EXPORT IMPORT REGULATION IN INDIA: LEGISLATIVE EVOLUTION AND POLICY SHIFT

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ABSTRACT

Imports and exports form the backbone of any thriving economy. While imports bring in goods produced by foreign manufacturers into the country to meet domestic demand, exports allow locally made products to reach international markets. In India, the regulation of these cross-border movements is governed by the Foreign Trade (Development and Regulation) Act, 1992, which replaced the earlier Imports and Exports (Control) Act, 1947. This legislation empowers the government to monitor and manage the flow of goods in and out of the country. Over time, India has moved from a rigid, state-controlled trade system to a more liberalized framework. Yet, regulatory oversight remains crucial, especially when it comes to sensitive or strategically important goods. Under the Indian Trade Classification (Harmonized System)—or ITC-HS—goods are categorized into three groups: Restricted items (require a license), Canalized items (importable only through designated agencies), and Prohibited items (not allowed at all). While most goods can be freely imported, these classifications ensure that trade aligns with national interests. Additionally, imports attract basic customs duty, and depending on the nature of the product, other charges such as anti-dumping duty, safeguard duty, or a social welfare surcharge may apply. This article takes a closer look at how India manages its import-export ecosystem—from tariff barriers and licensing requirements to constitutional powers and statutory exemptions—reflecting the balance between trade liberalization and state control.

Keywords: protectionism, liberalization, Custom Act, Tariff.

INTRODUCTION

Imports and exports play a crucial role in a nation's foreign trade, which involves the exchange of goods and services across international borders. Import refers to the physical movement of goods into a country from abroad, meeting domestic demands by providing products from other nations. Similarly, exports involve the legal movement of goods outside the home country, serving the needs of foreign markets. This global exchange has transformed the world into a local market, facilitating business transactions that transcend geographical boundaries. Individuals engaged in this trade are referred to as importers and exporters, respectively[1] The shift from rigid state control to liberalization in the import and export of goods marks a significant economic transition. Initially, governments tightly regulated trade, dictating what could enter or leave the country. However, with the advent of liberalization, nations embraced free-market principles, reducing restrictions, and fostering a more open and competitive global trade environment. This shift aims to stimulate economic growth, encourage innovation, and enhance efficiency in the movement of goods across borders.

OBJECTIVE

- To delve into the era of protectionism
- To examine the role of GATT and WTO
- To get an insight into state control over import and export
- To understand the phases of Transition from rigidity to liberalization

RESEARCH METHODOLOGY

The method of study is Doctrinal.

DATA COLLECTION

The research intends to adopt secondary source of data collection. The facts for the report were collected from the secondary source of data. Materials from various websites have been taken

[1] B&B Associates, Export and Import laws In India, (2019); https://bnblegal.com/article/export-and-import-laws-in-india/

for the research purpose. Relevant Acts and provisions under the same have been studied. Books of eminent writer and articles published in various journals has been referred.

SCOPE OF THE RESEARCH

State control over the import and export of goods, spanning the transition from rigidity to liberalization, is expansive and holds significant implications for both academia and policymaking. This research endeavours to provide a comprehensive understanding of the historical, and policy dimensions involved in shaping a nation's trade strategies. By conducting a thorough historical analysis, the study aims to trace the evolution of import/export control policies, identifying pivotal moments and policy shifts. This historical context sets the stage for a detailed examination of the motivations and objectives behind the transition from rigid state control to liberalization. In summary, the scope of this research is broad and multifaceted, encompassing historical analysis, policy examination, considerations to provide a holistic understanding of state control over import and export from rigidity to liberalization.

SIGNIFICANCE

State control over the import and export of goods, particularly during the transition from rigidity to liberalization, lies in its profound implications for national and global trade dynamics. Rigorous analysis of this transition is crucial for policymakers and scholars alike as it offers valuable insights into the evolution of economic policies. Understanding the motivations behind shifts from rigid state control to liberalization allows for informed decision-making in crafting trade policies that balance national interests with the benefits of international commerce.

State control over import and export plays a pivotal role in ensuring national security by safeguarding strategic industries and resources. It offers lessons from the past that can guide countries in developing adaptive strategies to thrive in the increasingly interconnected global economy.

The significance of this research extends to its ability to inform policymakers about the effectiveness of different trade policy approaches. By assessing the economic consequences, including effects on GDP growth, trade balances, and sectoral performance, decision-makers can refine policies to foster sustainable economic development.

In essence, the study of state control over import and export from rigidity to liberalization is essential for navigating the complexities of modern trade dynamics. It provides a foundation for creating responsive and effective policies that not only protect national interests but also foster economic growth and resilience in an ever-evolving global marketplace.

LITERATURE REVIEW

Cheistina Majaski (2024) studied the General Agreement on Tariffs and Trade (GATT), established in 1947, which emerged as a pivotal international treaty with 23 signatory countries aiming to minimize barriers to global trade. The study also mentions its vital role in post-World War II economic recovery by reducing quotas, tariffs, and subsidies. Over time, the GATT evolved, leading to the creation of the World Trade Organization (WTO) in 1995, marking a milestone in international trade governance. As of September 2022, the GATT is overseen by the Council for Trade in Goods within the WTO, featuring 10 committees addressing diverse trade-related subjects. This historic agreement is recognized for successfully fostering multilateral negotiations, reducing tariff barriers, and establishing a dispute resolution system to address commercial disputes among nations.

B And B Associates (2019) studied India's export-import laws, emphasizing the 1992 Foreign Trade (Development and Regulation) Act, replacing the 1947 Imports and Exports (Control) Act. This legislation grants the Central government authority to regulate foreign trade, controlling imports and exports. The article also mentions about the Complementary laws, including the Tea Act of 1953, Coffee Act of 1942, and Rubber Act of 1947, further governing specific industries. Importers and exporters, crucial for foreign trade, follow prescribed procedures involving documentation like bills of exchange, letters of credit, and declarations under foreign exchange regulations to move goods across borders legally.

Oishika Banerji and Shoronya Banerjee (2022) studied about the GATT, signed in 1947 by 23 nations, aimed to reduce trade barriers and aid global economic recovery post-World War II. Evolving into the WTO in 1995, it covered 125 countries, regulating international trade through the Council for Trade in Goods. The GATT successfully addressed market access, agriculture, subsidies, and anti-dumping measures, establishing dispute resolution mechanisms. Its post-war success led to the creation of the General Agreement on Trade in Services (GATS).

