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A CRITICAL ANALYSIS OF THE FOREIGN TRADE (DEVELOPMENT AND REGULATION) ACT, 1992

*Anchal Beetan*¹

ABSTRACT

The Foreign Trade (Development and Regulation) Act, 1992 is an important legislation enacted by the Parliament of India to regulate and promote the country's foreign trade. This Act replaced the Imports and Exports (Control) Act, 1947. The present Act empowers the Central Government to formulate foreign trade policies and regulate imports and exports in the interest of the national economy. It also provides for the appointment of the Director General of Foreign Trade, who plays a crucial role in implementing trade policies and ensuring compliance with the trade law.

This research paper critically examines the objectives, provisions, implementation, and effectiveness of the FTDR Act, 1992. It analyses the powers granted to the government, the role of licensing systems, trade restrictions, and enforcement mechanisms. The paper also evaluates the impact of the Act on India's economic development, export growth, and compliance with international trade obligations under the World Trade Organization. The study adopts a doctrinal and analytical approach based on both primary and secondary sources.

The study identifies several strengths of the Act, including trade liberalization, simplification of licensing procedures, and promotion of exports. However, it also highlights weaknesses such as excessive executive discretion, procedural complexities, frequent policy changes, and

¹ LL.M Scholar, Department of Laws, Himachal Pradesh University, Shimla and an Advocate practicing at the High Court of Himachal Pradesh, Shimla

inadequate support for small exporters. The paper concludes with suggestions for reform to improve the existing legal framework regulating foreign trade.

KEYWORDS

Foreign trade, foreign trade policy, WTO, Directorate General of Foreign Trade, Foreign Trade (Development and Regulation) Act, 1992

INTRODUCTION

Foreign trade plays an important role in the development of a nation's economy. It facilitates imports and encourages exports. After the economic reforms of 1991, the earlier import-export law became obsolete and was then replaced by the Foreign Trade (Development and Regulation) Act, 1992.

The Foreign Trade (Development and Regulation) Act, 1992 is a significant piece of legislation enacted by the Parliament of India to regulate and promote the country's foreign trade. Foreign trade, which involves the import and export of goods and services across nations, plays a vital role in the development of a country's economy.

The Foreign Trade (Development and Regulation) Act, 1992 repealed the Imports and Exports (Control) Act, 1947. The present Act empowers the Central Government to formulate foreign trade policies and regulate imports and exports in the interest of the national economy. It also provides for the appointment of the Director General of Foreign Trade, who plays a crucial role in implementing trade policies and ensuring compliance with the trade law.²

The Act made major improvements in the legal framework regulating imports and exports, but despite all, it is criticized for granting broad discretionary powers to the executive, causing policy uncertainty, and creating procedural difficulties for businesses. This paper critically analyses the strengths and weaknesses of the FTDR Act and evaluates its effectiveness in the contemporary global trade environment.

RESEARCH OBJECTIVES

The major objectives of this research paper are:

1. To study the objectives and framework of the Foreign Trade (Development and Regulation) Act, 1992.

² The Foreign Trade (Development and Regulation) Act, 1992, No. 22 of 1992 (Ind.).

2. To analyze the powers and functions of the Central Government and DGFT under the Act.
3. To examine the effectiveness of the Act in promoting exports and regulating imports.
4. To identify the challenges and shortcomings associated with the implementation of the Act.
5. To critically evaluate the impact of the FTDR Act on India's economic development and compliance with the trade obligations under the World Trade Organization.
6. To provide suggestions for improving the regulatory framework governing foreign trade in India.

RESEARCH METHODOLOGY

This research paper is doctrinal and analytical in nature. The study is based on both primary and secondary sources, including Statutory provisions of the Foreign Trade (Development and Regulation) Act, 1992, Government reports and policy documents, Judicial decisions and legal commentaries, Research articles, journals, and online databases, WTO, and trade policy documents. The methodology involves critical examination and interpretation of statutory provisions, policy implementation, and judicial developments related to foreign trade regulation in India.

