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Trade Policy Review Body

TRADE POLICY REVIEW

REPORT BY THE SECRETARIAT

INDIA

Revision

This report, prepared for the seventh Trade Policy Review of India, has been drawn up by the WTO Secretariat on its own responsibility. The Secretariat has, as required by the Agreement establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), sought clarification from India on its trade policies and practices.

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Document WT/TPR/G/403 contains the policy statement submitted by India.

Note: This report was drafted in English.

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SUMMARY

1. India's economic growth continued to be strong for most of the period under review, averaging 7.4% until 2018/19. A number of reforms were implemented, including the introduction of the Goods and Services Tax (GST) to harmonize the indirect tax system; the Insolvency and Bankruptcy Code to address the problem of debt in the corporate sector; banking reforms to improve supervision of banks and non-banking financial companies; and, most recently, legislation to improve marketing and reduce regulation of agricultural products. Trade policy remained broadly unchanged during the period under review.

2. Since the first half of 2019, growth has been weaker, mainly due to lower consumption and investment, particularly private investment, with gross fixed capital formation growing by only 1% in fiscal year 2019/20. Recent cuts in the base corporate rate of tax, from 36% to 22%, and in personal income tax, were announced to boost investment and consumer spending. The authorities estimated that real GDP grew at around 5.1% during April-December 2019 but more recent estimates point to lower growth. The Government responded to the COVID-19 pandemic by announcing a number of short- and longer-term measures targeting certain sectors of the economy, as well as the rural and urban poor. With lower inflationary pressure due to lower international commodity prices and the impact of the pandemic, monetary policy was also accommodative during the period.

3. Strong economic growth also led to an improvement in socio-economic indicators, such as per-capita income and life expectancy. Economic inclusion policies were also enacted to ensure less rural distress, including through an increase in minimum support prices for agricultural products and the direct transfer of subsidies to farmers. The National Food Security Act aims furthermore to provide subsidized food to a large percentage of the rural and urban population. However, given India's continued need for better infrastructure, subsidies will need to be reduced and better targeted, to free up resources for investment.

4. Services remained the most robust sector during the period, growing at over 8% between 2014/15 and 2018/19. Agriculture, which is largely dependent on rainfall, also performed relatively well. However, manufacturing growth, except for certain industries, remained weak. Unemployment increased from an estimated 3.7% in 2015/16 to 6.1% in 2016/17, the latest year for which estimates are available, with urban unemployment higher than rural unemployment.

5. India's fiscal policy is framed within the Fiscal Responsibility and Management Act, 2003, which requires the budget deficit to be reduced to 3% of GDP by 31 March 2021, and general government debt to 60% of GDP by 2024/25. Although the fiscal deficit declined between 2014/15 and 2018/19, it overshot the target in 2019/20, mainly due to weaker-than-expected tax revenues. The introduction of the GST is expected to broaden the tax base, improve revenue collection, and reduce tax evasion. The deficits of state governments are also likely to be helped by rising state GST revenue, although there are downside risks, with almost half of the states budgeting above the required 3% threshold for 2019/20.

6. The current account deficit narrowed for much of the period under review. The services balance remained in surplus, while the deficit in merchandise trade narrowed, especially in 2019/20 as imports declined more rapidly than exports. The current account deficit continues to be financed by both foreign direct and portfolio investment which grew during the period under review, although portfolio investment has been volatile. The EU-28 and the United States remain India's main export markets, while most imports originate in China. Major exports and imports remain largely unchanged.

7. India is an original Member of the WTO and provides MFN treatment to all but one Member. India also ratified the Trade Facilitation Agreement (TFA) on 22 April 2016. It is a party to the WTO Information Technology Agreement (ITA), but not the expanded ITA. India is an observer to the WTO Agreement on Government Procurement (GPA). During the review period, India made a number of notifications to the WTO.

8. There have been no major changes regarding/to the formulation and implementation of trade policies since the last Review. Trade policy objectives are set out in the Foreign Trade Policy (FTP), which is issued every five years and is revised from time to time. The FTP aims to increase India's

share of global exports from 2.5% in 2015 to 3.5% in 2020. The export target is to be achieved through a number of incentives, such as the Merchandise Export from India and the Services Export from India Schemes. India also continues to make frequent changes to its trade policies and measures, through circulars and notifications, to address domestic concerns. India continued to liberalize its policies on FDI, further permitting FDI up to 100% without the need for prior government approval in an expanded list of agricultural activities; defence; broadcasting carriage services; telecommunications services and business-to-business electronic commerce; insurance intermediaries; and airports, other air services and non-scheduled air transport services.

