THE FOREIGN TRADE (DEVELOPMENT AND REGULATION) ACT, 1992: OBJECTIVES, MECHANISM, CASE LAW AND CONTEMPORARY RELEVANCE

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ABSTRACT

The Foreign Trade (Development and Regulation) Act, 1992 ("the FTDR Act" or "the Act") is the constitutive statute of India's external trade governance, enacted in the wake of the 1991 balance-of-payments crisis to replace the control-oriented Imports and Exports (Control) Act, 1947 with a facilitative, presumption-of-freedom regime. This article provides a comprehensive overview of the Act its historical origins, statutory objectives, legislative architecture and operative mechanism before undertaking a section-wise analysis supported by judicial decisions interpreting its principal provisions. It further examines the Act's continuing relevance in light of the Foreign Trade Policy, 2023 and the pattern of regulatory activity through 2026, and closes with a critical appraisal of the strengths and limitations of a framework built on wide executive delegation. A dedicated table of case law is provided, together with a bibliography of the primary and secondary sources consulted.

List of Abbreviations

Abbreviation	Expansion
DGFT	Directorate General of Foreign Trade
FTDR Act	Foreign Trade (Development and Regulation) Act, 1992
FTP	Foreign Trade Policy
GATS	General Agreement on Trade in Services
IEC	Importer-Exporter Code Number
MEIS	Merchandise Exports from India Scheme

RoDTEP	Remission of Duties and Taxes on Exported Products
RoSCTL	Remission of State and Central Taxes and Levies
SCOMET	Special Chemicals, Organisms, Materials, Equipment and Technologies
SEZ	Special Economic Zone
WMD Act	Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005
WTO	World Trade Organization

I. Introduction

Foreign trade occupies a position of central importance in the economic life of any nation, serving as the principal conduit through which a country accesses external markets, technology, capital goods and raw materials while offering its own goods and services to the world. In India, the legal architecture governing this exchange rests substantially on a single statute: the Foreign Trade (Development and Regulation) Act, 1992[1] ("the FTDR Act" or "the Act"). Enacted in the immediate aftermath of the balance-of-payments crisis of 1991 and the consequent launch of India's economic liberalisation programme, the Act was conceived as an instrument of transition one that would replace a control-oriented colonial-era framework with a facilitative regime suited to an economy opening itself to global competition.

Unlike a conventional regulatory statute that enumerates a fixed code of permissible and prohibited conduct, the FTDR Act is structured as a framework or "skeleton" law. It sets out broad objectives and a small number of essential safeguards, while vesting the Central Government with continuously exercisable delegated authority to give those objectives operational content through the Foreign Trade Policy and subordinate notifications. This design choice deliberate, and defended by successive governments as necessary to keep pace with a fast-moving international trading environment is simultaneously the Act's greatest institutional strength and the principal target of academic and professional criticism directed at it, a tension that recurs throughout this article.

[1] The Foreign Trade (Development and Regulation) Act, 1992 (Act No. 22 of 1992), Government of India, available at India Code, https://www.indiacode.nic.in/bitstream/123456789/1947/3/A1992-22.pdf.

This article examines the FTDR Act along four axes. First, it traces the historical context of the Act and identifies its statutory objectives. Second, it analyses the operative mechanism established by the Act the powers of the Central Government, the institution of the Director General of Foreign Trade, the Importer-Exporter Code and licensing system, and the enforcement architecture of search, seizure, penalty and adjudication illustrating each limb of the mechanism with the judicial decisions that have interpreted it. Third, it assesses the Act's contemporary relevance in light of the Foreign Trade Policy, 2023 and the broader trajectory of India's trade governance in 2026. Fourth, it undertakes a critical appraisal of the framework's strengths and limitations, before concluding with observations on the durability of the Act's architecture and the directions in which reform might usefully proceed.

Scope and Methodology

The analysis that follows is doctrinal and policy-oriented rather than empirical. It proceeds primarily from the text of the FTDR Act itself, read together with the Foreign Trade Policy, 2023 and its implementing procedures, and is supported by the reported and semi-reported case law of the Supreme Court, the High Courts and the Customs, Excise and Service Tax Appellate Tribunal that has interpreted specific provisions of the Act since its enactment. Where the discussion touches on macroeconomic outcomes export growth, the balance of payments, or the practical compliance burden on small exporters it draws on secondary commentary and official policy documents rather than on independent econometric analysis, and the reader should treat such observations as indicative of prevailing professional and academic opinion rather than as freestanding empirical findings. The article confines itself to the FTDR Act and its immediate statutory and regulatory neighbourhood; it does not attempt a comprehensive treatment of customs valuation law, indirect taxation, or the substantive law of international trade remedies (antidumping, countervailing and safeguard duties), each of which merits separate treatment and is referenced here only to the extent necessary to situate the FTDR Act within India's broader tradelaw architecture.

II. Historical Background

A. The Pre-1992 Regime

Prior to 1992, India's foreign trade was governed by the Imports and Exports (Control) Act, 1947, a statute enacted in the immediate wake of Independence and Partition, when the overriding policy concern was to conserve scarce foreign exchange and protect a nascent domestic industrial base.[2] That framework was avowedly restrictive: it operated through an elaborate system of licensing, quantitative ceilings and canalisation of trade through public-sector agencies, reflecting the import-substitution model of planned development that characterised Indian economic policy for over four decades. Under that regime, the default legal position was that no import or export could occur without specific government sanction; trade was, in effect, a privilege dispensed by the State rather than a right exercised by private economic actors.

B. The 1991 Crisis and the Case for Reform

The economic crisis of 1991 marked by a precipitous decline in foreign exchange reserves to levels sufficient to cover barely a few weeks of essential imports precipitated a decisive shift in India's development strategy toward liberalisation, privatisation and globalisation. A controlbased trade statute, designed for an inward-looking economy operating largely outside the multilateral trading system, was no longer adequate to the needs of a country seeking integration with world markets, external capital and technology. The New Industrial Policy of 1991 and the associated trade policy reforms dismantled large parts of the industrial and import licensing apparatus; the FTDR Act was the legislative capstone of this process for the specific domain of cross-border trade, and its enactment coincided with India's accession to the framework that would, in 1995, become the World Trade Organization.

Parliament accordingly enacted the FTDR Act, which received Presidential assent on 7 August

1992, with its substantive provisions deemed to have come into force retrospectively from 19 June 1992, the date on which the 1947 Act ceased to operate.[3] The temporal design of the Act bringing certain enforcement-related provisions (sections 11 to 14) into force immediately upon assent, while treating the remaining provisions as operative from the earlier date reflects

[2] Key Features of the Foreign Trade Development and Regulation Act, 1992, Food Safety Institute (Dec. 10, 2025), https://foodsafety.institute/food-laws-standards/key-features-foreign-trade-act-1992/ (noting that the pre-1992 regime operated under the Import and Export (Control) Act, 1947, which reflected the protectionist orientation of the immediate post-Independence period).

