FOREIGN TRADE POLICY OF INDIA: FORMULATION, GUIDING FEATURES AND IMPLEMENTATION

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ABSTRACT

India's Foreign Trade Policy (FTP) is the principal instrument through which the government shapes the country's export and import framework and its integration with the global economy. This article traces the evolution of India's trade policy from the licence-controlled, import-substitution regime of the early post-independence decades, through the liberalising Export-Import (EXIM) Policy of 1992, to the present open-ended Foreign Trade Policy 2023. It examines the institutional and legal architecture through which the policy is formulated, centred on the Directorate General of Foreign Trade under the Ministry of Commerce and Industry and grounded in the Foreign Trade (Development and Regulation) Act, 1992. It identifies the guiding principles of contemporary trade policy export promotion, remission-based support, digitalisation, decentralised export promotion, sectoral targeting, and new trade formats such as merchanting and illustrates them through key policy examples, including the Districts as Export Hubs initiative, the RoDTEP scheme, and the FTP Amnesty Scheme. It also critically analyses the role of the Central Government, Department of Commerce, Directorate General of Foreign Trade and Customs authorities and examines important judicial decisions relating to foreign trade policy. The article concludes with consolidated findings and suggestions, arguing that the policy's success in reaching the government's two-trillion-dollar export target by 2030 will depend on sustained inter-agency coordination and deeper integration of states, districts, and small exporters into the export ecosystem.[1]

Keywords: Foreign Trade Policy; DGFT; Export Promotion; India; Trade Regulation; FTP 2023, FTDR Act, exports, imports, trade facilitation, foreign trade regulation, international trade.

[1] Government of India, Ministry of Commerce & Industry, Directorate General of Foreign Trade, Foreign Trade Policy 2023 (2023).

1. Introduction

A key component of India's economic strategy is trade policy. The Foreign Trade Policy (FTP) serves as the master document that converts general economic goals into particular regulations, incentives, and processes controlling the import and export of goods and services as the world's fifth-largest economy looks to increase its share of international trade. The FTP deals with the non-tariff architecture of trade, including licensing, export promotion programs, market access initiatives, and the institutional framework that supports exporters, in contrast to tariff policy, which is primarily a fiscal matter managed through the customs framework.. This article examines how the policy is formulated, what principles guide its design, and how it is implemented, drawing on the current Foreign Trade Policy 2023 while situating it within the longer history of India's trade policy framework.[2]

The economic reforms of 1991 fundamentally changed this approach. Liberalization and globalization resulted in gradual reduction of quantitative restrictions, liberalization of imports, promotion of exports and greater integration with the international economy. The Foreign Trade (Development and Regulation) Act, 1992 became the principal legislation governing India's foreign trade. The long title of the Act expressly states that it seeks to provide for the development and regulation of foreign trade by facilitating imports into, and augmenting exports from, India.[13]

The Central Government has the authority to create and declare the Foreign Trade Policy under Section 5 of the Act. The Director General of Foreign Trade's (DGFT) appointment and duties are outlined in Section 6. Therefore, legislation, policy notifications, rules, procedures, and administrative institutions all work together to implement foreign trade policy.[4]

2. Objectives / Research Questions

This article is organised around the following objectives:

- To trace the historical evolution of India's foreign trade policy from the pre-liberalisation era to the current Foreign Trade Policy 2023.

[2] Foreign Trade (Development and Regulation) Act, 1992, pmbl. (India); Directorate General of Foreign Trade, Foreign Trade Policy 2023 (2023).
[3] Foreign Trade (Development and Regulation) Act, 1992, §§ 3, 5–6 (India).
[4] Foreign Trade (Development and Regulation) Act, 1992, §§ 5–6 (India).

- To examine the institutional and legal process through which the FTP is formulated, and the statutory authority underpinning it.
- To identify the guiding principles and features that characterise the current policy framework.
- To evaluate how these principles are translated into implementation through specific schemes and policy examples.
- To assess the structural challenges facing formulation and implementation, and to offer findings and suggestions for strengthening the policy going forward.