9. During the period under review, India implemented several measures to facilitate trade, such as a reduction in the number of documents required, and the automation of the customs clearance system for imports and exports. Other trade-facilitation initiatives introduced since 2015 include: the electronic interface, the Indian Customs Electronic Gateway (ICEGATE); the Single Window Interface for Facilitation of Trade (SWIFT); the new authorised economic operators (AEO) programme; the Direct Port Delivery and the Direct Port Entry (DPE) facilities; and the increased use of the Risk Management System (RMS).

10. Trade policy remained largely unchanged since the previous Review. India continues to rely on trade policy instruments such as the tariff, export taxes, minimum import prices, import and export restrictions, and licensing. These are used to, inter alia, manage domestic demand and supply requirements, protect the economy from wide domestic price fluctuations, and ensure conservation and proper utilization of natural resources. As a result, frequent changes are made to tariff rates and other trade policy instruments, which creates uncertainty for traders.

11. The basic tariff structure remains unchanged since 2015. However, following the adoption of the GST in 2017, the additional duties and special additional duties previously added to the basic tariff were removed. The introduction of the GST has been a major change regarding other duties and charges affecting imports. The GST, which replaced several taxes, applies to both domestic and imported goods. The 10% social welfare charge, which applies only to imports, remains in place.

12. India uses both *ad valorem* and non-*ad valorem* tariff rates; in 2020/21, 93.9% of all tariff lines are subject to *ad valorem* rates. There are 725 tariff lines (6.1% of the total) subject to non-ad valorem rates; of these, 4 are subject to specific rates, and 721 (697 in 2015) have mixed duties (*ad valorem* and/or a specific duty component). Mixed duties continue to apply to textiles and clothing (714 tariff lines) and natural rubber products (7 lines).

13. The simple average applied MFN tariff increased from 13% in 2014/15 to 14.3% in 2020/21, and to 15.4% if *ad valorem* equivalents (AVEs) are considered. The increase in the average tariff reflects the changes in the distribution of tariff rates since the last Review in 2015, with a decrease in the percentage of lower-rate tariffs. As a result, while tariff rates continue to range from zero to 150% (considering only the *ad valorem* rates), the percentage of tariff lines with rates between 0% and 10% declined from 79.1% in 2015 to 67.8% in 2020/21. However, the percentage of tariff lines that bear rates higher than 10% and up to 30% increased from 12.1% (2014/15) to 21.3% (2019/20) to 22.1% in 2020/21, and those with rates above 30% rose from 2.8% (2014/15) to 4% in 2020/21. The most common tariff rates continue to be 10% (31.7% of all tariff lines) and 7.5% (24.4%). The highest rates, above 60%, apply to products such as alcoholic beverages (150%), followed by animals and their products; fruit, vegetables and plants; coffee and tea; and certain motor vehicles, all with tariffs of 100%.

14. India bound 75.3% of its Tariff Schedule. It bound 100% of the tariff lines related to agricultural products, at rates ranging from 10% to 300%, and 71.7% of the tariffs related to non-agricultural products, in general at lower tariff rates, ranging from 0% to 150%. The highest bound rates apply to oil seeds, fats, oils and their products.

15. The tariff treatment that India accords to certain goods in the information and communications technology sector is currently the subject of a dispute at the WTO.

16. India has MFN tariff rate quotas (TRQs) for skimmed milk and some types of cream, maize, and some oils. TRQs were also negotiated under the preferential agreements with Nepal and Sri Lanka. In general, there are no imports under TRQs.

17. India maintains import and export prohibitions and restrictions. Restrictions are imposed to: (i) protect human, animal and plant life or health; public morality; historical heritage; the environment; and intellectual property rights (IPRs); (ii) prevent the use of deceptive practices and the illegal trade of arms and ammunition; and (iii) comply with UN resolutions. In addition, India continues to use designated state trading enterprises (STEs) to import some agricultural products, fertilizers, and oil products, with the stated purpose of ensuring a fair return to farmers; safeguarding food security; managing the procurement of fertilizer for farmers; and implementing the domestic support price system for oil products. Since the last Review, some products, such as onions and sugar (under TRQ since 2019) have been removed from the list of exports subject to state trading and may currently be exported by any eligible exporter.