[3] Ibid. The Act received Presidential assent on 7 August 1992, with its substantive provisions deemed to have come into force retrospectively from 19 June 1992, the date on which the erstwhile Import and Export (Control) Act, 1947 formally stood repealed.

the legislature's intent to avoid any regulatory vacuum during the transition.[4]

C. The Inversion of the Default Rule

In substance, the shift from the 1947 Act to the 1992 Act was a shift in regulatory philosophy: from a presumption that trade is restricted unless licensed, toward a presumption that trade is free unless specifically regulated, prohibited or channelled through State Trading Enterprises. This inversion of the default rule is arguably the single most consequential legal change wrought by the Act, and it remains the organising principle of India's trade law more than three decades later. It is this inversion that later commentary captures when it describes the Act as simultaneously facilitative and regulatory: liberalisation is the default, and regulation survives only where the Central Government affirmatively exercises its statutory power to prohibit, restrict or condition trade.

III. Objectives of the Act

The primary object of the FTDR Act, as reflected in its long title and preamble, is "to provide for the development and regulation of foreign trade by facilitating imports into, and augmenting exports from, India and for matters connected therewith or incidental thereto."[5] This single sentence captures a deliberate duality: the Act is simultaneously a facilitative and a regulatory statute. It does not merely liberalise trade that is, make it easy for traders to move goods, services and technology across the border with minimal friction it also retains, in the hands of the Central Government, the authority to prohibit, restrict or condition trade wherever national interest whether economic, strategic, environmental or diplomatic so requires.

A. Facilitation of Exports and Imports

The Act seeks to remove the web of discretionary licensing that had constrained trade under the earlier regime, replacing it with a system in which import and export are generally free, subject to a defined and gazetted list of exceptions. In short, the statutory design is meant to make trade easy: transaction costs are lowered, predictability is improved, and participation by

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[4] The Foreign Trade (Development and Regulation) Act, 1992, s. 1(2), read with the Statement of Objects and Reasons appended to the Bill, providing that ss. 11 to 14 came into force at once while the remaining provisions were deemed effective from 19 June 1992.

[5] See Foreign Trade (Development and Regulation) Act, 1992 UnderStand UPSC, https://www.understandupsc.com/foreign-trade-development-and-regulation-act-1992/ (last visited July 2026), describing the Act's core purpose as facilitating imports into India and increasing exports from India.

a wider base of exporters including small and medium enterprises without the resources to navigate a discretionary licensing bureaucracy is encouraged.

The Delhi High Court's approach in M/s Dataflow Services (India) Pvt. Ltd. v. Union of India (2010), in which the vires of a Foreign Trade Policy provision were tested against the Central Government's powers under sections 3 and 5 of the Act, illustrates how this liberalised, presumption-of-freedom structure is judicially policed in practice: a policy measure that curtails the general freedom to trade must be traceable to a valid exercise of the Central Government's statutory power, failing which it is open to challenge as ultra vires the parent Act.[6]

B. Balance of Payments and Economic Growth

A recurring theme in commentary on the Act is its role in balancing macroeconomic targets relating to imports and exports so as to support sustained economic growth securing access to raw materials, capital goods and technology that domestic industry requires, while expanding the export base to earn the foreign exchange necessary to pay for such imports. This objective is not merely rhetorical: it finds concrete expression in the Central Government's periodic exercise of its section 3 powers to restrict the import of specific commodities where domestic supply, price stability or foreign exchange considerations so warrant, as illustrated by the line of cases discussed in Part V.A below.

C. Competitiveness and Consumer Welfare

The Act is also directed toward enhancing the technological strength and efficiency of Indian agriculture, industry and services, so as to improve their competitiveness in global markets, while ensuring that domestic consumers have access to quality goods at internationally competitive prices. The Supreme Court's decision in Union of India v. Agricas LLP has been read as an endorsement of this objective: by upholding the Central Government's power under section 3 to restrict the import of specified pulses in the interest of domestic producers, while leaving intact the parallel safeguard mechanism of section 9A, the Court affirmed that the competitiveness objective operates alongside, rather than in derogation of, the Act's facilitative

[6] M/s Dataflow Services (India) Pvt. Ltd. v. Union of India (Delhi High Court, 2010), in which the vires of a Foreign Trade Policy provision were examined against the Central Government's powers under ss. 3 and 5 of the Act.

thrust.[7]

D. National Security and Strategic Control

Although the Act is predominantly liberalising in orientation, it preserves and, through the 2010 amendment, strengthens the Central Government's capacity to restrict trade in sensitive goods, services and technologies, including dual-use items with potential application to weapons of mass destruction. The Act thus reconciles trade facilitation with the exercise of sovereign control over strategic exports.[8]

It is in this context that the narrow, deferential standard of judicial review articulated by the Supreme Court in Shri Lal Mahal Ltd. v. Progetto Grano SPA, (2014) 2 SCC 433, becomes analytically useful, even though the case itself did not arise under the FTDR Act. The dispute concerned the enforceability of a foreign arbitral award rendered against an Indian wheat exporter, and the Court reaffirming the narrow "public policy" test laid down in Renusagar Power Co. Ltd. v. General Electric Co. and overruling the wider "patent illegality" standard applied in Phulchand Exports held that a foreign award (and, by extension in later commentary, an executive determination in the trade domain) may be interfered with only where it is contrary to the fundamental policy of Indian law, the interests of India, or justice and morality, and not merely because a reviewing court would have reached a different conclusion on the merits.[9]

Commentators writing on the FTDR Act's national-security and strategic-control provisions frequently invoke this restrained standard of review by analogy, since courts examining the Central

Government's exercise of its section 3 powers over sensitive and dual-use goods have, as a matter of practice, shown comparable reluctance to substitute their own assessment of national or strategic interest for that of the executive.

[7] Union of India v. Agricas LLP, (2020) SCC OnLine SC 675.
[8] The 2010 amendment also introduced provisions enabling control over the export of specified goods, services and technologies capable of contributing to the development, production or use of weapons of mass destruction, operationalised through the Special Chemicals, Organisms, Materials, Equipment and Technologies (SCOMET) list, in tandem with the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005.
[9] Shri Lal Mahal Ltd. v. Progetto Grano SPA, (2014) 2 SCC 433 (three-judge bench, reaffirming the narrow "public policy" test of Renusagar Power Co. Ltd. v. General Electric Co., 1994 Supp (1) SCC 644, and overruling the wider "patent illegality" standard applied in Phulchand Exports Pvt. Ltd. v. O.O.O. Patriot).