Correspondingly, the article seeks to answer: How has India's approach to trade policy formulation changed over time? What legal and institutional framework governs the FTP today? What principles guide its current design, and how effectively are they being implemented?

3. Evolution of India's Foreign Trade Policy

India's foreign trade policy may broadly be divided into three phases.

3.1 Pre-Liberalisation Period

In the decades following independence, India followed an import-substitution strategy. The Government exercised substantial control over imports through licensing, quotas and foreign-exchange restrictions. The policy was influenced by the objective of protecting infant domestic industries.[5]

Although this approach helped India develop a diversified industrial base, excessive regulation also resulted in bureaucratic controls, delays and reduced competitiveness.

3.2 Liberalisation after 1991

The balance-of-payments crisis of 1991 led to significant economic reforms. The Government progressively liberalized imports and exports, reduced quantitative restrictions and encouraged

[5] See generally Government of India, Ministry of Commerce & Industry, Directorate General of Foreign Trade, Handbook of Procedures 2023 (2023).

greater participation in international trade.

The enactment of the FTDR Act, 1992 provided the modern statutory foundation for this new approach. It replaced the earlier Imports and Exports (Control) Act, 1947 and shifted the emphasis from control of trade towards development and regulation of foreign trade.[6]

3.3 Contemporary Policy Framework

Foreign trade policies subsequently developed through various Export-Import Policies and Foreign Trade Policies. The policy framework gradually incorporated trade facilitation, electronic governance, export promotion and integration with global markets.

FTP 2023 represents this continuing evolution. It seeks to combine continuity in established export schemes with greater flexibility, digitalization and responsiveness to emerging areas such as e-commerce and high-technology exports. The Government has described the policy as based on the principles of "trust" and "partnership" with exporters.[7]

4. Legal Framework

4.1 Constitution of India

The Constitution provides the broader constitutional foundation for regulation of foreign trade. Parliament has legislative competence over matters relating to foreign trade and commerce. The Union Government consequently possesses extensive authority to regulate international trade in the national interest.[8]

Foreign trade regulation must also operate within constitutional limitations, including equality before law, protection against arbitrary State action and judicial review.

4.2 Foreign Trade (Development and Regulation) Act, 1992

The FTDR Act, 1992 is the principal legislation governing India's foreign trade. Its stated purpose is the development and regulation of foreign trade through facilitation of imports and

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[6] Foreign Trade (Development and Regulation) Act, 1992 (India); Imports and Exports (Control) Act, 1947 (India).
[7] Government of India, Ministry of Commerce & Industry, Directorate General of Foreign Trade, Foreign Trade Policy 2023 (2023).
[8] INDIA CONST. art. 246, sch. VII, list I, entry 41.

augmentation of exports.[9]

Section 3 – Powers relating to imports and exports

Section 3 enables the Central Government to make provisions relating to imports and exports. The provision forms an important foundation for regulating or restricting specified goods and for protecting economic and other national interests.[10]

Section 5 – Foreign Trade Policy

Section 5 is the central statutory provision concerning policy formulation. It empowers the Central Government to formulate and announce the Foreign Trade Policy through notification in the Official Gazette and to amend the policy in the same manner. Therefore, FTP is not merely an administrative guideline; it derives its authority from statutory power under the FTDR Act.[11]

Section 6 – Directorate General of Foreign Trade

Section 6 provides for the appointment of the Director General of Foreign Trade and sets out the functions of that office. The DGFT advises the Central Government in the formulation of foreign trade policy and is responsible for carrying out that policy.[12]

Section 7 – Importer Exporter Code

The Act also provides for the Importer Exporter Code. The IEC serves as an important mechanism for identifying persons engaged in international trade.[13]

Enforcement provisions

The Act contains provisions relating to search, seizure, penalties, confiscation, adjudication, appeals and review. Consequently, the foreign trade regime combines facilitation with regulatory enforcement.[14]

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[9] Foreign Trade (Development and Regulation) Act, 1992, pmbl. (India).
[10] Foreign Trade (Development and Regulation) Act, 1992, § 3 (India).
[11] Id. § 5.
[12] Id. § 6.
[13] Id. § 7.
[14] Foreign Trade (Development and Regulation) Act, 1992, §§ 8–16 (India).