18. India continues to be an active user of anti-dumping measures; it is currently the main user of anti-dumping measures in the WTO. During 2015-19 (as at December 2019), India initiated 233 investigations, a sharp increase since 2011-14 (June) when the number of initiations stood at 82. Most of the investigations initiated during the review period relate to products originating in China, followed by those originating in the Republic of Korea and the EU-28. At end-2019, India had imposed 254 anti-dumping duties. These measures affected mainly chemicals and products thereof (40.6% of all measures). The average length of anti-dumping measures in force as at December 2019 was 5.9 years; however, 58 measures, which applied mainly to imports originating in China (45%), have been in place for more than 10 years. During 2015-20 (January), India initiated 20 countervailing investigations, and there were 11 measures in place. As in the case of anti-dumping duties, most of the measures applied to imports originating in China. India is also an active user of safeguard measures; as at June 2019, India had initiated 46 investigations (12% of all the safeguards investigations initiated by WTO Members). There is one safeguard measure in force.

19. To support both domestic production and exports, India continues to provide a number of incentives, in the form of direct subsidies and price support schemes, tariff concessions or exemptions, or preferential rates of interest. In addition, up to 40% of all bank lending must be allocated to "priority sectors", including agriculture, small and medium-sized enterprises, education, housing, social infrastructure, renewable energy, and exports. Preferences under government procurement are also provided to domestic companies.

20. In general, the programmes maintained to promote exports apply to all sectors. However, some are sector-specific, for instance those pertaining to agriculture. Most of these programmes did not undergo substantial changes since 2015; they provide for fiscal and financial incentives and marketing assistance. However, in 2015, the Export from India Scheme (EIS) was introduced. The EIS encompasses two schemes: the Merchandise Exports from India Scheme (MEIS), which replaced five schemes; and the Services Exports from India Scheme (SEIS). The number of products covered by the MEIS, and the budget allocated to it, increased during the review period. The MEIS is scheduled to end on 1 January 2021; it will be replaced by a new scheme to reimburse exporters for taxes, duties and levies which are not exempt or refunded under any other existing scheme.

21. Over the review period, India revised its standardization legislation; the Bureau of Indian Standards (BIS) Act, 1986 was replaced by the BIS Act, 2016. Under the new Act, standardization covers goods and was introduced for services, systems, and processes; and several new provisions were adopted, such as new types of conformity assessment schemes. The BIS is India's national standards body, which formulates standards in all sectors, except those stipulated in the Agricultural Produce (Grading and Marking) Act, 1937 and the Drugs and Cosmetics Act, 1940. Procedures to formulate and implement standards and technical regulations did not change significantly over the review period. Since 2015, some of India's technical regulations have been subject to specific trade concerns in the WTO Committee on Technical Barriers to Trade. Some products are subject to mandatory product certification. Product certification applies to both locally produced and imported goods. Regarding SPS, according to the notifications submitted to the WTO, SPS measures comply with, or are based on, relevant international standards, and they mostly apply to all Members. India took one emergency measure that applies to all trading partners. During the review period, Members raised seven concerns, of which two were resolved.

22. Government procurement in India remains decentralized, and is subject to multiple regulations, including sector-specific provisions and procurement provisions enacted by the states. The General Financial Rules (GFRs) that apply to all sectors is the main piece of legislation regulating government procurement. Over the review period, the GFRs were amended several times, inter alia,

to introduce new procurement methods and enforce the use of electronic procurement. During the 2015-20 period, India maintained sector-specific reservations and preferences in public procurement, and others that apply specifically to micro and small enterprises. In 2017, additional preferences for locally-produced goods were introduced under the Make in India initiative. India remains an Observer to the WTO Government Procurement Agreement.

23. Competition is regulated by the Competition Act, 2002 that, with some exceptions, applies to all economic operators and sectors; there are also sector-specific provisions. Some changes adopted over the review period include: the adoption of leniency provisions regarding cartels; the simplification of the procedure to file a combination (mergers); the suspension of the deadline to notify a combination (in 2017); and the introduction of automatic approval for combinations that do not require an exhaustive assessment (in 2019). India continues to apply exceptions to the requirement to notify certain combinations.

24. India continues to maintain price controls, especially for agricultural products under various mechanisms. Retail prices of other products, such as LPG cylinders, natural gas, fertilizer, and drugs, are also controlled. Price controls are in place mainly to support the agricultural sector, ensure food security, and reduce poverty.

25. In 2016, India issued its first National Intellectual Property Rights (NIPR) Policy. It is aimed at creating national awareness of the importance of IPR protection through training and outreach and offers financial support and fiscal incentives to encourage IPR generation and commercialization, including a fee rebate of up to 80% on patent fees for start-ups. There have also been changes to the institutional framework regarding intellectual property. Since 2016, all IPRs, except for the protection of plant varieties, fall under the Department for Promotion of Industry and Internal Trade; this has become the single nodal agency for IPR. Plant variety protection continues to be administered by the Department of Agriculture, Cooperation and Farmers' Welfare. Since 2015, India has implemented various IPR enforcement measures, such as the establishment of commercial courts to expedite IPR-related court proceedings. However, since 2018, Customs is no longer allowed to seize infringing imports suo motu; therefore, at present, a court injunction is required to protect patent rights against infringement at the border.