IV. Legislative Structure of the Act

The Act is organised into six chapters, comprising nineteen substantive sections together with provisions on repeal and savings. The table below summarises the architecture.

Chapter	**Sections**	**Subject Matter**
I Preliminary	1–2	Short title, extent, commencement and definitions
II Development and Regulation of Foreign Trade	3–6	Central Government's power to regulate trade; continuance of prior orders; Foreign Trade Policy; Director General of Foreign Trade
III ImporterExporter Code Number and Licence	7–9	Importer-Exporter Code; suspension/cancellation of IEC; issue, suspension and cancellation of licences, certificates and scrips
IIIA Quantitative Restrictions (inserted 2010)	9A	Safeguard-type quantitative restrictions on imports causing serious injury to domestic producers
IV Search, Seizure, Penalty and Confiscation	10–14	Search and seizure; penalties for contravention; credit of penalty sums; settlement of export-obligation default; adjudication and notice
Miscellaneous	15–20	Appeal; revision; powers of adjudicating and appellate authorities; offences by companies; application of other laws not barred; protection of action taken in good faith; rule-making power

Chapter I contains preliminary provisions, including the short title, extent, commencement and definitions. Chapter II vests the Central Government with the power to make provisions relating to imports and exports and to announce the Foreign Trade Policy, and provides for the appointment and functions of the Director General of Foreign Trade. Chapter III governs the Importer-Exporter Code Number and the licensing system. Chapter IIIA, inserted by the 2010 amendment and comprising section 9A, deals specifically with quantitative restrictions on imports. Chapter IV sets out the enforcement machinery search, seizure, penalty, confiscation and adjudication. The remaining provisions address appeals, revision, offences by companies, protection of action taken in good faith, and the rule-making power of the Central Government. It bears emphasis that these residual provisions appeal, revision, protection of good-faith action and rule-making are not mere administrative housekeeping; they are what gives the Act's wide delegation of power a measure of internal accountability, and they recur as focal points in the critical appraisal in Part IX below.

V. Mechanism: How the Act Operates

A. The Central Government's Power to Regulate Trade (Section 3)

Section 3 is the operative core of the Act. It empowers the Central Government, by Order published in the Official Gazette, to make provision for the development and regulation of foreign trade, including prohibiting, restricting or otherwise regulating the import or export of goods, services or technology.[10] Crucially, section 3(3) deems all goods to which such an Order applies to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962, thereby interlocking the FTDR Act's regulatory framework with the Customs Act's enforcement machinery at the border.[11] This deeming fiction is significant: it means that customs officers, exercising powers under the Customs Act, are simultaneously enforcing the foreign trade policy framework created under the FTDR Act, without the need for a separate parallel enforcement apparatus at ports and airports.

The Supreme Court's decision in Union of India v. Agricas LLP, (2020) SCC OnLine SC 675, illustrates the reach of this power: the Court upheld notifications restricting the import of peas and pulses issued under section 3(2), holding that the Central Government's power under section 3 to prohibit, restrict or otherwise regulate imports is not curtailed or displaced by the more specific safeguard-type mechanism in section 9A, and that the two provisions operate independently of one another.[12] The judgment is significant for confirming that section 3 is a freestanding, general power, and that a trader cannot insist that the Government proceed only

[10] Id., s. 3(1)-(3), empowering the Central Government to make, by Order published in the Official Gazette, provisions for the development and regulation of foreign trade, including prohibiting, restricting or otherwise regulating the import or export of goods, services or technology.

[11] The Foreign Trade (Development and Regulation) Act, 1992, s. 3(3), deeming goods subject to a prohibitory Order under the Act to be goods prohibited under s. 11 of the Customs Act, 1962, thereby creating an interlocking enforcement mechanism between the two statutes.

[12] Union of India v. Agricas LLP, (2020) SCC OnLine SC 675, upholding notifications restricting the import of peas and pulses under s. 3(2) and holding that the general power under s. 3 operates independently of the safeguard mechanism in s. 9A.

through the more procedurally elaborate safeguard-investigation route of section 9A merely because a particular restriction could, in principle, also have been justified on serious-injury grounds.

A further illustration of section 3's operation, and of the scope of the Central Government's power to formulate and clarify policy under it, is furnished by Nola Ram Dulichand Dal Mills and Ors. v. Union of India (UOI) and Ors., decided by the Supreme Court on 14 February 2020. The dispute concerned the Vishesh Krishi Upaj Yojna, a scheme incentivising the export of fruits, vegetables and allied produce, and a subsequent departmental circular that clarified without formally amending the scope of an exclusion applicable to 100% export-oriented units. The Court held that a clarificatory circular which does not modify or amend a scheme notified under the Act need not itself be published in the Official Gazette, since only an actual modification or amendment of the notified scheme attracts that requirement; a circular that merely removes an ambiguity in the existing scheme, and reserves to the Government its stated right in public interest, is not open to challenge as illegal on that ground.[13] The decision draws a workable line between substantive amendment (which must be gazetted) and interpretive clarification (which need not be), a distinction of considerable practical importance given the volume of departmental circulars issued under the Act each year.

Section 4 provides for the continuance, until superseded, of orders made under the repealed 1947 Act, ensuring administrative continuity during the transition to the new regime.[14]

B. The Foreign Trade Policy (Section 5)

Section 5 empowers the Central Government to formulate and announce, by notification in the Official Gazette, the Foreign Trade Policy (previously termed the Export-Import Policy) and to amend it from time to time.[15] This is the provision that gives legal force to the periodic policy documents most recently the Foreign Trade Policy, 2023 through which the executive translates the broad statutory objectives of the Act into specific schemes, incentives and procedures. The delegation embodied in section 5 is deliberately broad, reflecting Parliament's recognition that

[13] Nola Ram Dulichand Dal Mills and Ors. v. Union of India (UOI) and Ors., MANU/SC/0185/2020 (14 February 2020), holding that a clarificatory circular that does not modify or amend a scheme notified under the Act need not itself be gazetted.
[14] Id., s. 4, providing for the continuance of orders made under the repealed Imports and Exports (Control) Act, 1947 until superseded.
[15] Id., s. 5, empowering the Central Government to formulate and announce, by notification in the Official Gazette, the Foreign Trade Policy and to amend it from time to time.

trade policy must respond swiftly to fluctuations in global prices, domestic shortages, exchange-rate movements and international obligations under instruments such as the World Trade Organization agreements a pace of adjustment that primary legislation cannot realistically match.

The Nola Ram Dulichand line of authority discussed above is as much a section 5 case as a section 3 case, since it turns on the distinction between the Policy itself (which must be gazetted, and amended only by gazette notification) and the administrative clarifications issued beneath it. Read together with the Delhi High Court's approach in Dataflow Services, the cases establish a coherent two-part discipline: a Foreign Trade Policy provision must trace its validity to sections 3 or 5, and any purported amendment of that provision must itself satisfy the gazette-publication requirement that sections 3 and 5 impose.