4.3 Foreign Trade Policy 2023

FTP 2023 operates under the statutory authority of the FTDR Act. It contains provisions governing import and export policy, trade facilitation, export promotion, authorizations, status recognition, district export promotion and emerging areas.[15]

The policy is supplemented by the **Handbook of Procedures (HBP)** and notifications, public notices and circulars issued by the DGFT. The policy framework therefore consists not only of the principal FTP document but also of detailed procedural instruments.[16]

4.4 Customs Act, 1962

The Customs Act, 1962 is another important component of the foreign trade legal framework. While the DGFT primarily deals with foreign trade policy and authorisations, Customs authorities administer the movement of goods across India's borders.[17]

The implementation of foreign trade policy therefore requires coordination between DGFT and Customs.

4.5 Foreign Exchange Management Act, 1999

Foreign trade transactions necessarily involve foreign exchange. The Foreign Exchange Management Act, 1999 regulates foreign exchange transactions and provides the legal framework for payments connected with imports and exports.[18]

The Reserve Bank of India plays an important role in the foreign exchange aspects of international trade.

5. Formulation of Foreign Trade Policy

The formulation of foreign trade policy is primarily the responsibility of the Central Government under Section 5 of the FTDR Act.[19]

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[15] Government of India, Ministry of Commerce & Industry, Directorate General of Foreign Trade, Foreign Trade Policy 2023 (2023).
[16] Directorate General of Foreign Trade, Handbook of Procedures 2023 (2023).
[17] Customs Act, 1962 (India).
[18] Foreign Exchange Management Act, 1999 (India).
[19] Foreign Trade (Development and Regulation) Act, 1992, § 5 (India).

The process involves consideration of several economic and legal factors, including:

- India's export performance;
- import requirements;
- balance of payments;
- domestic industrial interests;
- availability of essential commodities;
- international market conditions;
- WTO obligations;
- bilateral and regional trade agreements;
- interests of exporters and importers; and
- Technological and geopolitical developments.

The Department of Commerce plays a central role in policy development. The DGFT provides institutional expertise and assists in implementation.

Stakeholder consultation is also important. FTP 2023 was formulated following consultations with trade and industry. The Government has indicated that stakeholder feedback is intended to remain a continuous component of policy revision.[20]

This represents an important shift from a rigid policy model towards a responsive regulatory framework.

6. Guiding Features of Foreign Trade Policy 2023

FTP 2023 is based on four major pillars:

[20] Government of India, Ministry of Commerce & Industry, Directorate General of Foreign Trade, Foreign Trade Policy 2023 (2023).

6.1 Incentive to Remission

Instead of traditional export incentives that might be in violation of international trade regulations, the policy places a strong emphasis on the removal of duties and taxes on exported goods.[21]

The goal is to prevent domestic taxes and duties from being incorporated into the price of exported goods.

6.2 Export Promotion through Collaboration

IFTP 2023 calls for greater cooperation between exporters, State Governments, Union Territories, districts, Indian Missions abroad and other stakeholders.[22]

This partnership approach recognizes that export promotion cannot be realized through central government schemes alone.

6.3 Ease of Doing Business

Simplification of procedures and reduction of transaction costs is a central feature of the policy. Digitalization, automation and electronic documentation are aimed at reducing delays and compliance burdens. Policy specifically refers to transparent and predictable trade procedures[23]

6.4 Emerging Areas

FTP 2023 addresses emerging sectors such as cross-border e-commerce and high-technology exports. It also seeks to develop districts as export hubs and streamline controls relating to specialized technologies. The Government has identified e-commerce, SCOMET-related high-technology exports and district export promotion among the important emerging areas.[24]

7. Major Features and Schemes

7.1 Districts as Export Hubs

The Districts as Export Hubs initiative seeks to identify products and services having export potential in different districts.[25]

District Export Promotion Committees prepare District Export Action Plans. FTP 2023 also provides for State/UT Export Promotion Committees to coordinate export promotion activities.[26]

This approach can decentralize export promotion and enable local industries to participate in international markets.