26. While agriculture accounts for 16% of GDP, its share of total employment is over 40%. India continues to regulate imports and exports, as well as domestic prices, to meet its food security goals. Import and export restrictions, TRQs, state trading, and minimum import prices are used at the border. The Government provides support, both direct and indirect, to farmers, including for inputs such as water, electricity, seeds and fertilizers; minimum support prices; and marketing and transport. Under the National Food Security Act (NFSA), food grains are provided at subsidized prices to households identified by the states as having priority; under the Act, subsidized food is to be provided to 75% of the rural population and 50% of the urban population. The Government's subsidy for food accounts for almost half of its explicit subsidies, and the subsidy for fertilizers accounts for another third.

27. During the period under review, various reforms took place. Under the Agricultural Export Policy, processed and organic agricultural products are not subject to export restrictions, and imports of agricultural products that are used for such exports were to be liberalized. The Government has also gradually been increasing direct payments to farmers, as is the case under the Price Deficiency Payment Scheme, which benefits oilseed producers. Under this Scheme, if prices fall below the minimum support price, the difference between the market price and the minimum support price is paid directly to registered farmers. Cash transfers for purchasing food provided under the NFSA are also being provided on a trial basis in some union territories. In 2020, the Essential Commodities Act was amended to ensure that the supply of certain agricultural products may only be regulated in exceptional circumstances. Efforts have also been made to improve the marketing of agricultural products, including through the introduction of an electronic National Agricultural Market (e-NAM) in 2016, which aims to unify the markets across the states. In 2020, further marketing reforms took place to guarantee freedom to farmers to conduct intra- or inter-state trade, and to encourage contract farming between farmers and agri-business.

28. Over the review period, India's policies regarding the electricity sector were aimed at ensuring access to reliable and affordable services and at diversifying energy sources. To this end, various incentives were granted to expand the distribution network and to promote the use of renewables. As a result, the share of renewable energy sources (mainly solar and wind) to generate electricity

increased from 14.6% in 2015 to 23.7% in 2020. However, coal is still India's main source of power generation. India continues to provide cross-subsidies regarding retail tariffs; tariffs for consumers below the poverty line and small households are subsidized; and electricity for the agricultural sector is free/unmetered. The distribution companies, which are mainly owned by the states, continued to face severe financial difficulties, due to the under-pricing of electricity which, in turn, hampers their ability to offer a reliable power supply. In 2015, a voluntary scheme was put in place to address the companies' poor financial condition, with the states taking over a percentage of the companies' debt. As a result of the COVID-19 pandemic, consumers were allowed to defer payment of their electricity bills.

29. The share of the manufacturing sector in India's GDP decreased from 16.3% in 2014/2015 to 15.1% in 2019/2020. Sectors that play an important role in merchandise trade include textiles and clothing, which accounts for 2% of GDP, and 11.4% of merchandise exports, and employs around 45 million people; and automobiles, with around 7% of GDP, and 8.0% of merchandise exports. India has run a deficit in its balance of trade in manufactured goods during the review period, with growth in imports outstripping that of exports. India continues to implement the National Manufacturing Policy (NMP) aimed at increasing the share of manufacturing in GDP to 25% by 2022. Provisions under the NMP include programmes to develop skills, facilitate financing for SMEs, increase demand for manufacturing and infrastructure through government procurement. The Make in India programme was launched in 2014, to attract investment to achieve the 25%-of-GDP target by 2022.

30. Services accounted for around 54% of India's GDP in 2018/19 an increase since 2014/15 when their share stood at some 52%. The sector contributes almost 70% to India's GDP growth. The services sector is the largest recipient of FDI. India ran a surplus in its services trade of around 3% of GDP, for most of the period under review.

31. Following consolidation, the number of public sector banks (PSBs) fell to 12 in 2020; however, with around 70% of total assets, they continue to dominate the sector. The remaining assets are distributed between 22 private banks, 46 foreign banks, a large number of rural, urban and cooperative banks, and non-banking financial companies (NBFCs). The sector continues to be regulated by the Reserve Bank of India (RBI), using a risk-based framework. During the period under review, commercial banks remained well-capitalized, although for several years non-performing assets (NPAs) remained high, rising to over 11% of gross advances in 2018 before falling to 9% by 2020. NPAs also increased in NBFCs, and the RBI issued new guidelines in 2019 to improve supervision of the latter. The RBI Act, 1934 was also amended in 2019, to address governance issues. The Government's Indradhanush Plan funding, to support PSBs, also aims to address governance issues.