Trade Agreement (2024) this notification talks about the India's trade agreement. The United States and India lack a trade agreement since the revocation of India's GSP status in 2019, affecting $5.6 billion in Indian exports. Despite this, both nations engage in ongoing discussions on trade issues. India actively pursues regional and bilateral trade agreements with over 50 countries, including the CEPA with the UAE and ECTA with Australia, aiming to diversify export markets and secure access to raw materials and capital goods for domestic manufacturing.

Editor (2023) The article studies about import and export restrictions in India under the Customs Act, 1962, emphasizing the need for understanding related laws like the Foreign Trade Policy. The article also outlines on warns of penalties for deliberate duty evasion or violating prohibitions, with legal provisions, such as Sections 111(d) and 113(d) of the Customs Act, allowing confiscation for violations. The article underscores the importance of awareness regarding prohibitions, restrictions, and requirements, extending to other laws like the Environment Protection Act, Wildlife Act, and Arms Act, to ensure compliance in international trade.

Avigyan Sengupta And Saikat Sinha Roy (2018) This paper traces India's trade policy evolution from protective measures in the 1950s to a gradual shift to an open economy with reduced barriers. Despite positive changes, concerns arise from market-driven entry barriers and recent tariff increases. The transition to an open economy, including industrial and FDI policy reforms, unfolded gradually. Exchange rate regime evolution reflects a comprehensive transformation, with recent interventions by the RBI to manage currency volatility. Reforms aimed to reduce distortions, reallocate resources, and enhance global competitiveness. State-level export promotion policies targeted improved supply capabilities and manufacturing efficiency.

Ramesh C. Paudel (2017) The study uses ARDL (autoregressive distributed lag) analysis to evaluate the impact of liberalization reforms on India's exports from 1975 to 2008. Manufacturing and merchandise export demand primarily relies on global demand, while manufacturing export supply is influenced by domestic output, FDI, and overall liberalization since the early 1990s. Contrary to expectations, no significant negative impact of trade protection on exports is found. Liberalization reforms positively affect India's manufacturing exports but lack a significant impact on merchandise exports. Policy implications highlight the importance of FDI in the manufacturing sector and overall economic liberalization for successful exports.

Arvind Panagariya (2004) The study revealed India's growth in the past five decades was steady, avoiding "miracle" rates or prolonged stagnation. The Hindu rate of 3.5% from 1950 to 1980 reflected macroeconomic stability but faced challenges from microeconomic distortions and state intervention. In the 1980s and 1990s, India embraced openness by liberalizing investment and import licensing. The paper examines the impact of external sector policies, emphasizing the last two decades, highlighting gains from liberalization and increased productivity. However, labor-intensive industries faced limitations due to policy constraints. The paper recommends reforms, including tariff reduction and a flexible approach in Doha negotiations to enhance agricultural exports.

Ms. Kiran Devi (2015) studied about India's significant growth and development, attributed to its early 1990s liberalization program, marked a turning point from a restrictive and planned economy. The impact analysis, focusing on periods from 1950-1990 and post-1990, highlights the positive influence of import liberalization on technology access, input quality, and competition. The paper concludes that liberalization played a crucial role in India's improved economic performance, leading to notable advancements in growth, trade, foreign direct investment, and the investment-to-GDP ratio.

Cs Deepak Pratap Singh studied about The Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (COFEPOSA) is an Indian law enacted to conserve foreign exchange and prevent smuggling. It remains in force and is applicable to offenses under the Foreign Exchange Management Act, 2000. COFEPOSA empowers the government to establish advisory boards, set monetary limits for invoking the act, and outlines procedures for detention, investigation, and court proceedings. It allows detention in specific cases to conserve foreign exchange, prevent smuggling activities, and address related matters.

Suresh Varanasi, Sagnik Chatterjee And Suhail Bansal (2019) concluded SCOMET items undergo strict export controls and licensing to prevent misuse. The SCOMET List, part of the Foreign Trade Policy, governs dual-use item exports, allowing only licensed transactions. Violations result in penalties under the Foreign Trade Act, and the DGFT manages SCOMET licenses through the IMWG. Compliance is essential for safeguarding national security and international trade relationships.

CHAPTERS

CHAPTER I

PROTECTIONISUM, INDIA AND GATT

Before India's economic liberalization in the early 1990s, the country followed a deeply protectionist trade model. This was driven by the policy of Import Substitution Industrialization (ISI), which aimed to promote self-reliance by encouraging domestic production in place of foreign imports. To protect budding Indian industries, the government imposed high tariffs, import licensing systems, and strict quotas, making imported goods more expensive and less accessible. These measures were not limited to physical goods alone. The state also exercised tight control over foreign exchange transactions through exchange control regulations, restricting the outflow of currency and reinforcing the inward-looking economic stance. The result was a trade regime marked by bureaucratic layers, limited competition, and minimal integration with global markets. This era of economic nationalism, while aimed at nurturing domestic capability, eventually revealed structural inefficiencies—setting the stage for India's shift towards liberalization and market openness in the 1990s.

Trade protectionism has several arguments in its favour:

1. National Security: Protectionist policies reduce reliance on other nations for essential goods, enhancing national security by promoting domestic production.

2. Infant Industry: Tariffs and quotas shield emerging industries, fostering their growth and competitiveness against established foreign counterparts.

3. Diversification of Industry: Protectionism supports various industries, promoting economic diversification for increased resilience to external shocks.

4. Keep Money at Home: Restricting imports ensures money circulates within the domestic economy, potentially boosting employment and stimulating economic growth.

5. Anti-dumping: Protectionist measures prevent foreign companies from selling goods below cost, maintaining fair competition, and protecting local industries.

6. Home Market: Protectionism helps maintain a strong domestic market by shielding it from excessive foreign competition, contributing to economic stability.

Overall, India's pre-liberalization trade policies aimed at shielding domestic industries and fostering economic self-sufficiency but also resulted in inefficiencies and limited global competitiveness. The shift towards liberalization post-1991 reforms marked a significant departure from protectionist policies, leading to increased trade openness and economic growth[2]

INDIA AND GATT

India, as a founding member of the General Agreement on Tariffs and Trade (GATT) in 1947, has played an active role in shaping the global trade landscape. Its participation in GATT—and later in the World Trade Organization (WTO), which succeeded it in 1995—has significantly influenced the development of India’s import and export policies over the decades. In the early years, India adhered to an import-substitution industrialization (ISI) strategy, relying heavily on high tariffs and restrictive trade barriers to shield its domestic industries from foreign competition. This inward-looking approach was consistent with the post-colonial vision of economic self-sufficiency but eventually gave way to greater liberalization as global trade norms evolved under GATT and WTO frameworks.[3].