7.2 Towns of Export Excellence

The policy recognizes towns with significant export production through the Towns of Export Excellence framework.[27]

The objective is to strengthen established production clusters and improve their international competitiveness.

7.3 Status Holder Scheme

Exporters meeting prescribed performance criteria may receive recognition under the Status Holder Scheme.[28]

Such recognition can facilitate certain trade procedures and provide benefits intended to reward established exporters.

7.4 Advance Authorisation

The Advance Authorization Scheme enables duty-free import of inputs required for export production, subject to prescribed conditions and export obligations. The Government has described the scheme as an important implementation mechanism under FTP 2023.[29]

7.5 E-Commerce Exports

The increasing use of digital marketplaces has created opportunities for small businesses,

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[21] Directorate General of Foreign Trade, Foreign Trade Policy 2023, supra note 1.
[22] Id.
[23] Government of India, Ministry of Commerce & Industry, Directorate General of Foreign Trade, Foreign Trade Policy 2023 (2023).
[24] Id.; see also Directorate General of Foreign Trade, Handbook of Procedures 2023 (2023).
[25] Directorate General of Foreign Trade, Foreign Trade Policy 2023 (2023).
[26] Id.
[27] Id.
[28] Id.
[29] Id.

artisans and manufacturers to reach consumers abroad. FTP 2023 seeks to facilitate cross-border e-commerce exports and thereby expand India's export base.[30]

7.6 Amnesty Scheme

FTP 2023 introduced a one-time Amnesty Scheme intended to enable exporters to close certain pending export obligations under specified conditions and obtain a fresh start.[31]

8. Implementation of Foreign Trade Policy

Implementation is primarily undertaken by the DGFT in coordination with Customs and other government agencies.

8.1 Role of DGFT

The DGFT functions as the principal facilitator of India's exports and imports. It issues authorizations, administers export promotion schemes, grants recognition to exporters and implements policy notifications.[32]

The Government has specifically described DGFT as the facilitator of exports and imports, with emphasis on good governance, transparency and accountability.

8.2 Role of Customs

Customs authorities enforce import and export requirements at ports, airports, inland container depots and land customs stations.[33]

The modern customs framework increasingly relies upon digital systems, risk-based assessment, paperless documentation and other trade-facilitation measures.

8.3 Digitalisation

Digitalization has become one of the most important developments in foreign trade administration. Electronic applications, online authorizations, digital certificates and electronic

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[30] Id.
[31] Id.
[32] Directorate General of Foreign Trade, Foreign Trade Policy 2023 (2023).
[33] Customs Act, 1962 (India).

communication reduce physical documentation and administrative delays.[34]

8.4 Trade Facilitation Agreement

India ratified the WTO Trade Facilitation Agreement in 2016. FTP 2023 refers to four broad pillars of trade facilitation: transparency, technology, simplification and infrastructure augmentation.[35]

9. Judicial Analysis and Important Case Laws

Judicial decisions have significantly influenced the understanding of the relationship between foreign trade policy, statutory powers and legitimate expectations of traders.

9.1 S.B. International Ltd. v. Assistant Director General of Foreign Trade

In **S.B. International Ltd. v. Assistant Director General of Foreign Trade, (1996) 2 SCC 439**, the Supreme Court considered the operation of an export incentive scheme under the Export and Import Policy.[36]

The decision is important because it demonstrates that export incentives and benefits are governed by the terms and conditions of the applicable policy and that traders cannot automatically claim benefits contrary to the governing policy framework.

The case illustrates the importance of interpreting foreign trade policy according to its statutory and policy conditions.[37]

9.2 Director General of Foreign Trade v. Kanak Exports

In **Director General of Foreign Trade v. Kanak Exports**, the Supreme Court examined the validity and operation of amendments to an export incentive scheme under the Export-Import Policy.