32. To encourage financial inclusion, the Pradhan Mantri Jan Dhan Yojana (PMJDY) Scheme was launched in August 2014, to enable the unbanked to open bank accounts, to directly receive salaries, subsidies, remittances and other payments. In addition, all banks are required to provide 40% of their lending to priority sectors; this target was extended to all foreign banks with 20 or more branches by March 2018 and those with less than 20 branches by March 2020. In light of the deteriorating economic environment due to the COVID-19 pandemic, a number of steps were taken in 2020 to provide temporary relief to borrowers and enhance liquidity support for financial markets and other stakeholders. They include: a special refinance facility of INR 650 billion for the National Bank for Agriculture and Rural Development (NABARD), the Small Industries Development Bank of India (SIDBI), the National Housing Bank (NHB), and the EXIM Bank, to enable them to continue funding activities as required.

33. There were no significant changes in the insurance sector, which continues to be dominated by public-sector companies, especially for life insurance. Insurance penetration continues to be low, and a number of schemes were launched to bring insurance to a greater share of the population. There were a few changes in FDI policy in this sector. FDI of up to 49% (up from 26%) is permitted automatically in insurance companies, and up to 100% in insurance intermediation services. In addition, foreign re-insurers may open branches in India up to the 49% FDI limit. As for banking, since 2015, insurance providers are required to write a certain amount of their insurance in specific sectors.

34. The telecommunication market remains highly concentrated. The state-owned companies (Bharat Sanchar Nigam Ltd. (BSNL) and Mahanagar Telephone Nigam Ltd. (MTNL)) remain the main

providers of fixed telecom services and, even though a new private supplier entered the mobile telecommunications market in 2016, the merger of two private operators was approved in 2017 to create India's biggest telecom company. Tariffs are regulated for fixed services in rural areas and national roaming services. Over the 2015-20 period, to increase teledensity, India adopted various regulatory measures in the sector, to expand the mobile telecom network throughout its territory, such as easing procedures to obtain right-of-way permits, allowing companies to share their active infrastructure, and introducing new provisions to improve interconnection. In 2018, India approved net-neutrality rules. Several connectivity projects are also in place, including India's largest rural broadband connectivity project. Initiatives to enhance digital literacy were also introduced, such as the 2015 Digital India Initiative to introduce the Government's digital platform. During the COVID-19 lockdown, telecom services were included in the list of essential services that had to remain operational. As a result, technical and commercial measures were taken by the operators to ensure unbroken network connectivity and uninterrupted services as the use of mobile services increased massively. For instance, the validity period for prepaid cards was extended; and download speed and Internet quality were reduced to prevent network congestion.

35. Since 2015, air transport services have been further opened to FDI, but cabotage is still reserved for national air carriers. During the review period, several initiatives were implemented to improve air connectivity, and to relax certain conditions imposed on Indian air carriers regarding operating international routes. Measures were also put in place to promote the maintenance, repair, and overhaul of aircraft in India. Regarding maritime transport, over 2015-18, India relaxed cabotage for specialized vessels, container traffic, and certain commodities, to encourage a shift from road/rail to coastal shipping. Incentives were introduced to promote ship-building in India. Since 2016, port infrastructure has been extended and upgraded, with a view to facilitating trade. As a result of COVID-19, major ports deferred the payment of various port charges, and offered storage capacity free of charge to help operators. Private port operators were also offered deferred payments of charges and royalties.

36. During 2015-20, initiatives to further expand tourism included the diversification of tourism related products and markets, enhanced facilities (e.g. e-visa), and better air connectivity. Foreigners may provide any type of tourism-related services in India, except tourist guide services. Financial support is granted by the Central Government to develop tourism-related infrastructure and products, and for marketing.