HISTORICAL BACKGROUND

The development of foreign trade regulation in India has evolved significantly over time. It shows how India's economic policies and priorities changed. Before independence, trade was largely governed by colonial interests, with minimal focus on national economic development.³

After independence, India adopted a policy of economic reliance, leading to a highly controlled regime. The primary legislation governing foreign trade at that time was the Imports and Exports (Control) Act, 1947, which gave extensive powers to the government to restrict and regulate imports and exports through a licensing system. This approach aimed to conserve foreign exchange and protect domestic industries but resulted in excessive bureaucracy and limited trade growth.⁴

By the late 1980s and early 1990s, it became evident that the existing system was inadequate in the context of a rapidly globalizing world. India faced a severe balance of payments crisis in

³ Namiti Pall and Ruchi Kaushik, *Foreign Trade Development and Regulation Act, 1992* 6 INTERNATIONAL JOURNAL FOR MULTIDISCIPLINARY RESEARCH 1, 3 (2024).

⁴ Id.

1991, which led to a major economic reform and the shift towards liberalization, privatization, and globalization.⁵

In this new economic environment, there was a need to replace the rigid and control-oriented framework with a more flexible and development-focused law. Consequently, the Foreign Trade (Development and Regulation) Act, 1992 was enacted to facilitate imports and the growth of exports, simplify the procedures and related matters. The Act replaced the Imports and Exports (Control) Act, 1947.⁶

ANALYSIS AND DISCUSSION

SALIENT FEATURES OF THE FOREIGN TRADE (DEVELOPMENT AND REGULATION) ACT, 1992

The salient features of the Foreign Trade (Development and Regulation) Act, 1992 are as follows:

1. Objective of the Act: The Foreign Trade (Development and Regulation) Act, 1992 was enacted to facilitate imports and augment exports from India. It empowers the Central Government to regulate foreign trade by making provisions for the development and regulation of foreign trade, including the imposition of quantitative restrictions and the issuance of licenses for imports and exports. The Act came into force on 19th June 1992, and Sections 11 to 14 came into effect immediately.⁷
2. Powers of Central Government: Section 3 of the Act gives the Central Government the powers:
 - a) To issue an order published in the official gazette to provide for the development and regulation of foreign trade by facilitating imports and increasing exports.
 - b) To issue an order published in the official gazette to prohibit, restrict, or otherwise regulate the import or export of goods, services, or technology. This power can be applied to all or certain classes of cases.⁸
3. Foreign Trade Policy: Section 5 states that the Central Government may formulate and announce a foreign trade policy through a notification published in the official gazette. The government may also amend policy from time to time in the same manner.⁹

⁵ Id.

⁶ Id.

⁷ The Foreign Trade (Development and Regulation) Act, 1992, No. 22 of 1992 (Ind.).

⁸ Id., S 3.

⁹ Id., S 5.

4. Appointment and Role of the Director General of Foreign Trade: Section 6 of the Act provides for the appointment of the Director General of Foreign Trade, who acts as a key authority for the implementation of the Act. DGFT advises the government on trade-related matters and ensures that the policies are framed and properly executed. The government may appoint other officers to assist in carrying out these functions.¹⁰
5. Licensing and authorization system: The Act introduces a system of licensing and authorization under Section 9 to regulate certain imports and exports. This ensures that restricted goods are traded only with proper permission and in accordance with legal requirements. The authority also has the power to suspend or cancel licenses in case of non-compliance.¹¹
6. Power to issue notifications and orders: The Central Government is empowered to issue orders and notifications for the effective regulation of foreign trade. This flexibility allows the government to modify rules and procedures as per the needs of the economy and the international trade environment.¹²
7. Penalties for contravention: Section 11 of the Act provides for penalties in cases where its provisions are violated. Any person who engages in illegal import or export or fails to comply with the conditions of a license may be subject to fines or other legal consequences.¹³
8. Adjudication of penalties: The Act lays down an adequate mechanism for adjudication under Section 13. Competent authorities are appointed to conduct inquiries and determine whether any violation has occurred before imposing penalties.¹⁴
9. Appeal Mechanism: Section 15 provides for the right to appeal against the orders of the adjudicating authority. This allows aggrieved parties to seek review of orders.¹⁵
10. Revision power of the Government: Under Section 16, the Central Government has the authority to revise decisions made by subordinate authorities. This provision helps in correcting errors.¹⁶
11. Protection of action taken in good faith: Section 17 protects government officials from legal action for acts done in good faith under the Act. This enables them to perform

¹⁰ Id., S 6.

¹¹ Id., S 9.

¹² The Foreign Trade (Development and Regulation) Act, 1992, No. 22 of 1992, (Ind.).

¹³ Id., S11.