The General Agreement on Tariffs and Trade (GATT) laid the groundwork for a more open world economy, aiming to break down the walls of trade protectionism through multilateral agreements and a structured dispute resolution mechanism. Though it made impressive strides in reducing tariffs and quotas, GATT was limited—it remained largely silent on non-tariff barriers, services, and intellectual property, areas that would later become essential in global commerce.

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[2] Dr. S.R. Myneni’s, WTO, Asia Law House,5th edition,2020
[3] Christina Majaski, what is the general Agreement on Tariffs and Trade (GATT). (2023) https://www.investopedia.com/terms/g/gatt.asp

The real transformation came during the Uruguay Round, which not only shook the foundations of global trade but also gave birth to the World Trade Organization (WTO) in 1995. With a far more ambitious agenda, the WTO brought discipline and depth to international trade law, extending its reach beyond goods to services (GATS) and intellectual property rights (TRIPS). These agreements weren't just legal instruments—they were game changers. For India, this marked a decisive moment. No longer could it afford to remain insulated behind high tariff walls and restrictive policies. The country stepped onto the global stage with a bold commitment to liberalization, reforming its trade regime and opening up sectors like agriculture and textiles to global competition. As a WTO member, India pledged to align with global trade norms, dismantle protectionist frameworks, and embrace the spirit of competitive global integration. From cautious observer to active participant, India's trade policy took on a new life—one that blended domestic priorities with international obligations, signaling the end of rigidity and the rise of reform.[4]

Post-1991, India implemented a wide range of economic reforms, shifting from a protectionist outlook to a liberalized, market-oriented approach. The expansion of bilateral and regional trade agreements further deepened its global economic engagements. Throughout, India's evolving relationship with GATT and the WTO has reflected a dynamic balance—embracing liberalization while carefully protecting domestic interests and addressing developmental concerns. Even today, ongoing negotiations and dispute resolution processes under the WTO continue to shape India's position in the global trading system, reinforcing its steady transition from rigid state control to pragmatic liberalization.

CHAPTER II

LEGISLATIVE REFORM ON EXPORT AND IMPORT

ACTS GOVERNING IMPORT AND EXPORT [5]

In the Indian legal framework, foreign trade—encompassing both exports and imports—is regulated by a series of legislative enactments. The Foreign Trade (Development and Regulation) Act, 1992 is the principal statute in this regard, having repealed and replaced the

[4] Oishika Banerji and Shoronya Banerjee, all you need to know about the General agreement on tariff and Trade (GATT), 2022, https://blog.ipleaders.in/all-you-need-to-know-about-the-general-agreement-on-tariffs-and-trade-gatt/

[5] Prof (Dr) RK Wadhwa, Import and Export Trade Control, http://www.enablersindia.com/banker/ibfsb02.pdf

Imports and Exports (Control) Act, 1947. The 1992 Act empowers the Central Government to regulate the development and management of foreign trade and provides a statutory definition of exports as the movement of goods out of the country through various means. Additionally, Section 2 of the Customs Act, 1962, read with the Customs Tariff Act, 1975, offers a comprehensive framework for categorizing export goods into physical exports and deemed exports.

Several other statutes contribute significantly to the regulation of foreign trade in India. The Customs Act, 1962, COFEPOSA, 1974, and SAFEMA, 1976, collectively address issues relating to the imposition and collection of customs duties and the prevention of smuggling and foreign exchange violations. The Foreign Exchange Management Act, 1999 plays a pivotal role in overseeing foreign exchange transactions and ensuring compliance with prescribed regulatory norms. Further, the Export (Quality Control and Inspection) Act, 1963 is instrumental in maintaining the quality standards of exportable goods by prescribing procedures for inspection and certification.

Together, these enactments form an integrated legal framework governing India's international trade. They regulate export-import procedures, customs administration, foreign exchange control, and quality assurance mechanisms, thereby facilitating lawful and efficient cross-border trade while safeguarding national economic and strategic interests.

CONSTITUTIONAL PROVISIONS[6]

Constitutional Framework Governing Legislative Competence in Foreign Trade Article 246 of the Constitution of India delineates the distribution of legislative powers between the Union and State Governments by establishing a threefold division of subjects under the Seventh Schedule—namely the Union List (List I), State List (List II), and Concurrent List (List III). The Parliament exercises exclusive legislative authority over matters enumerated in the Union List, while State Legislatures legislate on subjects in the State List. The Concurrent List allows both levels of government to legislate concurrently, subject to the doctrine of repugnancy under Article 254.

[6] Seventh Schedule, https://www.mea.gov.in/Images/pdf1/S7.pdf

In the context of foreign trade, the Union List confers comprehensive powers upon the Union Government to regulate trade and commerce across national and inter-State boundaries. The following entries in List I of the Seventh Schedule are particularly relevant:

- Entry 36: Currency, coinage and legal tender; foreign exchange.
- Entry 41: Trade and commerce with foreign countries; import and export across customs frontiers; definition of customs frontiers.
- Entry 42: Inter-State trade and commerce.
- Entry 51: Establishment of standards of quality for goods to be exported out of India or transported from one State to another.
- Entry 59: Cultivation, manufacture and sale for export of opium.
- Entry 83: Duties of customs, including export duties.
- Entry 84: Duties of excise on goods manufactured or produced in India (with certain exceptions).
- Entry 87 & 88: Duties and succession taxes on property other than agricultural land.
- Entry 91: Stamp duties on instruments such as bills of exchange, cheques, letters of credit, and share transfers.
- Entry 92A: Taxes on the sale or purchase of goods (excluding newspapers) in the course of inter-State trade or commerce.
- Entry 92B: Taxes on consignment of goods in the course of inter-State trade or commerce.

These entries collectively provide the constitutional foundation for the Union Government's exclusive jurisdiction over critical aspects of foreign trade policy, including customs administration, inter-State commerce, taxation, and quality control for exports. This centralized legislative control ensures uniformity in trade regulations across the country and aligns India's trade governance with its international obligations.

The State List (List II) in the Seventh Schedule of the Constitution of India confers exclusive powers upon the State Legislatures to enact laws on subjects enumerated therein. In the context of trade and commerce, particularly with reference to export and import at the sub-national level, the following entries are pertinent:

- Entry 26: Trade and commerce within the State, subject to the provisions of Entry 33 of List III.
- Entry 52: Taxes on the entry of goods into a local area for consumption, use, or sale therein.

These provisions empower State Governments to regulate internal trade activities within their respective territories and to levy entry taxes on goods brought into local jurisdictions for specified purposes. Such powers ensure that States maintain a degree of fiscal and administrative control over local trade dynamics, independent of Union oversight.