1 ECONOMIC ENVIRONMENT

1.1 Main Features of the Economy

1.1. For most of the period under review (2015-mid 2020), India's economy continued its strong growth. Economic reforms were continued and were focused on increasing efficiency and inclusiveness. Measures to improve efficiency included a number of steps on trade and investment facilitation. Structural reforms were also undertaken. They included: the Insolvency and Bankruptcy Code (IBC) in 2016, which has begun to address the problem of debt in the corporate sector although it has been slower than envisaged, with cases taking twice the stipulated period to resolve[1]; the Goods and Services Tax (GST) in July 2017, which is expected to reduce complexity in the indirect tax system[2]; and a more rigorous supervisory framework in the banking sector, although problems have also emerged in non-banking financial companies (Section 4.4..1). Investment to improve infrastructure has also been continued, notably to improve transportation and linkages between the interior of the country and ports and airports. To address economic exclusion, a number of government programmes were launched, including an increased number of schemes aimed at poverty alleviation.[3]

1.2. Economic growth has been weaker since early 2019. Both consumption and private investment, the drivers of the economy, weakened due to lower private demand and credit availability. Real GDP growth was estimated at 5.0% in fiscal year 2019/20, significantly lower than the 6.8% in the previous year; further provisional estimates at the end of May 2020 put growth lower, at 4.2%, mainly due to the effects of the COVID-19 pandemic.[4] Growth in services and manufacturing, the two largest sectors, was strong for much of the period but has been weaker since 2019. The supervision of banks was strengthened, to address the high level of non-performing assets. However, following recent defaults in the non-banking financial sector, several measures were taken to improve overall governance standards in the sector. Growth continues to be constrained by infrastructure bottlenecks, despite recent improvements.

1.3. During the review period, efforts towards fiscal consolidation continued, with both the states and the central Government reducing their fiscal deficits under the Fiscal Responsibility and Budget Management (FRBM) Act. While the central Government's deficit has declined, it has not kept pace with the requirements of the Act, with the Government making use of the "escape clause" provision which allows the deficit to exceed the target by 0.5% under certain conditions. Expenditure on subsidies has also been increasingly shifted to off-budgetary resources. Meeting the requirements of the FRBM Act in the coming years will remain a challenge, especially given India's increasing expenditure on subsidies and infrastructural needs.

1.4. India's current account deficit improved until 2016/17, but rose to around 2.1% of GDP in 2018/19 due to rising commodity prices. The deficit improved to 0.8% of GDP in 2019/20. Foreign direct investment (FDI) financed almost half of the current account deficit. Portfolio investment weakened, following demonetization at the end of 2016, but has since rebounded. India's foreign exchange reserves were estimated at USD 476 billion on 21 February 2020.[5]

1.2 Recent Economic Developments

1.5. India's economic performance remained strong for most of the period under review, with annual real GDP growth averaging 7.4% between 2014/15 and 2018/19. Lower growth in 2017/18

[1] The IBC specifies that cases should be resolved within 270 days, but it has been known to take almost double that amount. More than two years after the Reserve Bank of India (RBI) referred 12 large debtors to the IBC, only half of these cases have been resolved, mostly in the steel sector. Subramanian, A. and Felman, J. (2019), "India's Great Slowdown: What Happened? What is the Way Out?" *Center for International Development at Harvard University, Working Paper No. 370,* December.

[2] The GST, along with demonetization at the end of 2016, also aimed to formalize India's large informal sector. Various other programmes were also put into place, such as the AADHAR (the unique identity programme) and the PM Jan Dhan Yojana, which made bank accounts accessible to a larger percentage of the population.

[3] The RBI also issued the National Strategy for Financial Inclusion in January 2020.

[4] RBI, *Annual Report 2019-20.* Viewed at https://rbidocs.rbi.org.in/rdocs/AnnualReport/PDFs/0RBIAR201920DA64F97C6E7B48848E6DEA06D531BADF.PDF.

[5] Information provided by the authorities.

was partly attributed to stress in the financial sector, which acted as a drag on the real estate sector; the temporary disruption caused by demonetization at the end of 2016; and structural reforms, such as the introduction of the GST in 2017.[6] Since the first half of 2019, growth has been significantly weaker, and was estimated to have slipped to 5% in 2019/20 (Table 1.1). The slowdown was particularly severe in manufacturing.[7] Estimates by the RBI show that industrial growth fell to 1.7% in the first quarter of 2019/20 and to -0.5% in the second quarter.[8] The weakness was mainly due to lower consumption and investment, particularly private investment, with gross fixed capital formation growing by only 1% in 2019/20.[9] Uncertainty in the financial services sector, particularly high non-performing assets, and recent defaults in the non-banking finance sector also contributed to reduced investor confidence. The 2019 Budget (July 2019) cut the base corporate rate of tax from 36% to 22% to try to boost private investment. In February 2020, further personal income tax cuts were announced in the Budget for 2020/21. The authorities estimate that real GDP grew at around 5.1% during April-December 2019 but more recent estimates put growth at 4.2%, largely due to the economic impact of the COVID-19 pandemic.