¹⁴ Id., S13.

¹⁵ Id., S15.

¹⁶ Id., S16.

their duties without fear, provided their actions are honest and within the scope of the law.¹⁷

12. Delegation of powers: The Act allows the Central Government to delegate its powers to DGFT and other officers under Section 6(3). This ensures smooth administration and efficient implementation of trade policies.¹⁸

POWERS OF THE CENTRAL GOVERNMENT

The Act confers a wider range of powers upon the Central Government to regulate, control, and promote foreign trade in India. The following are the powers of the Central Government as provided under the Foreign Trade (Development and Regulation) Act, 1992:

1. Power to make provisions relating to import and export: Section 3 empowers the Central Government to make provisions for the development and regulation of foreign trade. It authorizes the Government to prohibit, restrict, or otherwise regulate the import and export of goods, services, or technology in the public interest.¹⁹
2. Power to formulate foreign trade policy: Section 5 states that the Central Government has the authority to formulate and announce the foreign trade policy. It can also amend or modify the policy as required.²⁰
3. Power to appoint Director General of Foreign Trade: Section 6 allows the Central Government to appoint the Director General of Foreign Trade and other officers. It also enables the delegation of powers to these authorities, ensuring efficient implementation of trade policies and smooth administration.²¹
4. Power to grant, suspend, or cancel license: Section 9 provides that the central government may require licenses or authorization for the import or export of goods. It also has the power to suspend or cancel such licenses in case of non-compliance with provisions of the Act.²²

¹⁷ Id., S17.

¹⁸ Id., S6(3).

¹⁹ Id., S3.

²⁰ Id., S5.

²¹ Id., S6.

²² Id., S9.

5. Power to impose quantitative restrictions: Section 9A empowers the central government to impose quantitative restrictions on imports if it is necessary to safeguard the balance of payments or protect domestic industries.²³
6. Power relating to search and seizure: Section 10 empowers the central government to authorize any person to conduct a search, seizure, and inspection in cases where there is suspicion of a violation of the Act.²⁴
7. Power to exempt application of Chapter IVA of the Act: Under Section 14A (3), the central government may direct that the provisions of Chapter IVA shall not apply to any goods, services, or technologies, or to not apply with such exceptions, modifications, and adaptations.²⁵
8. Power to control transfer of specified goods, services, and technology: Section 14B (1) empowers the central government with the power to control export of specified goods, services, and technology. The Weapon of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005 shall apply to the exports, transfers, re-transfers, brought-in-transit, transshipment of, and brokering in specified goods, technology, or services.²⁶
9. Power of Revision: Section 16 allows central government to revise any order passed by subordinate authorities, that is Director General. The government may call for records of any proceedings and examine them to check for the correctness, legality, and propriety of such a decision or order.²⁷
10. Power to make rules: Section 19 empowers the central government to make rules for carrying out the provisions of the Act. The rules and orders made under the Act by the central government are to be laid down before each house of parliament as per the provisions of the Act.²⁸

DIRECTOR GENERAL- APPOINTMENT AND FUNCTIONS

Definition: Section 2(d) states that 'Director General' means the Director General of Foreign Trade appointed under Section 6.²⁹

²³ Id., S9A.

²⁴ Id., S10.

²⁵ Id., S14A (3).

²⁶ Id., S14B (1).

²⁷ Id., S16.

²⁸ Id., S19.

²⁹ Id., S2(d).

Appointment: Section 6(1) empowers the Central Government to appoint any person to be the Director General of Foreign Trade.³⁰

Functions: The following are the functions of the Director General of Foreign Trade:

1. The Director General shall advise the Central Government in formulation of Foreign Trade Policy and shall be responsible for carrying out that policy.
2. The Central Government may delegate its power to Director General or his subordinates under Sections 3, 5, 15, 16, and 19.
3. The Director General of Foreign Trade is responsible for issuing, modifying, suspending, or canceling licenses and authorization required for imports and exports.
4. DGFT monitors and regulates trade by ensuring compliance with the Act and the foreign trade policy.
5. DGFT is also responsible for executing powers delegated by the Central Government.
6. DGFT carries out the implementation process of orders or notifications of the Central Government.
7. DGFT grants the importer-exporter code number. Next, he has the power of revision under Section 16 of the Act.
8. DGFT also acts as an adjudicating authority.³¹

IMPORTER-EXPORTER CODE NUMBER AND LICENSE

Sections 7 to 9 in Chapter III of the Act deals with Importer-Exporter Code Number and Licenses.