The Concurrent List (List III) outlines subjects over which both Parliament and State Legislatures may exercise legislative authority. With regard to foreign trade, the following entries assume significance:

- Entry 19: Drugs and poisons, subject to the provisions of Entry 59 of List I with respect to opium.
- Entry 33: Trade and commerce in, and the production, supply, and distribution of—

a) Products of any industry where Union control has been declared by Parliament to be expedient in the public interest, including imported goods of the same kind.

b) Foodstuffs, including edible oilseeds and oils.

c) Cattle fodder, including oilcakes and other concentrates.

d) Raw cotton, whether ginned or unginned, and cotton seed.

e) Raw jute.

These concurrent powers facilitate a shared legislative framework, enabling both levels of government to coordinate policy on the regulation of essential commodities and industrial goods that may also involve import or export considerations.

While facilitating the smooth exchange of imports and exports is vital to national economic development, it must be executed with due regulatory oversight to prevent distortions or imbalances in the domestic economy. In recognition of this necessity, the Foreign Trade (Development and Regulation) Act, 1992 was enacted to replace the earlier Imports and Exports (Control) Act, 1947, thereby equipping the Central Government with comprehensive authority to supervise and manage India's external trade regime within the bounds of the constitutional distribution of powers.[7]

IMPORT AND EXPORT

The Custom Act 1962 give the definition of import and import

As per Section 2(23) of the Act "Import", refers to the action of bringing goods into India from a location outside the country.

As per Section 2(18) of the Act "Export," along with its grammatical variations and related expressions, signifies the act of transporting goods from India to a destination outside the country.[8]

In our country, the regulation of import and export activities is governed by the Foreign Trade (Development and Regulation) Act, 1992, replacing the Imports and Exports (Control) Act, 1947, which gave the Indian Government power to control import and export

In addition to the Foreign Trade (Development and Regulation) Act, several other laws govern the import and export of specific goods in India. These include:

Tea Act, 1953.

Coffee Act, 1942.

The Rubber Act, 1947.

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[7] Amudha Mony, State Control on Export, and Import of Goods, https://www.scribd.com/document/412156743/State-Control-on-Export-and-Import-of-Goods

[8] The customs Act 1962, https://lddashboard.legislative.gov.in/sites/default/files/A1962-52.pdf

The Marine Products Export Development Authority Act, 1972.[9]

RESTRICTION AND PROHIBITION ON IMPORTS AND EXPORTS [10]

The supervision of goods imported into India is managed by the Import Trade Control Organization, operating under the Ministry of Commerce. The Director-General of Foreign Trade, based in New Delhi, oversees this organization and is supported by Additional and Joint Directors General, as well as other licensing authorities at different locations. The existing import policy is encapsulated in the Export and Import Policy book issued by the DGFT.

CUSTOMS ACT 1962[11]

The Customs Act, 1962 serves as a key instrument in regulating international trade in India. Its primary objectives include:

1. Regulating cross-border trade: It provides the legal framework for monitoring the import and export of goods to ensure lawful trade practices.

2. Protecting domestic industries: By imposing customs duties and anti-dumping measures, the Act safeguards local industries from unfair foreign competition.

3. Revenue generation: Customs duties collected under the Act contribute significantly to the government's indirect tax revenue.

4. Supporting allied laws: The Act operates in conjunction with other trade laws such as the FTDR Act and FEMA, ensuring cohesive regulation of foreign trade and foreign exchange.

IMPORT RESTRCTION

Statutory Provisions under the Customs Act, 1962

SECTION 12(1)

[9] Supra 1
[10] Ms Kiran https://saspublishers.com/media/articles/SJEBM_28A811-815.pdf
[11] Customs Act 1962, (2022), https://taxinformation.cbic.gov.in/content/html/tax_repository/customs/acts/1962_custom_act/documents/Customs_Act__1962_30-March-2022.html

Section 12(1) of the Customs Act, 1962 serves as the charging section for the imposition of customs duties in India. It empowers the Central Government to levy customs duty on all goods imported into or exported out of India, subject to exemptions and provisions contained in the Act and allied rules.

In addition to the charging provision, the Act confers rule-making and regulatory powers to ensure effective implementation:

Section 156 authorizes the Central Government to make rules consistent with the provisions of the Act. These rules may address procedures, classifications, valuations, and other matters necessary for enforcing the statute.

Section 157 empowers the Central Board of Excise and Customs (CBEC)—now known as the Central Board of Indirect Taxes and Customs (CBIC)—to make regulations for carrying out the purposes of the Act. One such regulation includes the Customs House Agents Regulations, which govern the licensing, conduct, and obligations of customs brokers involved in the clearance of goods.

Together, these provisions form the legal foundation for levying customs duties and managing the customs administration system in India.

IMPORT PROHIBITION

SECTION 11

Section 11 of the Customs Act, 1962 grants the Central Government the authority to prohibit the import or export of specified goods, either absolutely or subject to conditions. This provision plays a crucial role in safeguarding national interests by ensuring that the movement of certain goods across India's borders is appropriately controlled.

Absolute Prohibition:

Under absolute prohibition, the import or export of certain goods is entirely forbidden. There is no legal scope for such goods to enter or exit the country. Common examples include narcotic drugs, arms and ammunition, explosives, counterfeit currency, and live or dead animals or birds, among others. These restrictions are often imposed to protect public order, national security, and moral integrity.

Conditional Prohibition:

Conditional prohibition, on the other hand, allows the movement of goods subject to specific restrictions. For example, goods may be imported for use as raw materials but not for resale in the open market. Similarly, certain agricultural commodities such as turmeric, onion, black pepper, and tea may only be exported after grading or certification by authorised bodies. These conditions help maintain product standards, ensure traceability, and support domestic supply control.

The prohibitions imposed under Section 11 serve multiple public policy objectives, including environmental conservation, health and safety, economic stability, and international treaty compliance. Importantly, the Central Government retains the flexibility to revise or impose new restrictions, allowing trade policy to adapt to evolving national and global circumstances. Thus, Section 11 functions as a powerful policy instrument, enabling the government to regulate trade in alignment with broader strategic, economic, and regulatory goals.

Section 2(33) of the Customs Act, the term includes goods subject to prohibition under the Customs Act or any other law. This means that prohibitions under the Customs Act align with those under other laws in India.