Table 1.1 Selected macroeconomic indicators, 2014-20

	2014/15	2015/16	2016/17	2017/18	2018/19[a]	2019/20[a]
Real GDP at market price (INR billion, 2011/12 prices)	105,276.8	113,694.9	122,983.3	131,798.6	140,775.9	147,788.8
Real GDP at market price (USD billion, 2011/12 prices)	1,721.8	1,736.6	1,833.6	2,044.7	2,013.3	..
Current GDP at market price (INR billion)	124,679.6	137,718.7	153,623.9	170,950.0	190,101.6	204,422.3
Current GDP at market price (USD billion)	2,039.1	2,103.6	2,290.4	2,652.1	2,718.7	..
GDP per capita at current market price (USD)	1,609.4	1,639.6	1,763.2	2,015.3	2,041.1	..
National account (% change, unless otherwise indicated)						
Real GDP (2011/12 prices)	7.4	8.0	8.2	7.2	6.8	5.0
Consumption	6.6	7.9	7.8	8.6	8.3	6.5
Private	6.4	7.9	8.2	7.4	8.1	5.8
Government	7.6	7.5	5.8	15.0	9.2	10.5
Gross fixed capital formation	2.6	6.5	8.3	9.3	10.0	1.0
Exports of goods and services	1.8	-5.6	5.1	4.7	12.5	-2.0
Imports of goods and services	0.9	-5.9	4.4	17.6	15.4	-5.9
XGS/GDP (at current market price)	23.0	19.8	19.2	18.8	19.7	18.4
MGS/GDP (at current market price)	26.0	22.1	21.0	22.0	23.6	21.2
Prices and interest rates						
Inflation (% change)						
Consumer Price Index	5.3	4.8	3.9	4.3	2.9	..
Rural	5.7	5.7	3.8	4.4	1.8	..
Urban	4.7	3.9	4.0	4.1	4.1	..
Wholesale Price Index	1.2	-3.7	1.7	3.0	4.3	..
Deposit rate[b]	7.25-8.75	7-7.5	6.5-7	6.25-6.75	6.25-7.5	..
Base rate[c]	10-10.25	9.3-9.7	9.25-9.6	8.65-9.45	8.95-9.4	..
Broad money (M3, % change)	10.9	10.1	6.9	9.2	10.5	..

[6] On 9 November 2016, the Government announced that all INR 500 and 1,000 notes would not be legal tender from midnight onwards. New INR 500 and 2,000 notes would be issued at a later date. The goal was to stop the hoarding of money, reduce the role of cash in the economy, and move consumers towards formal and digital transactions, including for taxation purposes. It is estimated that around 87% of the currency in circulation was withdrawn as a result. On 30 August 2017, the RBI announced that around 99.3% of the withdrawn notes had been deposited in banks. In a preliminary assessment, the RBI concluded that demonetization had had a transient negative impact on the economy, with an important result being the increased use of digital transactions. RBI, 2017, *Macroeconomic Impact of Demonetisation: A Preliminary Assessment*, March. Viewed at: https://rbidocs.rbi.org.in/rdocs/Publications/PDFs/MID10031760E85BDAFEFD497193995BB1B6DBE602.PDF).

[7] Structural rigidities in labour, land and product markets have made the sector uncompetitive. RBI, 2020, *Annual Report 2019-20.*

[8] RBI, *RBI Bulletin, December 2019*. Viewed at: https://rbidocs.rbi.org.in/rdocs/Bulletin/PDFs/01T_11022020145BCB811C51401C881B18DC16170FBF.PDF. Growth had significantly deteriorated by the first quarter of 2020/21 due to the COVID-19 pandemic. RBI, *RBI Bulletin, September 2020*. Viewed at: https://rbidocs.rbi.org.in/rdocs/Bulletin/PDFs/1T11092020ED033472A5A045D5B31962B7ADF03310.PDF.

[9] The RBI estimates that, during the period 2014-19, the contribution of gross fixed capital formation to GDP, which is the main constituent of investment in the economy, fell by 6 percentage points below its level in 2011-14. RBI, 2020, *Annual Report*, 2019-20. Viewed at: https://rbidocs.rbi.org.in/rdocs/AnnualReport/PDFs/0RBIAR201920DA64F97C6E7B48848E6DEA06D531BADF.PDF.