C. The Director General of Foreign Trade (Section 6)

Section 6 authorises the Central Government to appoint a Director General of Foreign Trade, who advises the Government on the formulation of the Foreign Trade Policy and is responsible for carrying it out.[16] The Central Government may, by Order, delegate to the Director General or to officers subordinate to the Director General any of its powers under the Act, with the notable exception of the powers under sections 3, 5, 15, 16 and 19, which remain non-delegable and thus firmly within executive (as opposed to bureaucratic) control.[17] In practice, the Directorate General of Foreign Trade, functioning under the Department of Commerce, Ministry of Commerce and Industry, administers the day-to-day operation of the Act through its headquarters and a network of Regional Authorities across the country.[18]

D. Importer-Exporter Code and Licensing (Sections 7–9)

Section 7 prohibits any person from making an import or export except under an Importer-Exporter Code Number ("IEC") granted by the Director General or an authorised officer. The IEC functions as the basic identifier through which every entity engaged in cross-border trade

[16] Id., s. 6(1)-(2); see also Foreign Trade (Development and Regulation) Act, 1992 Tilak Marg, https://tilakmarg.com/acts/foreign-trade-development-and-regulation-act-1992/, reproducing the statutory text on the appointment and advisory functions of the Director General of Foreign Trade.
[17] Id., s. 6(3), excluding the powers under ss. 3, 5, 15, 16 and 19 from delegation to the Director General or subordinate officers.
[18] See generally Directorate General of Foreign Trade, Ministry of Commerce and Industry, Government of India, https://dgft.gov.in, for the institutional structure of Regional Authorities functioning under the Director General.

is registered with the regulatory authority, and its possession is a precondition for customs clearance of an export or import consignment.[19] Section 8 empowers the suspension or cancellation of an IEC, subject to the safeguard that no such action may be taken without affording the holder a reasonable opportunity of being heard a statutory embodiment of the audi alteram partem principle.[20]

The Delhi High Court's decision in Rashmi Jain v. Additional Director General of Foreign Trade (14 October 2014) illustrates the courts' insistence on a genuine, and not merely nominal, connection between the conduct alleged and the person penalised before licensing or penal consequences attach under sections 8 and 11. The petitioner's late husband, a high-seas seller of imported metal scrap, had been penalised on the theory that he had abetted the import of prohibited war material found in a consignment sold onward. The Court held that abetment presupposes an offence by another person; since the actual importer had already been found not guilty of any wilful concealment or contravention, the seller who was neither the importer nor the beneficiary of the import could not be penalised for abetting an offence that, in law, no one had committed.[21] The case is a useful corrective to any assumption that penal liability under the Act attaches automatically wherever a consignment is later found to be non-compliant; it must be traced to a specific contravention by a specific, culpable actor.

Section 9 similarly governs the issue, suspension and cancellation of licences, certificates, scrips and other instruments conferring financial or fiscal benefit the instruments through which schemes such as duty exemption or duty remission authorisations are administered.[22]

E. Quantitative Restrictions (Section 9A)

Inserted by the Foreign Trade (Development and Regulation) Amendment Act, 2010, section 9A empowers the Central Government to impose quantitative restrictions on the import of a particular good where such imports cause, or threaten to cause, serious injury to domestic

[19] Id., s. 7, prohibiting any person from making an import or export except under an Importer-Exporter Code Number granted by the Director General or an authorised officer.
[20] Id., s. 8, empowering suspension or cancellation of an Importer-Exporter Code Number, subject to a reasonable opportunity of being heard.
[21] Rashmi Jain v. Additional Director General of Foreign Trade, MANU/DE/2605/2014 (Delhi High Court, 14 October 2014).
[22] Id., s. 9, governing the issue, suspension and cancellation of licences, certificates, scrips or other instruments conferring financial or fiscal benefit.

producers of like or directly competitive goods.[23] This provision brings the Act into closer alignment with India's rights and obligations under multilateral trade agreements, providing a domestic statutory hook for safeguard-type measures that respond to import surges. As Agricas LLP makes clear, section 9A supplies a specific, procedurally structured safeguard mechanism that exists alongside, rather than as the exclusive route for, the Central Government's general power under section 3; a restriction need not be routed through a section 9A serious-injury investigation merely because it could, on the facts, also have satisfied that provision's substantive threshold.

F. Search, Seizure, Penalty, Confiscation and Adjudication (Sections 10–14)

Chapter IV of the Act furnishes the enforcement teeth of the statute. Section 10 confers powers of search and seizure over goods, documents and conveyances suspected of being connected with a contravention of the Act.[24] Section 11 penalises contravention of the Act, the rules made thereunder, any Order, or the Foreign Trade Policy, prescribing monetary penalty and confiscation of the goods, and empowering suspension or cancellation of the IEC of the defaulting party.[25] Sums realised by way of penalty are credited to the Consolidated Fund of India under section

11A,[26] while section 11B a facility introduced to ease compliance burdens permits the Settlement Commission constituted under the Customs Act, 1962 to regularise a default in export obligation upon payment of the applicable duty and interest, offering exporters a route to resolve bona fide defaults without protracted litigation.[27] Sections 13 and 14 designate the Adjudicating Authority responsible for imposing penalty or ordering confiscation and require that the owner of goods be given notice and an opportunity to be heard before any such order is passed, reinforcing the principles of natural justice within the enforcement process.[28]

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[23] Id., s. 9A, inserted by the 2010 amendment, empowering the Central Government to impose quantitative restrictions on imports where such imports cause or threaten serious injury to domestic producers of like or directly competitive goods.

[24] Id., s. 10, conferring powers of search and seizure of goods, documents and conveyances suspected of contravening the Act.

[25] Id., s. 11, prescribing penalties (including monetary penalty up to five times the value of goods, or ₹10,000, whichever is higher) and confiscation for contravention of the Act, rules, orders or the Foreign Trade Policy.

[26] Id., s. 11A, requiring that sums realised by way of penalty be credited to the Consolidated Fund of India.

[27] Id., s. 11B, empowering the Settlement Commission constituted under the Customs Act, 1962 to regularise default in export obligation on payment of applicable duty and interest.

[28] Id., s. 13, designating the Adjudicating Authority for imposition of penalty and confiscation, and s. 14, requiring notice to the owner of goods before confiscation.