SECTION 11

the provisions of Section 11(2) of the Customs Act, 1962, which outlines various grounds on which the Central Government may impose prohibitions on the import or export of goods.

i) Maintenance of security of India: Prohibitions may be imposed to ensure the security of the country.

ii) Prevention of smuggling: Prohibitions may be in place to prevent illegal smuggling activities.

iii) Conservation of foreign exchange and safeguarding balance of payments: Measures may be taken to manage foreign exchange reserves and balance of payments.

iv) Prevention of serious injury to domestic production of goods: Prohibitions can be employed to protect domestic industries from unfair competition.

v) Protection of national treasures: Measures may be taken to protect culturally or historically significant items.

vi) Maintenance of public order and standards of decency and morality: Prohibitions may be imposed to maintain public order and uphold societal standards.

vii) Protection of IPR (Patent/Trademark/Copyright): Measures may be taken to safeguard intellectual property rights.

viii) Any other matter conducive to the interest of the public: Prohibitions can be imposed for various reasons that serve the broader public interest.

a) Ancient Monument Prevention Act: Prohibits or restricts the export of antiquities.

b) Arms and ammunition: Cannot be imported or exported without the appropriate license.

c) Wildlife Act: Prohibits certain exports, such as 'red sandalwood,' which is used in Middle East countries for making musical instruments.

d) Environment Protection Act: Prohibits the export of certain items, likely those that have environmental implications.

These laws collectively work to regulate trade in accordance with various national interests, including security, environmental protection, cultural heritage preservation, and economic considerations.[12]

Customs authorities play a crucial role in enforcing trade regulations, ensuring compliance with prohibitions, and safeguarding national interests, such as security, public health, and economic stability. The penalties for smuggling or violating customs regulations are in place to deter illegal activities and maintain the integrity of the customs process.

[12] Editor2, Export Restriction and Prohibition under Customs Act, 1962, (2023) https://taxguru.in/custom-duty/import-export-restrictions-prohibitions-under-customs-act-1962.html#google_vignette

Importers and exporters are expected to adhere to the laws and regulations governing international trade. Non-compliance can result in serious consequences, including legal actions, fines, and the forfeiture of goods. This regulatory framework is designed to strike a balance between facilitating legitimate trade and preventing illicit activities that could harm national interests.

CONFISICATION

Confiscation, as implied by its definition, refers to the appropriation of property because of seizure

Section 111 of the Customs Act provides for the confiscation of goods that are improperly imported. This includes goods brought from a place outside India.

Specifically, Section 111(d) states that any goods imported or attempted to be imported, or brought within Indian Customs waters for the purpose of being imported, contrary to any prohibition imposed by the Customs Act or any other law in force, shall be liable for confiscation. After confiscation, the property of the confiscated goods vests with the Central Government.

Section 113 of the Customs Act deals with the confiscation of goods that are attempted to be improperly exported.

Section 113(d) specifies that any goods attempted to be exported or brought within the limits of any customs area for the purpose of being exported contrary to any prohibition imposed by the Customs Act or any other law in force shall be liable for confiscation, after confiscation, the property of the confiscated goods vests with the Central Government.

The provisions under Sections 111 and 113 are crucial tools for customs authorities to enforce compliance with import and export regulations.

Confiscation acts as a deterrent against illegal activities, such as attempting to import or export goods in violation of the law, and helps maintain the integrity of the customs process. The vesting of confiscated property with the Central Government is a legal consequence designed to prevent the wrongful use of such goods.

SCOMET (Special Chemicals, Organisms, Materials, Equipment, and Technologies) [13]

Objective: SCOMET restrictions aim to prevent the proliferation of dual-use items with civilian and military applications, ensuring national security.

Dual-Use Items: SCOMET covers a wide range of items applicable to both civilian and defence sectors, such as special chemicals, organisms, materials, equipment, and technologies.

SCOMET List: A detailed catalogue classifies items into categories, regularly updated to reflect technological changes and international security considerations.

Licensing Requirements: Importers and exporters must obtain specific licenses to control the movement of sensitive technologies, with unauthorized trade strictly prohibited.

Foreign Trade Policy (FTP): SCOMET operates within India's broader Foreign Trade Policy, outlining strategies for regulating foreign trade, including controlled export and import.

International Alignment: India actively aligns its SCOMET list with international standards through participation in Multilateral Export Control Regimes, promoting responsible trade practices globally.

Penalties for Non-Compliance: Violating SCOMET restrictions can lead to severe penalties, including fines, license cancellations, and prosecution under the Foreign Trade (Development & Regulation) Act.

DGFT and IMWG: The Directorate General of Foreign Trade (DGFT) and an Inter-Ministerial Working Group (IMWG) play central roles in processing SCOMET licenses, ensuring comprehensive reviews, including national security perspectives.

In summary, SCOMET restrictions create a robust regulatory framework, balancing legitimate trade facilitation with preventing the misuse of sensitive technologies, ultimately safeguarding national security

[13] Suresh Varanasi, Sagnik Chatterjee and Suhail Bansal, India’s Export Control- The SCOMET List (2019) https://www.mondaq.com/india/export-controls--trade--investment-sanctions/856098/indias-export-control--the-scomet-list

COFEPOSA1974[14] CONSERVATION OF FOREIGN EXCHANGE AND PREVENTION OF SMUGGLING ACTIVITIES ACT 1974

COFEPOSA was enacted in 1974 during a period of economic challenges in India when the foreign exchange position was problematic, and smuggling was perceived as a significant issue

Relevance in the Context of Liberalization: The statement suggests that with the liberalization of the Indian economy in recent years, the significance of COFEPOSA has diminished. Liberalization may have resulted in changes to economic policies and reduced the need for strict measures against smuggling and foreign exchange conservation.

Executive Powers and Criticism: COFEPOSA grants broad powers to the executive to detain individuals based on mere suspicion of smuggling. It draws a comparison with the Terrorist and Disruptive Activities (Prevention) Act (TADA), highlighting concerns about draconian provisions. TADA allowed for the imprisonment of individuals based on possession of illegal weapons and associations with certain elements without direct evidence of terrorist activities.

Constitutional Protection: The statement notes that COFEPOSA has been given special protection by being included in the 9th schedule of the Indian Constitution.

It is essential to recognize that discussions around laws like COFEPOSA and TADA often involve balancing the need for national security and public order against the protection of individual liberties. The inclusion of COFEPOSA in the 9th schedule indicates an attempt to shield it from certain legal challenges.

Validation of COFEPOSA Sections: The statement mentions that the validity of COFEPOSA, particularly Section 5A and the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act 1976 (SAFEMA), has been upheld by the Supreme Court in the case of Attorney General of India v. Amaratlal Prajivandas. The fact that it was a 9-member bench Supreme Court order underscores the significance of this legal validation.

Authority of Government Officers: According to the provisions of COFEPOSA, a government officer, not below the rank of Joint Secretary in the case of the central government and Secretary

[14] CS Deepak Pratap Singh, COFEPOSA, 1974 (2016) https://taxguru .in/corporate-law/facts-related-cofeposa-1974.html

in the case of the state government, who is specifically authorized, can order the detention of a person. The detention aims to prevent actions prejudicial to the conservation or augmentation of foreign exchange, prevent smuggling, abetting smuggling of goods, or dealing with smuggling goods. If a state government officer orders detention, it should be reported to the central government within 10 days.