Section 2(f) defines 'Importer-Exporter Code Number' as the code number granted under Section 7.³²

Section 2(g) defines 'License' means a license to import or export and includes custom clearance, permit and any other permission issued or granted under this Act.³³

Section 7: Importer-Exporter Code Number

³⁰ Id., S6(1).

³¹ The Foreign Trade (Development and Regulation) Act, 1992, No. 22 of 1992, (Ind.).

³² Id., S2(f).

³³ Id., S2(g).

No person shall make import or export except under an Importer-Exporter Code Number granted by the Director General or an officer authorized by DGFT.

Proviso: In case of import or export of services or technology, obtaining IEC No. is required only when

- a) The service provider or technology provider is availing benefits under the Foreign Trade Policy, or
- b) The provider is dealing with specified services or specified technologies.³⁴

Section 8: Suspension and Cancellation of Importer-Exporter Code Number.

The DGFT or an authorized officer may suspend or cancel the Importer-Exporter Code Number after calling for records or information, and after following due procedure, if any, of the following situations occur:

- a) Person has:
 - i. violated provisions of this Act, rules, orders, or foreign trade policy, or
 - ii. violated any law relating to central excise, customs, or foreign exchange, or
 - iii. committed any other economic offense under a law specified by the Central Government.
- b) DGFT or an authorized officer has reason to believe that a person has conducted imports or exports in a manner:
 - i. prejudicial to India's trade relations with any foreign country, or
 - ii. harmful to the interest of other persons engaged in import or export, or
 - iii. bringing disrepute to the credit, goods, services or technology of India.
- c) Person importing or exporting specified goods, services or technology has violated provisions of this Act, rules, orders or foreign trade policy.³⁵

Procedure before suspension or cancellation:

- i. Written notice to person, stating grounds of proposed action,
- ii. a reasonable opportunity for filing written submission, and

³⁴ Id., S7.

³⁵ Id., S8.

iii. a reasonable opportunity of being heard.

Effect: Person cannot carry import or export if license cancelled or suspended as the case may be.³⁶

Section 9: Issue, suspension and cancellation of license.

The Central Government may prescribe fees for applications for license, certificate, script, or any instrument bestowing financial or fiscal benefits, also for grants and their renewals. The DGFT or officer authorized may grant, renew, or refuse licenses for import or export after inquiry and reasons must be recorded in case of refusal. Every license must be in prescribed form, valid for a specified period, and subject to conditions. The DGFT may suspend or cancel a license for valid reasons after giving the holder an opportunity of being heard. Any person aggrieved by such decision has the right to appeal under section 15.³⁷

CONTROL ON EXPORT OF SPECIFIED GOODS, SERVICES, AND TECHNOLOGY

Chapter IV-A, sections 14A to 14E of the Act, deals with the concept of controls on export of specified goods, services, or technologies.

Section 14A: Controls on export of specified goods, services, and technology

The Weapon of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005, shall apply to exports, transfers, re-transfers, brought-in-transit, transshipment of, and brokering in specified goods, technology, or services. The Central government may exempt certain goods, services, or technology from the application of this Chapter.³⁸

Section 14B: Transfer of Controls

The Central government may make rules in conformity with provisions of The Weapon of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005.³⁹

³⁶ The Foreign Trade (Development and Regulation) Act, 1992, No. 22 of 1992, (Ind.).

³⁷ Id., S9.

³⁸ Id., S14A.

³⁹ Id., S14B.

Section 14C: Catch-all Controls

No person shall export any material, equipment, or technology knowing that such material, equipment, or technology is intended to be used in the design or manufacture of a biological weapon, chemical weapon, nuclear weapon, or other nuclear explosive device, or in their missile delivery system.⁴⁰

Section 14D: Suspension or cancellation of a license

The DGFT or the officer authorized may suspend or cancel a license to import or export of specified goods, services, or technology without giving the holder of the license a reasonable opportunity of being heard, provided such an opportunity must be given within 6 months.⁴¹

OFFENCES AND PENALTIES

Section 11: Contravention of provisions of this Act, rules, orders, and foreign trade policy

If any person makes, abets, or attempts to make any import or export in contravention of the Act, rules, orders, or foreign trade policy, that person may be liable to a penalty of not less than Rs. 10,000, and which may extend to five times the value of goods, services, or technology involved in the contravention.⁴²