The limitation period implicit in the adjudicatory process, and the standard for invoking any extended period, has been considered by the Customs, Excise and Service Tax Appellate Tribunal in Kothari Foods and Fragrance Pvt. Ltd. v. Commissioner of Customs (Export), New Delhi (27 September 2019). The appellant, an exporter who had claimed duty-free import authorisation without disclosing the technical characteristics of essential oil used in manufacturing paan masala and gutka, argued that the show-cause notice issued under section 13 was time-barred. The Tribunal held that although the notice was issued after the ordinary limitation period had expired, the notice itself alleged suppression of facts, and non-disclosure of technical characteristics that was consciously withheld justified invocation of the extended period; the department had accordingly committed no error in proceeding beyond the ordinary limitation window.[29] The decision underscores that the natural-justice safeguards built into sections 13 and 14 operate within, and not in substitution for, the ordinary rules governing limitation and suppression that apply to fiscal and quasi-penal proceedings generally.

A related question the scope of an adjudicating or appellate authority's power to revisit its own prior orders was addressed by the Tribunal in Tegs Masrado Pvt. Limited v. Commissioner of Central Excise and ST, Chandigarh (9 January 2018). After an earlier order had dropped the charges levelled against a 100% export-oriented unit accused of failing to fulfil its export obligation, the Development Commissioner sought to revisit the matter through a fresh show-cause notice. The Tribunal held that section 17(4) of the Act permits correction only of clerical or arithmetical mistakes or errors arising from an accidental slip or omission, and does not confer a general power of review; a fresh notice grounded in newly discovered facts could not be used to reopen and effectively review an order already passed, in the absence of an express power of review under the Act.[30] The case is a further instance of courts and tribunals reading the Act's procedural safeguards narrowly against the authorities and broadly in favour of the regulated party a pattern that recurs across the Rashmi Jain, Kothari Foods and Tegs Masrado line of decisions.

G. Appeal, Revision and Rule-Making (Sections 15, 16 and 19)

A party aggrieved by an order of the Adjudicating Authority may appeal to the Appellate

[29] Kothari Foods and Fragrance Pvt. Ltd. v. Commissioner of Customs (Export), New Delhi, MANU/CE/0315/2019 (CESTAT, Delhi, 27 September 2019).
[30] Tegs Masrado Pvt. Limited v. Commissioner of Central Excise and ST, Chandigarh, MANU/CJ/0007/2018 (CESTAT, Chandigarh, 9 January 2018).

Authority under section 15, and the Central Government retains a power of revision under section 16, providing a further tier of administrative review.[31] Section 19 confers on the Central Government a general power to make rules for carrying out the purposes of the Act, subject to the requirement that such rules be laid before both Houses of Parliament, thereby preserving a measure of legislative oversight over an otherwise executive-dominated regulatory scheme.[32]

Section 18A, which provides that the Act's provisions are in addition to, and not in derogation of, any other law for the time being in force, was considered by the Supreme Court in Commissioner of Customs v. Atul Automations Pvt. Ltd. and Ors. (24 January 2019). The case concerned the import of used multi-function devices, which the Revenue sought to treat as prohibited "hazardous waste" under the Hazardous and Other Wastes Rules, 2016, while the importers relied on the

Foreign Trade Policy's treatment of such devices as merely restricted, and not prohibited, imports. The Court held that where the Central Government, exercising its powers under the Act and the Foreign Trade Policy, has permitted the import of used equipment possessing a residual utility life, the equipment does not automatically fall within the "other wastes" prohibition under the separate Waste Management Rules; the two regulatory regimes operate concurrently, each within its own field, consistently with section 18A's non-derogation principle, and the goods were restricted rather than prohibited, releasable on execution of a bond for a proportion of their enhanced assessed value.[33] The decision is a clear illustration of section 18A in operation: the FTDR Act's regulatory determinations do not oust, but must be read alongside, parallel environmental and customs regulation.

H. The 2010 Amendment: Services, Technology and Strategic Trade Controls

The Foreign Trade (Development and Regulation) Amendment Act, 2010 substantially recalibrated the Act to reflect the growing importance of services and technology in India's external trade. It extended the statutory definitions of "import" and "export" beyond goods to cover the cross-border supply of services and technology, aligning the Act's coverage with

[31] Id., s. 15, providing a right of appeal to an Appellate Authority against orders of the Adjudicating Authority, and s. 16, providing for revision by the Central Government.
[32] Id., s. 19, conferring rule-making power on the Central Government, subject to the laying requirement before both Houses of Parliament under s. 20.
[33] Commissioner of Customs v. Atul Automations Pvt. Ltd. and Ors., MANU/SC/0067/2019 (Supreme Court, 24 January 2019).

India's commitments under the General Agreement on Trade in Services.[34] Equally significant, the amendment introduced controls over the export of specified goods, services and technologies capable of contributing to the development or delivery of weapons of mass destruction, operationalised in practice through the Special Chemicals, Organisms, Materials, Equipment and Technologies (SCOMET) list maintained under the Foreign Trade Policy, and dovetailing with the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005.[35] This amendment transformed the FTDR Act from a statute concerned principally with merchandise trade into a comprehensive trade-control instrument spanning goods, services, technology and strategic exports. It is also this amendment that inserted section 9A, discussed at Part V.E above, bringing safeguard-type quantitative restrictions squarely within the Act's own text rather than leaving them to be improvised under the general language of section 3.

VI. Institutional and Constitutional Context

The constitutional foundation for Parliament's exclusive competence to legislate on foreign trade lies in Entry 41 of the Union List in the Seventh Schedule to the Constitution of India, which covers "trade and commerce with foreign countries; import and export across customs frontiers."[36] This allocation of legislative power ensures that foreign trade policy is formulated and administered uniformly at the national level, insulated from inconsistent regulation by individual States a design choice that is particularly important for a federal economy seeking a coherent external trade posture. Entry 41 operates alongside Entry 83 (Union List), which covers duties of customs including export duties, so that the FTDR Act's regulatory determinations under section 3 and the Customs Act's revenue and enforcement provisions rest on complementary, rather than overlapping, heads of legislative competence.

Operationally, the Directorate General of Foreign Trade administers the Act and the Foreign

[34] Key Features of the Foreign Trade Development and Regulation Act, 1992, supra note 2 (noting that the 2010 amendment 'significantly expanded the Act's scope to cover services and technology, aligning India with international standards under the General Agreement on Trade in Services').
[35] The 2010 amendment introduced controls over the export of specified goods, services and technologies capable of contributing to the development or delivery of weapons of mass destruction, operationalised through the SCOMET list and the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005.
[36] Foreign Trade Policy Explained, Vyyuha Knowledge Platform (Mar. 5, 2026), https://www.vyyuha.com/geography/eco-09-02-foreign-trade-policy/explained (locating the constitutional foundation of India's trade governance in Entry 41 of the Union List, Seventh Schedule to the Constitution, which vests Parliament with exclusive legislative competence over 'trade and commerce with foreign countries; import and export across customs frontiers').

