chains are reshaping the regulatory environment. India must therefore continue facilitating legitimate trade while retaining the ability to respond to national security concerns, economic disruptions and other public-interest requirements.Ultimately, India's experience establishes that liberalisation does not necessarily mean the absence of regulation. Rather, it represents a shift in the **nature and purpose of State intervention**. The objective should be to create a foreign trade regime where legitimate international commerce is free, efficient and predictable, while regulatory intervention remains targeted, transparent, proportionate and legally justified. Such a balanced approach can enable India to strengthen its position in global trade without compromising its legitimate economic and national interests.

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