Secondly, if any person signs, uses, or causes to be made, signed or used, any declaration, statement, or document to DGFT or authorized officer knowing or having reason to believe that it is forged, tampered with or false is liable for a penalty of not less than Rs. 10,000 and which may extend to five times the value of goods, services or technology involved.⁴³

Thirdly, if a person admits contravention after receiving notice, the authority may determine the amount payable by settlement. The section further provides the modes of recovery in case of non-payment of the penalty. Failure to pay the penalty may lead to suspension of the IEC number till payment or recovery. Things involved in the offence may be confiscated by the authorities.⁴⁴

⁴⁰ Id., S14C.

⁴¹ Id., S14D.

⁴² Id., S 11.

⁴³ Id.

⁴⁴ Id.

Section 14E: Offences and Penalties

Contravention of Chapter IV A will be dealt with, and penalties will be imposed in accordance with the provisions of the Weapons of Mass Destruction and their Delivery System (Prevention of Unlawful Activities) Act, 2005.⁴⁵

CRITICAL ANALYSIS OF THE FOREIGN TRADE (DEVELOPMENT AND REGULATION) ACT, 1992

The Foreign Trade (Development and Regulation) Act, 1992 represents one of the most significant economic legislations enacted after India's liberalization reforms of 1991. The Act aimed to replace the rigid and control-oriented framework of the Imports and Exports (Control) Act, 1947 with a modern system that promotes exports, facilitates imports, and integrates India into the global trading system. Although the Act has contributed substantially to trade liberalization and economic growth, it also suffers from several practical and legal shortcomings.

POSITIVE ASPECTS OF THE ACT

1. Promotion of Trade Liberalization: One of the major achievements of the FTDR Act is that it shifted India's foreign trade policy from excessive governmental control to trade facilitation and liberalization. Earlier, the import-export law⁴⁶ was highly restrictive and dependent on licensing requirements, which gave the authorities excessive power to grant or refuse licenses, causing unnecessary delays. But the Foreign Trade (Development and Regulation) Act reduced unnecessary trade barriers and encouraged businesses to participate in international trade.⁴⁷

The Act enabled India to expand exports significantly and attract foreign investment, which ultimately helped in the overall economic growth of the country. Liberalized trade policies increased competitiveness in Indian industries and improved integration with global markets. This transformation was essential for India's economic modernization when India was facing economic crises.⁴⁸

2. Flexibility in Policy Formulation: The Act grants the Central Government power under Section 5 to formulate and amend the Foreign Trade Policy according to changing economic

⁴⁵ Id., S14E.

⁴⁶ The Imports and Exports (Control) Act, 1947, No. 18 of 1947 (Ind.).

⁴⁷ The Foreign Trade (Development and Regulation) Act, 1992, No. 22 of 1992, (Ind.).

⁴⁸ Id.

conditions. This flexibility enables the government to respond quickly to international trade developments, economic crises, balance of payment issues, and geopolitical concerns.⁴⁹

For example, the government can modify export incentives, impose temporary restrictions, or regulate strategic goods whenever necessary in public interest. Such flexibility is important in the rapidly changing global trade environment.

3. Strengthening of Institutional Mechanism: The establishment and strengthening of the Directorate General of Foreign Trade under Section 6 improved the administration of foreign trade. DGFT acts as a specialized authority responsible for implementing trade policies, granting licenses, monitoring compliance, and assisting exporters.⁵⁰

Over time, DGFT introduced digital systems for registration, licensing, and documentation, which reduced procedural delays and increased efficiency. Online filing systems and electronic issuance of Importer-Exporter Code Numbers simplified business operations.⁵¹

4. Export Promotion: The Act strongly focuses on export promotion. Various export incentive schemes introduced under the Foreign Trade Policy, such as duty exemption schemes, export promotion capital goods schemes, and special economic zone benefits, encouraged Indian exporters.⁵²

As a result, India witnessed considerable growth in sectors such as information technology, pharmaceuticals, textiles, engineering goods, and services exports. The Act helped improve foreign exchange reserves and strengthened India's participation in international trade.⁵³

5. Protection of National Interest: The Act empowers the government to prohibit or restrict imports and exports when necessary for national security, public interest, environmental protection, or international obligations. Provisions relating to strategic goods and weapons of mass destruction under Chapter IV-A are important safeguards against unlawful trade activities.⁵⁴

Such provisions ensure that India fulfills its obligations under international treaties and maintains national security while participating in global commerce.⁵⁵

⁴⁹ Id., S5.