The Court recognised that foreign trade policy is formulated under Section 5 of the FTDR Act

[34] Directorate General of Foreign Trade, Handbook of Procedures 2023 (2023).
[35] World Trade Organization, Trade Facilitation Agreement (2017); Government of India, Foreign Trade Policy 2023 (2023).
[36] S.B. Int'l Ltd. v. Asst. Dir. Gen. of Foreign Trade, (1996) 2 SCC 439.
[37] Id.

and that the Government possesses considerable authority to modify policy in response to economic circumstances. The decision is significant because it demonstrates the judicial recognition of the dynamic character of foreign trade policy.[38]

10. Challenges

Several structural challenges condition the policy's effectiveness. Continuous amendment under an open-ended structure requires clear, timely communication so smaller exporters are not caught unaware. Port, inland logistics, and customs bottlenecks can undermine well-designed incentives unless matched by sustained infrastructure investment. Fluctuating commodity prices, geopolitical tensions, and protectionist measures abroad affect export demand regardless of domestic policy design. Translating decentralisation frameworks into measurable growth at the district level requires credit access and quality-compliance support beyond trade policy alone, and uneven administrative capacity across states makes uniform policy delivery difficult.[39]

11. Findings and Suggestions

Findings. Formulation has become progressively more institutionalised and consultative, moving from a centrally administered licensing regime to a defined statutory process coordinated across the Ministry of Commerce and Industry, DGFT, the Ministry of Finance, and consultative bodies, with states and districts drawn in more deliberately than before. The shift from a fixed five-year cycle to an open-ended framework is the most significant structural change since 1992, reflecting recognition that rigid, calendar-bound policymaking is ill-suited to a fast-changing trading environment. The guiding principles are mutually reinforcing: digitalisation supports remission-based schemes, decentralisation depends on the same procedural simplification underpinning ease-of-doing-business measures, and the lowered status-holder threshold and merchanting provisions both widen participation in export activity. Implementation, as the policy examples show, has relied heavily on scheme consolidation and transitional relief rather than entirely new categories of support. Finally, structural challenges such as infrastructure quality, global demand, and uneven state capacity remain outside the direct control of trade policy design, indicating that the FTP functions as one input among

[38] Dir. Gen. of Foreign Trade v. Kanak Exports, (2016) 2 SCC 226.

[39] See generally Government of India, Ministry of Commerce & Industry, Directorate General of Foreign Trade, Foreign Trade Policy 2023 (2023).

several rather than a self-sufficient driver of export performance.[40]

Suggestions. First, an indicative notification calendar for instance, quarterly consolidated updates would preserve the open-ended structure's adaptability while restoring predictability for exporters. Second, capacity-building at the district and state level, through targeted training, export facilitation cells, and performance benchmarking, would help even out uneven implementation capacity. Third, infrastructure investment should proceed alongside procedural reform, so that faster documentation translates into faster cargo movement rather than shifting bottlenecks elsewhere. Fourth, credit and compliance support for small and district-level exporters including trade finance and quality-certification assistance should be expanded to complement the lowered status-holder threshold. Fifth, structured feedback loops with industry, beyond the Board of Trade, would let DGFT correct implementation problems in close to real time. Finally, periodic public reporting of outcome data against the 2030 export target, broken down by sector, state, and scheme, would improve accountability and help identify which elements of the policy are working.[41]

12. Conclusion

India's Foreign Trade Policy has travelled a considerable distance from the protectionist, licence-based regime of the early post-independence decades to the open-ended, technology-enabled framework represented by FTP 2023. Its formulation rests on a clearer statutory and institutional foundation than at any earlier point, and its guiding principles export promotion, remission over blanket incentives, digitalisation, decentralisation, sectoral targeting, inclusion of small exporters, structured dispute resolution, and new trade formats such as merchanting together describe a coherent, ambitious vision for India's trade future, as illustrated by policy examples such as the Districts as Export Hubs initiative, RoDTEP, and the Amnesty Scheme. Implementation has favoured incremental, adaptive governance over episodic overhaul, but the policy's ultimate success cannot be assessed in isolation from infrastructure quality, global demand, and the administrative capacity of India's diverse states and districts. As India works toward two trillion dollars in exports by 2030, the Foreign Trade Policy will remain a central, evolving instrument one whose open-ended design offers genuine promise, provided flexibility is matched with consistency, and ambition with the institutional capacity to deliver it.[42]

[40] Id.
[41] Id.
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[43] World Trade Organization, Trade Facilitation Agreement (2017).