Trade Policy through its network of Regional Authorities, while Export Promotion Councils function as sector-specific nodal bodies that facilitate trade promotion and disseminate market intelligence to exporters. Commentators have described the FTDR Act as occupying a position of supreme, overarching legislative authority within India's trade governance architecture, from which the entire edifice of policy circulars, public notices and trade notices ultimately draws its validity.[37] This institutional structure a lean parent statute, a policy instrument issued under delegated authority, and an administrative agency that operationalises both is a recognisable model of regulatory design, and its coherence depends on the judiciary's continued insistence, as seen in Dataflow Services and Nola Ram Dulichand, that measures purporting to bind traders trace their validity back through this chain to the Act itself.

VII. Contemporary Relevance

More than three decades after its enactment, the FTDR Act continues to function as the constitutive statute of India's trade governance, even as the substance of trade policy has evolved considerably.

Its continuing relevance is best illustrated through the Foreign Trade Policy, 2023 ("FTP 2023"), notified on 31 March 2023 and effective from 1 April 2023, and through the pattern of contemporaneous regulatory activity that has followed.[38]

A. A Dynamic, Non-Sunset Policy Framework

Unlike its predecessors, which were typically framed for fixed five-year periods, FTP 2023 was designed without a sunset clause, to be revised and amended as and when required rather than tied to a fixed review date.[39] This design choice itself testifies to the enduring utility of sections 3 and 5 of the FTDR Act, which supply the Central Government with a standing, continuously exercisable power to notify and amend trade policy a structure that a rigid, time-

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[37] Foreign Trade (Development and Regulation) Act, 1992 iPleaders, https://blog.ipleaders.in/foreign-tradepolicy/ (characterising the Act as 'a supreme legislation' governing the accomplishment of foreign trade in India and noting the wide discretionary powers it vests in the Central Government).

[38] Foreign Trade Policy A Dynamic Framework for India's Global Trade, Centax Online (Mar. 14, 2025), https://www.centaxonline.com/blog/foreign-trade-policy-a-dynamic-framework-for-indias-global-trade (noting that FTP 2023 was notified on 31 March 2023, took effect from 1 April 2023, and, departing from earlier five-year policies, carries no sunset clause).

[39] Ibid.

bound legislative framework could not have accommodated.[40]

B. From Incentives to Remission

A defining feature of the present policy landscape is the shift away from incentive-based export schemes several of which, including the Merchandise Exports from India Scheme, were found inconsistent with India's obligations before the World Trade Organization toward remissionbased mechanisms such as the Remission of Duties and Taxes on Exported Products and the Remission of State and Central Taxes and Levies. These mechanisms reimburse embedded, noncreditable taxes and duties rather than granting direct incentives, aligning India's export-support architecture more closely with internationally accepted principles of export neutrality.[41]

C. E-Commerce Exports and Digital Trade Facilitation

FTP 2023 extends the benefits available under the foreign trade framework to e-commerce exports, recognising the growing share of digital commerce in global trade flows, and mandates measures such as increased consignment value caps for exports through courier and postal routes.[42] This is complemented by a broader push toward paperless, automated processing including the electronic Importer-Exporter Code, electronic Bank Realisation Certificates, free passage of export consignments and round-the-clock helpdesk support all administered under the rule-making and delegation powers traceable to the FTDR Act.[43]

D. Districts as Export Hubs and the USD 2 Trillion Target

FTP 2023 also introduces a district-level approach to export promotion, seeking to identify products with export potential in each district and to build the requisite institutional and logistical support at the sub-national level, in furtherance of the government's stated ambition

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[40] Ibid. (identifying ss. 3 and 5 of the FTDR Act as the statutory source of the Central Government's authority to formulate and amend the Foreign Trade Policy).

[41] India's Foreign Trade Policy 2023: Key Highlights & Impact, Stratrich (Mar. 31, 2026), https://stratrich.com/insights/an-overview-of-indias-foreign-trade-policy/ (describing the shift from incentive-based schemes challenged before the WTO to remission-based mechanisms such as the Remission of Duties and Taxes on Exported Products).

[42] A Detailed Overview of India's Foreign Trade Policy of 2023, Lexology (Aug. 11, 2023), https://www.lexology.com/library/detail.aspx?g=fd41baf0-a66e-4066-a7c2-9b66235944bc (describing the extension of FTP benefits to e-commerce exports and the accompanying digitalisation of trade facilitation processes).

[43] Stratrich, supra note, para 28 (listing e-IEC, e-BRC, free passage of export consignments and 24x7 helpdesk support among the trade-facilitation measures anchored in the FTDR Act's institutional framework).

of achieving USD 2 trillion in exports of goods and services by 2030.[44] While the statutory basis for such initiatives remains the FTDR Act, their substance illustrates how far policy has travelled from the Act's original 1992 concerns from merely dismantling licensing controls to actively architecting regional export ecosystems. The USD 2 trillion target is pursued through four broad strategies that recur across policy commentary: a transition from direct incentives to tax and duty remission; collaborative promotion driven by partnerships among exporters, State governments, districts and Indian diplomatic missions abroad; ease-of-doing-business measures built on automated, paperless systems; and a fourth strand addressing emerging areas streamlining ecommerce cross-border logistics, building out the "Districts as Export Hubs" initiative, and periodically updating the SCOMET dual-use technology list.[45]

E. Dispute Resolution and Ease of Doing Business

FTP 2023 introduces a dedicated chapter on Quality Complaints and Trade Disputes, providing a structured mechanism to address disputes between Indian exporters and foreign buyers, and continues to administer duty-exemption and duty-remission schemes such as Advance Authorisation, Duty-Free Import Authorisation and the Export Promotion Capital Goods scheme.[46] [47] Special Economic Zone units have also been permitted greater flexibility, including the ability to sell up to fifty per cent of production in the domestic tariff area, subject to applicable duties a liberalisation aimed at improving the commercial viability of zone-based manufacturing.[48]

F. Continuing Regulatory Activity and Strategic Trade Controls

The FTDR Act's continuing operational vitality is evident from the steady stream of

[44] Foreign Trade Policy 2023, Economic and Political Weekly (Dec. 4, 2023), https://www.epw.in/journal/2023/48/special-articles/foreign-trade-policy-2023.html (discussing the FTP 2023 objective of anchoring districts as export hubs and the government's export target of USD 2 trillion by 2030).
[45] Foreign Trade Policy — Explained, Vyyuha Knowledge Platform (Mar. 5, 2026) and PIB press releases on FTP 2023 (describing the four core strategies of Incentive to Remission, Collaborative Promotion, Ease of Doing Business, and an Emerging Areas Focus covering e-commerce logistics, Districts as Export Hubs, and SCOMET updates).
[46] Foreign Trade Policy 2023, JusScriptum Law (Jul. 3, 2024), https://www.jusscriptumlaw.com/post/foreign-tradepolicy-2023 (noting the introduction of a dedicated chapter on Quality Complaints and Trade Disputes to resolve disputes between exporters and importers).
[47] Foreign Trade Policy 2023, LevelUp IAS (Feb. 17, 2025), https://www.levelupias.com/foreign-trade-policy-2023/ (summarising continuing schemes such as Advance Authorisation, Duty-Free Import Authorisation and the Export Promotion Capital Goods scheme).
[48] Vyyuha Knowledge Platform, supra (noting FTP 2023 provisions permitting Special Economic Zone units to sell up to 50% of production in the domestic tariff area).