⁵⁰ Id.

⁵¹ Id., S 6.

⁵² Id.

⁵³ Foreign Trade Policy, 2023 (Ind.).

⁵⁴ The Foreign Trade (Development and Regulation) Act, 1992, No. 22 of 1992, (Ind.).

⁵⁵ Id.

CRITICISM AND SHORTCOMINGS OF THE ACT

1. Excessive Executive Discretion: One of the major criticisms of the FTDR Act is the extensive discretionary power granted to the Central Government. Sections 3 and 5 provide broad authority to prohibit, restrict, regulate, or modify imports and exports through notifications and policy changes.⁵⁶

Frequent amendments to trade policies create uncertainty for traders and exporters. Businesses often face difficulties in long-term planning because incentives, restrictions, or licensing conditions may change suddenly. Excessive executive discretion may also lead to arbitrary decision-making.⁵⁷

2. Procedural Complexities: Although the Act aimed to simplify foreign trade regulation, several procedural complexities still exist in practice. Exporters and importers are required to comply with multiple documentation requirements, customs formalities, licensing conditions, and DGFT procedures.⁵⁸

Small and medium enterprises particularly face difficulties in understanding technical regulations and compliance requirements. Delays in approvals, technical errors in digital systems, and bureaucratic processes continue to affect ease of doing business.⁵⁹

3. Frequent Policy Changes

Frequent changes in export-import policies negatively affect business stability. Sudden imposition of export bans, quantitative restrictions, or changes in duty structures may cause financial losses to traders and exporters.⁶⁰

For example, export restrictions on agricultural products or changes in import conditions often create uncertainty in the market. Businesses require predictable and stable policies to compete effectively in international trade.⁶¹

⁵⁶ Id.

⁵⁷ Id.

⁵⁸ Id.

⁵⁹ Id.

⁶⁰ Id.

⁶¹ Id.

4. Inadequate Protection for Small Exporters: Large corporations are generally better equipped to comply with regulatory requirements and absorb policy changes. However, small exporters often struggle due to lack of financial resources, technical knowledge, and legal assistance.⁶²

The Act does not adequately address the unique challenges faced by micro, small, and medium enterprises. Greater support mechanisms, simplified compliance procedures, and awareness programs are needed to encourage participation of smaller businesses in foreign trade.⁶³

5. Overlapping Regulatory Framework: Foreign trade regulation in India involves multiple authorities, including DGFT, Customs Department, Reserve Bank of India, Ministry of Commerce, and other regulatory agencies. This creates overlapping jurisdiction and administrative confusion.⁶⁴

Businesses are often required to obtain approvals from different departments, leading to delays and increased compliance costs. Better coordination between authorities is necessary for effective implementation.

6. Concerns Regarding Natural Justice: Certain provisions of the Act permit suspension or cancellation of licenses without prior hearing in exceptional circumstances. Although post-decisional hearing may be provided later, such actions can adversely affect businesses immediately.⁶⁵

Critics argue that these provisions may violate principles of natural justice if not exercised carefully. Administrative authorities must ensure fairness, transparency, and accountability while exercising such powers.⁶⁶

JUDICIAL INTERPRETATION OF THE ACT

Indian courts have played an important role in interpreting the FTDR Act and balancing governmental powers with the rights of traders.

In *Director General of Foreign Trade v. Kanak Exports*⁶⁷, the Supreme Court upheld the government's power to modify export incentive schemes in public interest. The Court observed

⁶² Id.

⁶³ Id.

⁶⁴ Id.

⁶⁵ Id.

⁶⁶ Id.

⁶⁷ *Director General of Foreign Trade v. Kanak Exports* (2015) 13 SCC 226 (Ind.).

that economic policies may change according to national requirements and traders cannot claim absolute rights over incentives.