Appropriate Government and Advisory Board: The definition of the "Appropriate Government" is highlighted, indicating that the central government is the appropriate government when the detention is ordered by the central government and vice versa for the state government. The significance lies in the fact that the appropriate government has the responsibility to make a reference to the advisory board formed for COFEPOSA and take action as per the board's decision.

Powers of the Appropriate Government: The appropriate government, as defined in COFEPOSA, has the authority to revoke detention, release a person temporarily, and exercise other powers in the process.

These details shed light on the legal mechanisms and authorities involved in the implementation of COFEPOSA, emphasizing the delicate balance between protecting individual rights and ensuring national security interests. The involvement of an advisory board adds a layer of oversight to the process.

SAFEMA 1976[15] SMUGGLERS AND FOREIGN EXCHANGE MANIPULATORS (FORFEITURE OF PROPERTY) ACT, 1976

(SAFEMA), which is relevant to COFEPOSA

Applicability of SAFEMA: SAFEMA applies to persons convicted under the Customs Act and the Foreign Exchange Regulation Act (FERA). It also applies to those detained under COFEPOSA, which is the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act.

[15] Khushi Rastogi, all you need to know about Smugglers and Foreign Exchange Manipulators Act, 1976, (2020), https://www.lawinsider.in/columns/all-you-need-to-know-about-smugglers-and-foreign-exchange-manipulators-act1976

Purpose of SAFEMA: The primary purpose of SAFEMA is to forfeit the illegally acquired properties of smugglers and foreign exchange manipulators.

Conditions for Forfeiture: The statement indicates that under SAFEMA, property can be forfeited merely on the ground that a person is detained under COFEPOSA. However, in the case of customs and FERA, property can be forfeited only if a person is convicted under these Acts.

Appellate Tribunal: SAFEMA establishes an appellate tribunal for the purpose of handling matters related to the forfeiture of properties.

Comparison with COFEPOSA: COFEPOSA is described as a dreaded act similar to TADA (Terrorist and Disruptive Activities (Prevention) Act). COFEPOSA allows the detention of a person even without a charge, and the powers it grants are considered extraordinary.

Judicial Scrutiny: Given the extraordinary powers conferred by COFEPOSA, the statement mentions that courts are generally strict about the conditions prescribed for detention

The connection between COFEPOSA and SAFEMA is evident in their shared objective of dealing with individuals involved in smuggling and foreign exchange manipulation. SAFEMA, through the forfeiture of properties, serves as a mechanism to penalize individuals engaged in such activities, whether they are convicted under customs and FERA or detained under COFEPOSA. The establishment of an appellate tribunal adds a layer of oversight to the process.

FTDR 1992[16] FOREIGN TRADE (DEVELOPMENT AND REGULATION) ACT

The salient features of the Foreign Trade (Development and Regulation) Act, commonly known as the FTDR Act.

Objective of the FTDR Act: The FTDR Act is designed to develop and regulate foreign trade by facilitating imports into India and augmenting exports from India, along with addressing matters connected therewith.

[16] THE FOREIGN TRADE (DEVELOPMENT AND REGULATION) ACT, 1992, https://www.indiacode.nic.in/bitstream/123456789/1947/3/A1992-22.pdf

Empowerment of the Central Government: The Act empowers the Central Government to make provisions for the development and regulation of foreign trade, encompassing both imports and exports.

Control over Exports and Imports: The Central Government has the authority to prohibit, restrict, and regulate exports and imports, either universally or in specified cases, and can subject them to exemptions.

Formulation of Export and Import (EXIM) Policy: The Act grants the Central Government the power to formulate and announce an Export and Import (EXIM) Policy. The EXIM Policy can be amended from time to time through notifications in the Official Gazette.

Appointment of Director General of Foreign Trade: The Act provides for the appointment of a Director General of Foreign Trade by the Central Government. The Director General is tasked with advising the Central Government in formulating export and import policies and implementing them.

Importer Exporter Code (IEC): Every importer and exporter is required to obtain an 'Importer Exporter Code Number' (IEC) from the Director General of Foreign Trade or an authorized officer.

Suspension or Cancellation of License: The Director General or any other authorized officer has the authority to suspend or cancel a license issued for the export or import of goods under the Act. However, such actions are taken after giving the licensee holder a reasonable opportunity to be heard.

The FTDR Act, with its provisions, aims to create a regulatory framework that fosters foreign trade, facilitates imports, and exports, and ensures proper control and regulation for the benefit of the national economy. The emphasis on obtaining an IEC and the authority to formulate policies and control trade activities are integral aspects of the legislation.

Penalties and appeal procedures under the Foreign Trade (Development and Regulation) Act (FTDR Act)

Penalty for Violations: Export or import in violation of the provisions of the FTDR Act, rules, or policies is considered an offense. A penalty of up to five times the value of the goods can be imposed for such violations. Contravening goods and the conveyance carrying the goods are liable to confiscation.

Confiscation and Redemption: Confiscated goods and conveyances can be released by paying redemption charges equal to the market value of such goods or conveyance.

Exception for Conveyance: Conveyances may not be confiscated if the owner proves that the conveyance was used without his knowledge or if he took reasonable precautions against its misuse.

Authority to Impose Penalty and Confiscation: Penalty and confiscation can be ordered by the "Adjudicatory authority."

Appeal Process: An appeal can be made against the order of the Directorate General of Foreign Trade (DGFT) for refusing, suspending, or cancelling code numbers or licenses, or imposing a penalty. The appeal must be filed within 45 days with the prescribed authority. The appeal can generally be filed only on payment of the imposed penalty, unless the appellate authority dispenses with such a pre-deposit (Section 15 of FTDR).

Central Government's Revision Powers: The Central Government has the authority to call and examine any records and pass revision orders in specific cases (Section 16 of the Act).

These provisions underscore the regulatory and enforcement aspects of the FTDR Act, ensuring compliance with foreign trade regulations. The penalties and appeal mechanisms are in place to maintain discipline and accountability in foreign trade activities and to address any violations promptly.

EXEMPTION FROM RESTRICTION [17]

Imports and exports that are exempted from certain restrictions and provisions under the Foreign Trade (Development and Regulation) Act (FTDR Act) and the Foreign Trade (Regulation) Rules, 1993.