notifications issued by the Directorate General of Foreign Trade in 2026, which invoke the Act together with FTP 2023 to amend import and export conditions for specific categories of goods, ranging from agricultural commodities to controlled and dual-use items.[49] In a period marked by volatile global commodity prices, shifting tariff postures among major trading partners, and heightened scrutiny of export controls on sensitive technologies, the Act's broad, adaptable delegation of power to the Central Government rather than a rigid, itemised legislative code has proved to be its most durable design feature, allowing India's trade policy to be recalibrated through executive notification rather than repeated parliamentary amendment.

VIII. Judicial Interpretation: Table of Case Laws

The following table collates the principal judicial and quasi-judicial decisions discussed in this article, cross-referenced to the statutory provision each addresses.

Case	Citation / Date	Court	Provision(s)	Holding, in brief
M/s Dataflow Services (India) Pvt. Ltd. v. Union of India	2010	Delhi High Court	Sections 3, 5	Vires of a Foreign Trade Policy provision must be traceable to a valid exercise of the Central Government's powers under ss. 3 and 5; the freedom to trade is the default and restrictions require statutory grounding.
Union of India v. Agricas LLP	(2020) SCC OnLine SC 675	Supreme Court	Sections 3, 9A	Upheld notifications restricting import of peas and pulses under s. 3(2); the general power under s. 3 is not curtailed by, and operates independently of, the safeguard mechanism in s. 9A.

[49] Foreign Trade (Development And Regulation) Act, 1992 UnderStand UPSC, supra (observing that DGFT notifications issued in 2026 continue to invoke the FTDR Act together with FTP 2023 to amend import-export conditions for specific goods).

Nola Ram Dulichand Dal Mills and Ors. v. Union of India (UOI) and Ors.	MANU/SC/0185/2020, 14.02.2020	Supreme Court	Sections 3, 5	A clarificatory circular that does not modify or amend a scheme notified under s. 5 need not itself be gazetted; only substantive amendment attracts the gazette-publication requirement.
Rashmi Jain v. Additional Director General of Foreign Trade	MANU/DE/2605/2014, 14.10.2014	Delhi High Court	Sections 8, 11(2)	Penal liability for abetment of import presupposes a contravention by another person; a high-seas seller cannot be penalised for abetting an offence the actual importer was not found to have committed.
Kothari Foods and Fragrance Pvt. Ltd. v. Commissioner of Customs (Export), New Delhi	MANU/CE/0315/2019, 27.09.2019	CESTAT, Delhi	Section 13	A show-cause notice issued beyond the ordinary limitation period is valid where it alleges, and the facts support, conscious suppression justifying invocation of the extended period.
Tegs Masrado Pvt. Limited v. Commissioner of Central Excise and ST, Chandigarh	MANU/CJ/0007/2018, 09.01.2018	CESTAT, Chandigarh	Section 17(4)	Section 17(4) permits correction only of clerical/arithmetical errors or accidental slips; it confers no general power to review or reopen a concluded order via a fresh show-cause notice.

Commissioner of Customs v. Atul Automations Pvt. Ltd. and Ors.	MANU/SC/0067/2019, 24.01.2019	Supreme Court	Section 18A	The Act's provisions operate in addition to, not in derogation of, other laws; goods restricted (not prohibited) under the Foreign Trade Policy are not automatically caught by parallel hazardous-waste regulation.
Shri Lal Mahal Ltd. v. Progetto Grano SPA	(2014) 2 SCC 433	Supreme Court	Not an FTDR case; arises under the Arbitration and Conciliation Act, 1996, from an export contract dispute	Narrow "public policy" standard for resisting enforcement of a foreign award (fundamental policy of Indian law, interests of India, justice or morality); frequently invoked by analogy for the deferential standard of review applicable to executive determinations in the trade domain.

Two features of this body of case law are worth drawing out. First, the decisions overwhelmingly concern the boundary between validly delegated executive action and action requiring fresh statutory or gazette authority (Dataflow Services, Nola Ram Dulichand, Agricas LLP) a recurring judicial preoccupation that mirrors the Act's own structure as a framework statute. Second, in the enforcement and adjudicatory sphere (Rashmi Jain, Kothari Foods, Tegs Masrado), courts and tribunals have consistently read the Act's procedural safeguards generously in favour of the regulated party, insisting on a genuine nexus between contravention and consequence, and declining to imply powers of review or liability that the text does not expressly confer.

IX. Critical Appraisal

A. Delegated Legislation and Accountability

The FTDR Act's central strength its wide delegation of quasi-legislative power to the executive is also the source of its principal critique. Because the Foreign Trade Policy and the innumerable public notices, trade notices and circulars issued under it possess the force of law once gazetted, the substantive content of India's trade regime is determined almost entirely outside the ordinary legislative process, with Parliament's role largely confined to the framework statute itself. This raises familiar concerns about the accountability and predictability of a regime governed principally through delegated legislation, notwithstanding the safeguard of parliamentary laying under section 19.

B. A Layered Compliance Landscape

Commentators have also observed that the Act, more than three decades old, must continually be read alongside a growing body of adjacent legislation the Customs Act, 1962, the Special

Economic Zones Act, 2005, the Weapons of Mass Destruction and their Delivery Systems

(Prohibition of Unlawful Activities) Act, 2005, and India's obligations under World Trade Organization agreements creating a layered and, at times, difficult-to-navigate compliance landscape for exporters, particularly smaller enterprises without dedicated trade-compliance capacity. Atul Automations illustrates the point concretely: an importer of ordinary office equipment found itself navigating not only the FTDR Act and the Foreign Trade Policy but also the Hazardous and Other Wastes Rules made under an entirely separate statute, with the two regimes ultimately reconciled only by the Supreme Court's interpretation of section 18A. The Act itself has been characterised as balancing two objectives that are not always easy to reconcile: facilitating trade on the one hand, and protecting national interest economic, strategic and diplomatic on the other.[50] Whether that balance is being struck appropriately in any given period is ultimately a question that shifts with global economic and geopolitical conditions rather than one that admits of a permanent answer within the statute itself.