In *Mr Laleet Shinde v Union of India*⁶⁸, the Bombay High Court dealt with issues relating to import-export regulation and administrative powers under the Foreign Trade (Development and Regulation) Act, 1992. The case involved actions taken by authorities concerning the suspension and cancellation of Importer-Exporter Code and alleged violations of foreign trade regulations. The Court emphasized that although the government and DGFT possess broad powers to regulate foreign trade and take action against violations in public interest, such powers must be exercised in accordance with principles of natural justice and procedural fairness. The judgment highlighted that affected parties must be given proper notice and opportunity of hearing before adverse actions such as suspension or cancellation of IEC are taken, thereby reinforcing the importance of fairness and transparency in the implementation of the FTDR Act.

In *Commissioner of Customs (Preventive) v Savitri Sales Pvt Ltd*,⁶⁹ the Supreme Court emphasized the importance of strict compliance with import regulations and trade policies under the Foreign Trade (Development and Regulation) Act, 1992. The case involved the import of areca nuts through the Indo-Nepal border, where the importer claimed customs duty exemption by alleging Nepalese origin of goods. The customs authorities suspected misuse of trade benefits and confiscated the goods. The Supreme Court upheld the action of the authorities and held that exemption notifications must be interpreted strictly and the burden lies upon the importer to prove fulfillment of all conditions. The judgment reinforced the principle that while the FTDR Act promotes foreign trade and liberalization, it also empowers authorities to prevent fraudulent practices, regulate imports effectively, and protect national economic interests.

Similarly, courts have repeatedly held that foreign trade is closely connected with economic policy and therefore the government enjoys wide discretion in regulating imports and exports. However, courts have also emphasized that such powers must be exercised reasonably, fairly, and in accordance with constitutional principles.

Judicial review remains an important safeguard against arbitrary exercise of power under the Act.

⁶⁸ *Mr Laleet Shinde v Union of India* (2018) (Ind.).

⁶⁹ *Commissioner of Customs (Preventive) v Savitri Sales Pvt Ltd* (2022) (Ind.).

IMPACT ON INDIA'S ECONOMY

The FTDR Act has significantly contributed to India's economic growth and integration into the global economy. Since liberalization, India's exports have expanded substantially across various sectors. Foreign trade has increased employment opportunities, industrial production, foreign exchange earnings, and technological advancement.⁷⁰

The Act also helped India comply with international trade obligations under the World Trade Organization by promoting a rules-based trading framework. However, balancing free trade with domestic economic protection continues to remain a challenge. But India still faces issues such as trade deficits, dependence on imports in certain sectors, and global market uncertainties. Therefore, foreign trade regulation must continuously evolve according to economic realities and international developments.⁷¹

COMPLIANCE WITH INTERNATIONAL TRADE OBLIGATIONS UNDER THE WORLD TRADE ORGANIZATION

The World Trade Organization was established on 1 January 1995. It replaced the General Agreement on Tariffs and Trade (GATT) that had been in effect since 1948. The accession followed the ratification of the Marrakesh Agreement, which formally created the WTO as a global intergovernmental organization to regulate international trade. India is a founding member of the World Trade Organization.⁷²

India complied with its World Trade Organization obligations through the Foreign Trade (Development and Regulation) Act, 1992 by shifting its entire economic framework from a control-oriented legislation to a facilitation and regulation framework. It was enacted during the economic reforms of 1991. It replaced the Imports and Exports (Control) Act, 1947. This replacement helped India to align its domestic laws with its international obligations.⁷³

The Removal of Quantitative Restrictions & Free Flow of Trade: Under the Imports and Exports (Control) Act, 1947, trade was restricted using strict import licenses and quotas. To comply with GATT Article XI⁷⁴ (which prohibits general elimination of quantitative restrictions), India embedded Section 3(4) into the amended FTDR Act. This provision

⁷⁰ Annual Report (2025-2026), Ministry of Commerce https://www.commerce.gov.in/files/2026-04/Annual_0.pdf.

⁷¹ Id.

⁷² India & the World Trade Organization, <https://www.indiagov.org/policy/WTO/overview.html>.

⁷³ The Foreign Trade (Development and Regulation) Act, 1992 No. 22 of 1992 (Ind.).