[17] Foreign Trade (Exemption from application of Rule in certain cases, 2017, https://content.dgft.gov.in/Website/ftdr-order-93.pdf

Imports Exempted from FTDR Act Restrictions:

1. Imports by Central or State Government: Goods imported by the Central or State Government are exempted from the import restrictions contained in the FTDR Act.

2. Imports by Statutory Corporations: Statutory corporations are also exempted from import restrictions under the FTDR Act.

3. Transshipments: Transshipments, which involve the shipment of goods between one country and another via a third country, are exempted from import restrictions.

4. Baggage Imported as per Baggage Rules: Goods imported as baggage, following the relevant baggage rules, are exempted from import restrictions.

5. Goods in Transit: Goods in transit, passing through the country without being subjected to its customs duties, are exempted from import restrictions.

6. Goods Imported by UN or Ford Foundation: Goods imported by the United Nations (UN) or the Ford Foundation are exempted from import restrictions.

7. Import from Exhibitions: Goods imported for exhibitions are exempted from import restrictions under the FTDR Act.

Exports Exempted from Foreign Trade (Regulation) Rules, 1993:

1. Exports by Central/State Governments: Goods exported by the Central or State Governments are exempted from the provisions of the Foreign Trade (Regulation) Rules, 1993.

2. Goods as Ships Stores: Goods exported as ship stores, which are items used and consumed aboard a vessel, are exempted from the rules.

3. Goods in Transit: Similar to imports, goods in transit for export are exempted from the provisions of the Foreign Trade (Regulation) Rules, 1993.

In essence, these exemptions recognize certain categories of transactions that, due to their nature or the entities involved, are not subjected to the usual import restrictions or regulatory provisions to facilitate smoother operations and transactions.

FERA AND FEMA[18]

FERA - FOREIGN EXCHANGE REGULATION ACT

Initially, it was implemented as a temporary measure to control the flow of foreign exchange. In 1957, it was made a permanent act. The context for such regulations emerged as industrialization in India increased, leading to a rise in foreign exchange investments. Consequently, there was a need to safeguard these investments.

In response to the changing economic landscape, FERA underwent an amendment in 1973. The amendments aimed to adapt the regulations to the evolving economic scenario and were characterized by the removal of the very strict laws present in the original version of FERA.

Section 18 of FERA was particularly significant, as it dealt with the export of goods. This section was comprehensive and lengthy, constituting a complete code that covered various aspects of exports, including the repatriation of export proceeds. Notably, Section 18(3) included an adverse presumption about the exporter, assuming that the exporter had not taken reasonable steps to repatriate the export proceeds unless proven otherwise.

FEMA[19] [20]THE FOREIGN EXCHANGE MANAGEMENT ACT 1973

It was indeed a significant piece of legislation that regulated foreign exchange transactions in India. In 1993, as part of the economic liberalization process, the government reviewed and made changes to FERA.

The liberalization measures included reforms in foreign investment and trade policies. Post-1993, there was notable growth in India's foreign exchange reserves, foreign trade, tariff realization, liberalization in investment, and increased access to external commercial borrowing by Indian companies.

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[18] FERA and FEMA- Difference, definition, and Objective in deatil,2023, https://testbook.com/ias-preparation/difference-between-fera-and-fema

[19] TG Team, FEMA- "Ser-off" of export receivables against import payables-liberalization of procedure (2011), https://taxguru.in/rbi/fema-setoff-export-receivables-import-payables-liberalization-procedure.html#google_vignette

[20] Mahi Yadav, "Export of Goods and Services Under Fema" -II (2024) https://www.taxmann.com/research/fema-banking-insurance/top-story/105010000000023662/export-of-goods-services-under-fema-ii-experts-opinion

Subsequently, recognizing the need for a more modern and flexible framework, the government repealed FERA and introduced the Foreign Exchange Management Act (FEMA) in 1999. FEMA aimed to facilitate external trade and payments and promote orderly development and maintenance of the foreign exchange market in India.

FEMA provided a more contemporary and liberalized regulatory framework, aligning with the broader economic reforms, and opening up of the Indian economy to global markets. The shift from FERA to FEMA reflected the government's commitment to creating a more conducive environment for foreign exchange transactions and international trade.

Section 7 of FEMA - Export of Goods and Services:

Section 7(1) - Export of Goods:

(a) Declaration to Reserve Bank or Other Authority: Exporters of goods must provide a declaration to the Reserve Bank or another specified authority. The declaration should be in the prescribed form and manner, containing accurate particulars, including the full export value of the goods or an estimated value based on prevailing market conditions. (b) Furnishing Additional Information: Exporters are required to furnish any other information as demanded by the Reserve Bank to ensure the realization of export proceeds.

Section 7(3) - Export of Services: Exporters of services must furnish true and correct particulars related to the payment for such services in the prescribed format.

Section 13 of FEMA - Penalties:

Section 13(1):

Contravention of Provisions:

If any person contravenes the provisions of the Act, rules, regulations, notifications, or conditions of the Reserve Bank of India (RBI):

a) Quantifiable Violation: The person, upon adjudication of the contravention, is liable to pay a penalty up to three times the sum involved (if quantifiable).

b) Non-Quantifiable Violation: A penalty of up to two lakh rupees may be imposed if the contravention is not quantifiable.

Non-Payment and Civil Imprisonment: If the penalty is not paid by the person, they may be liable to civil imprisonment.

Section 7 and related rules establish the framework for exporters to declare and realize the value of goods and services, with specific forms like SOFTEX for services and procedures for goods exporters, including the potential extension of the realization period under reasonable circumstances.

CHAPTER III

TRANSITION FROM RIGIDITY TO LIBERALIZATION

LIBERALISATION REFORMS FROM RIGIDITY AND EXPORT PERFORMANCE

In the years immediately following independence, India adopted a highly controlled trade regime, primarily aimed at protecting its nascent industries and preserving scarce foreign exchange reserves. The Imports and Exports (Control) Act, 1947 granted the Central Government wide-ranging powers to regulate and restrict international trade. This legislation formed the legal backbone of a protectionist policy framework that aligned with the broader goal of achieving economic self-sufficiency through import substitution.

During this period, trade controls were exercised through import licensing, quantitative restrictions, and high tariff barriers. These measures were designed to curb dependency on foreign goods and foster the growth of indigenous industries.

However, a significant policy shift began to take shape in the early 1990s, particularly during the implementation of the Eighth Five-Year Plan (1992–1997). Recognising the inefficiencies and bottlenecks caused by excessive regulation, India undertook radical liberalization measures. The role of the import and export control system was substantially diminished, with greater emphasis placed on market-driven trade mechanisms, simplification of procedures, and integration into the global economy.