C. The Pace of Enforcement and Adjudication

A further limitation lies in the pace at which enforcement and adjudicatory mechanisms under Chapter IV operate relative to the speed of contemporary trade. While the Settlement Commission route under section 11B and the appellate structure under section 15 provide

[50] Foreign Trade (Development And Regulation) Act, 1992 UnderStand UPSC, supra (noting that the Act 'balances two objectives: facilitating trade and protecting national interest' and that several concerns persist in India's foreign trade regulatory practice).

avenues for resolution, exporters and trade bodies have periodically called for faster grievance redressal, a concern that FTP 2023's new chapter on Quality Complaints and Trade Disputes represents at least a partial policy response to, even though the underlying statutory adjudication timelines remain unchanged. Kothari Foods and Tegs Masrado both arose from proceedings that stretched across several years and multiple rounds of departmental and tribunal adjudication before reaching finality a pattern that, whatever its doctrinal correctness, sits uneasily with an Act whose stated purpose is to facilitate rather than encumber trade.

D. Judicial Deference and the Standard of Review

A theme that emerges clearly from the case law surveyed in Part VIII is the courts' general reluctance to second-guess the Central Government's substantive assessment of what national, economic or strategic interest requires, so long as the formal preconditions for the exercise of power gazette notification, a nexus to a statutory head of power, and (where applicable) a hearing are satisfied. Agricas LLP is emphatic on this point in upholding the Government's choice between the general power in section 3 and the more elaborate safeguard mechanism in section 9A, and the analogy frequently drawn to the narrow "public policy" standard articulated in Shri Lal Mahal reinforces the same instinct: courts intervene to police the boundaries of delegated power and to enforce procedural fairness, but are markedly reluctant to substitute their own judgment for the executive's on questions of trade or strategic policy properly so called. This is a coherent and arguably necessary posture given the polycentric, fast-moving nature of trade regulation, but it does mean that the principal check on the Central Government's exercise of its section 3 and section 5 powers is procedural rather than substantive a feature that reform proposals discussed below seek, in varying degrees, to supplement.

E. Capacity Constraints Among Regulated Parties

A less-discussed but practically significant limitation concerns the disparity in compliance capacity among regulated parties. The IEC and licensing regime under sections 7 to 9, the SCOMET controls introduced by the 2010 amendment, and the documentary requirements attaching to duty-remission schemes under FTP 2023 are, individually, coherent and defensible instruments of trade policy. Collectively, however, they impose a compliance burden that large exporters with dedicated legal and trade-compliance departments absorb far more readily than the small and medium enterprises the Act's facilitative objective is, on its own terms, meant to particularly benefit. Rashmi Jain is illustrative in a different sense here: it took a Delhi High Court writ petition, initiated by the widow of the affected trader, to correct what was in essence an erroneous extension of penal liability to a party several steps removed from the underlying contravention a corrective that a better-resourced enterprise might have obtained earlier, and at less personal cost, through more proactive engagement with the adjudicatory process.

F. Toward Reform: A Comparative and Forward-Looking Note

Viewed comparatively, the FTDR Act's framework-statute design is not unusual; many trading nations including the United States, through its export-control and trade-remedy statutes, and the European Union, through its Common Commercial Policy regulations similarly vest broad, continuously exercisable authority in the executive to regulate trade by instrument rather than primary legislation. What distinguishes systems that manage this design well from those that do not is typically the strength of ancillary accountability mechanisms: transparent consultation before major policy notifications, robust and time-bound appellate review, and periodic legislative or parliamentary committee scrutiny of the pattern of delegated exercises of power, over and above the bare laying requirement in section 19. India's own trajectory from the introduction of section 9A's safeguard mechanism in 2010, to FTP 2023's dedicated Quality Complaints and Trade Disputes chapter, to the ongoing digitisation of licensing and certification processes suggests an incremental, largely executive-driven pattern of reform, addressing specific pain points as they are identified rather than a wholesale legislative overhaul of the 1992 framework. Whether that incremental pattern proves sufficient to keep pace with the compliance burden identified in Part IX.E, or whether it eventually requires a more systematic legislative revisitation of the Act itself, is likely to be tested by the same pressures the USD 2 trillion export target, the digitisation of trade, and the tightening global posture on strategic and dual-use exports that currently define the Act's contemporary relevance.

X. Conclusion

The Foreign Trade (Development and Regulation) Act, 1992 was conceived at a moment of acute economic necessity, as India abandoned a control-oriented trade regime in favour of one designed to facilitate integration with the global economy. Its enduring achievement lies in the architecture it established: a framework statute that sets out broad objectives and essential safeguards, while vesting the Central Government with the flexible, continuously exercisable authority needed to translate those objectives into responsive policy through the Foreign Trade Policy.

That architecture has proved remarkably durable. It has absorbed the extension of trade law to services and technology and the tightening of strategic export controls in 2010, it has been repeatedly tested and refined by the judiciary from Dataflow Services and Agricas LLP on the scope of the Central Government's regulatory power, through Rashmi Jain, Kothari Foods and Tegs Masrado on the fairness and limits of enforcement, to Atul Automations on the Act's relationship with adjacent regulatory regimes and it continues, through FTP 2023, to underpin

India's pursuit of an ambitious USD 2 trillion export target, its embrace of e-commerce and digital trade facilitation, and its evolving posture on regional export promotion.

At the same time, the very features that make the Act adaptable broad delegation, executive rule-making, and a policy instrument that can be amended without a sunset date invite continuing scrutiny of accountability and coherence, particularly for the smaller trading enterprises least equipped to absorb a layered and evolving compliance landscape. As India's trade relationships and strategic priorities continue to evolve through 2026 and beyond, the FTDR Act is likely to remain what it has been since 1992: not a static code of trade rules, but the constitutional skeleton on which each generation's trade policy is built its adequacy measured, ultimately, by how well that skeleton continues to bear the weight of an increasingly complex and fast-moving trading system.

Table of Statutes and Policy Instruments

Instrument	**Relevance to this Article**
The Constitution of India, Seventh Schedule, Union List, Entries 41 and 83	Legislative competence over foreign trade and customs duties
The Imports and Exports (Control) Act, 1947 (repealed)	Predecessor control-oriented statute
The Foreign Trade (Development and Regulation) Act, 1992	Principal statute discussed throughout

The Foreign Trade (Development and Regulation) Amendment Act, 2010	Extended coverage to services and technology; inserted s. 9A and strategic trade controls
The Customs Act, 1962	Border enforcement machinery interlocked with s. 3(3) of the FTDR Act
The Special Economic Zones Act, 2005	Parallel regime for zone-based export manufacturing
The Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005	Dovetails with SCOMET controls introduced by the 2010 amendment
The Foreign Trade (Regulation) Rules, 1993	Subordinate rules made under s. 19 of the Act
The Foreign Trade Policy, 2023	Current policy instrument issued under s. 5 of the Act

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