⁷⁴ The Foreign Trade (Development and Regulation) Act, 1992 No. 22 of 1992 (Ind.).

explicitly mandates that no license or permit is necessary for the import or export of any goods, making free trade the default legal standard unless specific restrictions apply.⁷⁵

Implementation of WTO-Compliant Safeguard Measures: To protect domestic industries legally under WTO norms, the Act introduced Section 9A (Quantitative Restrictions). This aligned India with the WTO Agreement on Safeguards, giving the central government authority to temporarily restrict imports only if an abrupt, massive surge in a specific commodity threatens to cause "serious injury" to local manufacturers.⁷⁶

Integration of Trade in Services and Technology: The original 1992 Act focused primarily on physical goods. To comply with the WTO's General Agreement on Trade in Services (GATS), India passed the Foreign Trade (Development and Regulation) Amendment Act, 2010. This expanded the legal definition of trade to cover all four modes of service supply and technology transfers, ensuring parity for international service providers.⁷⁷

Transparent and Predictable Trade Policies: WTO agreements demand high transparency from member countries regarding domestic trade rules. Section 5 of the FTDR Act authorises the Directorate General of Foreign Trade to formulate and officially gazette a structured Foreign Trade Policy. This substituted unpredictable, ad-hoc administrative decisions with a stable, transparent policy framework accessible to global traders.⁷⁸

CONCLUSION AND SUGGESTIONS

The Foreign Trade (Development and Regulation) Act, 1992 plays a vital role in regulating India's foreign trade framework. It has successfully facilitated imports, promoted exports, strengthened trade administration, and supported India's integration into the global economy after the economic reforms of 1991.

The Act has played an important role in improving India's export performance, increasing foreign exchange reserves, encouraging industrial growth, and modernizing trade procedures. The establishment of the Directorate General of Foreign Trade and the introduction of flexible

⁷⁵ General Agreement on Tariffs and Trade (GATT 1947, World Trade Organization, https://www.wto.org/english/docs_e/legal_e/gatt47_e.htm).

⁷⁶ The Foreign Trade (Development and Regulation) Act, 1992 No. 22 of 1992 (Ind.).

⁷⁷ WTO Agreement on Safeguards, WORLDTRADELAW.NET <https://www.worldtradelaw.net/document.php?id=uragreements/safeguardsagreement.pdf&mode=download>.

⁷⁸ The Foreign Trade (Development and Regulation) Act, 1992 No. 22 of 1992 (Ind.).

foreign trade policies enabled better regulation and management of international trade activities.

Despite these achievements, the Act is not free from criticism. Excessive discretionary powers vested in the executive, frequent policy changes, procedural complexities, and inadequate support for small exporters remain major concerns. Sudden amendments in trade policy create uncertainty for businesses and affect investor confidence. Further, overlapping jurisdiction among regulatory authorities often results in delays and increased compliance burdens.

The Act must therefore be continuously reformed to meet the demands of the evolving global trade environment. Transparency, predictability, and accountability should become the guiding principles of foreign trade regulation in India.

SUGGESTIONS

1. The government should reduce excessive executive discretion by establishing clearer statutory guidelines for imposing restrictions and amending trade policies.
2. Foreign trade policies should be made more stable and predictable to ensure business confidence and long-term investment planning.
3. Procedures relating to licensing, approvals, and compliance should be further simplified, especially for small and medium enterprises.
4. Greater digitalization and coordination among DGFT, customs authorities, RBI, and other regulatory agencies should be encouraged to reduce delays and duplication.
5. The government should provide better financial assistance, training, and awareness programs for small exporters to increase their participation in global trade.
6. Principles of natural justice and procedural fairness should be strictly followed while exercising powers relating to suspension or cancellation of licenses.
7. India should ensure that foreign trade regulations remain consistent with its obligations under the World Trade Organization and international trade agreements.
8. Periodic review of the Act should be conducted to address emerging challenges such as digital trade, technology transfer, cybersecurity concerns, and sustainable development.

In conclusion, the Foreign Trade (Development and Regulation) Act, 1992 has been instrumental in shaping India's modern trade policy framework. However, continuous reforms and balanced regulation are necessary to ensure that the Act remains effective, transparent, and capable of supporting India's economic growth and global trade ambitions.

REFERENCES

STATUTES

1. The Foreign Trade (Development and Regulation) Act, 1992.
2. The Imports and Exports (Control) Act, 1947.
3. The Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005.
4. The Customs Act, 1962.
5. The Foreign Exchange Management Act, 1999.

CASES

1. Director General of Foreign Trade v. Kanak Exports (2015) 13 SCC 226 (Ind.).
2. Mr Laleet Shinde v Union of India (2018) (Ind.).
3. Commissioner of Customs (Preventive) v Savitri Sales Pvt Ltd (2022) (Ind.).