This transformation marked the beginning of India's journey toward a more open, competitive, and globally engaged trade regime, laying the foundation for the regulatory landscape that exists today.[21]

India's transition to a liberalized trade regime was catalyzed by the balance-of-payments crisis of 1991, which exposed deep structural inefficiencies in the protectionist economic model.[22] In the face of dwindling foreign exchange reserves and rising fiscal deficits, the government responded with a series of sweeping reforms. These included the devaluation of the domestic currency, phased reductions in tariff rates, elimination of import quotas, and the opening of the economy to foreign direct investment (FDI) and capital inflows. Public sector reforms also dismantled long-standing protections, increasing private sector participation and enhancing competition in key industrial and financial sectors. The infamous license raj system was gradually dismantled, paving the way for a more transparent and efficient trade environment.

This crisis-driven reform process marked a decisive break from the earlier strategy of import substitution, ushering in a sustained shift toward export promotion. Since the early 1980s—and more definitively post-1991—India embraced the belief that promoting exports would lead to employment generation, higher industrial output, increased foreign exchange earnings, and more efficient utilization of domestic resources.[23]These changes were guided by the broader global liberalization trend, where reducing tariff and non-tariff barriers became essential tools for accelerating economic growth and enhancing the competitiveness of domestic enterprises.

Together, these reforms transformed India's foreign trade policy from one rooted in self-reliance and restriction to a model driven by global integration, market efficiency, and inclusive economic development.[24]

INDIA'S TRADE POLICIES FROM THE PRE-LIBERALIZATION PHASE TO FULL LIBERALIZATION.[25]

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[21] Amit S. Ray, The Enigma of the "Indian Model" of Development, vol 2: CSIC https://unctad.org/system/files/official-document/gdsmdp20152ray_en.pdf

[22] Arvind Panagariya, India's Trade Reform, (2004) Columbia university https://www.brookings.edu/wp-content/uploads/2016/07/2004_panagariya.pdf

[23] Ramesh C. Paudel, Liberalisation reform and export performance of India, (2014) ASARC Working paper. https://crawford.anu.edu.au/acde/asarc/pdf/papers/2014/WP2014_03.pdf

[24] Supra 25

[25] Ms. Kiran Devi, Economic Growth in India: Pre and Post liberalization Era (2015) SJ Eco Bus Manag https://saspublishers.com/media/articles/SJEBM_28A811-815.pdf

India's transformation from a protectionist trade regime to a liberalized and globally engaged economy unfolded in distinct phases, reflecting the gradual easing of state control and a growing alignment with international trade norms.

1. Pre-Liberalization Phase (Rigidity)

This phase was governed by the Imports and Exports (Control) Act, 1947, which granted the Central Government broad powers to regulate, prohibit, and license the import and export of goods. The overarching goal was to conserve foreign exchange, protect domestic industries, and pursue economic self-reliance.

2. Initial Steps Towards Liberalization (Partial Liberalization)

The 1980s marked the beginning of cautious liberalization, with incremental policy changes aimed at simplifying trade procedures and reducing bureaucratic obstacles. These measures were particularly directed toward supporting export-oriented industries, though the broader trade regime remained restrictive.

3. Economic Reforms of 1991 (Structural Liberalization)

The balance-of-payments crisis of 1991 compelled the government to adopt the New Economic Policy, ushering in far-reaching reforms. These included a shift from import substitution to export promotion, devaluation of the rupee, dismantling of the License Raj, and the removal of quantitative restrictions. The enactment of the Foreign Trade (Development and Regulation) Act, 1992 replaced the 1947 legislation and established a legal framework for a more open and liberal trade environment.

4. Moderate Liberalization (Comprehensive Reforms)[26]

Amendments to the Customs Act in 1995 were introduced to simplify customs procedures, reduce paperwork, and bring India's trade practices in line with international standards. The Export-Import (Exim) Policy of 1992–1997 reduced tariffs, eliminated licensing for most goods, and fostered an enabling environment for exporters.

[26] Avigyan Senupata and Saikat Sinha Roy, India's Trade policy: Which way now? JELhttps://www.researchgate.net/publication/324521666_India%27s_Trade_Policy_Which_way_now

5. Extensive Liberalization (Open Market Expansion)

The Exim Policy of 2004–2009 deepened reforms by further simplifying trade procedures, diversifying export markets, and targeting tariff peak reduction. The implementation of the Goods and Services Tax (GST) in 2017 unified the indirect tax regime, significantly improving the ease of doing business, especially in cross-border trade.

6. Full Liberalization (Free Trade Orientation)

The Foreign Trade Policy (FTP) 2015–2020 continued the liberalization trajectory, with policies focused on export competitiveness, global value chain integration, and incentivization through schemes such as the Merchandise Exports from India Scheme (MEIS).

These progressive phases reflect India's evolving trade policy, moving from rigid control to greater openness. However, while liberalization has fostered growth, unregulated trade flows can expose the domestic economy to vulnerabilities. Hence, maintaining a balanced regulatory oversight over imports and exports is vital to safeguarding strategic and economic interests.

In this regard, state-imposed regulations serve as instruments of policy, guiding trade flows to achieve desired social and economic outcomes. Regulations aim to produce or prevent certain effects that would not naturally occur in an unregulated environment, making them crucial tools in aligning trade with broader policy objectives.

CHAPTER IV

CONCLUSION

The Government of India historically implemented stringent measures to control and regulate the import and export of goods until independence. Striking a balance in state control over import and export is crucial. While government intervention can protect domestic industries and ensure national security, excessive control may hinder economic growth and global trade relations FERA was enacted in 1947 as a temporary measure to control the flow of foreign exchange. It became permanent in 1957 but was not in line with the pro-liberalization policies of the 1990s.FEMA was introduced in 1999 to replace FERA, aligning with the changing economic policies and managing foreign exchange. FEMA also covers the regulation of the export of goods and services. The export and import control act was enacted in 1947. It was later repealed by the Foreign Trade (Development and Regulation) Act, 1992. The Customs Act, 1962, empowers the central government to prohibit the import or export of certain goods and imposes duties on the export or import of goods. In conclusion, the legal framework reflects the historical evolution of laws governing foreign exchange, trade, and customs in India. The acts and regulations play a crucial role in regulating and facilitating imports and exports for the economic growth of the country.

Recommendations:

- Implement transparent and predictable trade policies to foster investor confidence.
- Periodically review and update regulations to adapt to changing economic conditions.
- Prioritize collaboration with international partners to negotiate fair trade agreements.
- Focus on capacity building and innovation to enhance domestic competitiveness.
- Ensure effective enforcement of trade laws to prevent illegal practices.

Finding the right equilibrium between state control and free-market principles is essential for maximizing economic benefits while safeguarding national interests

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