	2014/15	2015/16	2016/17	2017/18	2018/19[a]	2019/20[a]
Exchange rates						
INR/USD (financial year average)	61.14	65.47	67.07	64.46	69.92	..
Real effective exchange rates[d] (% change)	6.3	2.3	2.0	3.2	-5.8	..
Nominal effective exchange rates[d] (% change)	1.2	-1.6	-1.0	1.6	-7.1	..
Central government balance (% of GDP)[e]						
Current balance	-2.9	-2.5	-2.1	-2.6	-2.4	-2.4
Current revenue (revenue receipts)	8.8	8.7	8.9	8.4	8.2	9.1
Tax revenue, net	7.2	6.9	7.2	7.3	6.9	7.4
Current expenditure	11.8	11.2	11.0	11.0	10.6	11.5
Capital receipts	4.5	4.3	3.9	4.1	4.0	4.2
Capital expenditures	1.6	1.8	1.9	1.5	1.6	1.7
Gross fiscal balance[f]	-4.1	-3.9	-3.5	-3.5	-3.4	-3.8
Primary balance[g]	-0.9	-0.7	-0.4	-0.4	-0.4	-0.7
Central government debt	..	..	..	..	..	..
Domestic	..	..	..	..	..	..
External	4.4	4.4	4.2	4.2	..	
Savings and investment (% of GDP)						
Gross domestic savings	32.2	31.1	30.3	30.5	..	..
Gross domestic investment	33.5	32.1	30.9	32.3	..	..
External sector (% of GDP, unless otherwise indicated)						
Current account balance	-1.3	-1.1	-0.6	-1.8	-2.1	..
Merchandise trade balance	-7.1	-6.2	-4.9	-6.0	-6.6	..
Exports	15.5	12.7	12.2	11.7	12.4	..
Imports	22.6	18.8	17.1	17.7	19.0	..
Services balance	3.8	3.3	3.0	2.9	3.0	..
Financial account balance	1.4	1.1	0.6	1.8	2.1	..
Direct investment	1.5	1.7	1.6	1.1	1.1	..
Terms of trade (1999/2000=100)	57.9	71.8	71.1	73.3	70.7	..
Merchandise exports (% change)[h]	-0.6	-15.9	5.2	10.3	9.1	..
Merchandise imports (% change)[h]	-1.0	-14.1	-1.0	19.5	10.3	..
Service exports (% change)[h]	4.1	-2.4	6.4	18.8	6.6	..
Service imports (% change)[h]	3.6	3.7	13.3	22.6	7.3	..
Foreign exchange reserves[i] (USD billion, end-period)	317.3	336.1	346.3	399.4	385.4	..
in months of imports	8.9	10.9	11.3	10.9	..	..
Total external debt (USD billion, end-period)	474.7	484.8	471.0	529.3	543.0	..
Debt service ratio	7.6	8.8	8.3	7.5	6.4	..
Memorandum:						
Unemployment rate	..	3.7	..	6.1	..	..

.. Not available.

a Provisional.
b Refers to the deposit rates of the five major banks, of maturities of one to three years.
c Relates to either the Prime Lending Rate, or the Benchmark Prime Lending Rate, or the Base Rate, as the case may be, for the relevant year, of the five major banks.
d Six-currency trade-based weight (including euro, Japanese yen, US dollar, British pound, Chinese renminbi, and Hong Kong dollar).
e Up to 2018/19, actual figures; 2019/20, figures are based on revised budget estimates.
Revenue receipts plus capital receipts (not including borrowing and other liabilities) minus total expenditure.
g Fiscal balance minus interest payments.
h Growth rates are based in US dollars.
i Excluding gold, special drawing rights, and the Reserve Tranche Position in the International Monetary Fund (IMF).

Source: RBI; Ministry of Finance, *Economic Survey 2019-20;* Union Budget 2020-21; and data provided by the authorities.

1.6. To respond to the impact of the COVID-19 pandemic, in May 2020, the Government announced the *Atmanirbhar Bharat Abhiyan* (Self-reliant India) programme. It aims to provide a stimulus to various sectors and sections of society, to respond to the effects of the current health crisis. The package, which is estimated at INR 20 trillion, combines fiscal, financial and structural reform measures, some of which are planned, notably legislative changes. Selected measures under the programme are presented in Box 1.1.

Box 1.1 The *Atmanirbhar Bharat Abhiyan* programme

Policies to improve the business environment, especially micro, small and medium-sized enterprises (MSMEs)
Emergency loans of up to INR 30 million to all businesses; businesses with INR 1 billion turnover with up to INR 250 million outstanding can borrow up to 20% of their outstanding credit (as at 29 February 2020) until 30 October 2020. Interest on loans is capped, with a 100% credit guarantee on principle and interest for banks and non-bank financial companies (NBFCs).
The Government will facilitate the provision of INR 200 billion as subordinate debt for MSMEs[a] with non-performing assets, (NPAs) including by providing INR 40 billion to the Credit Guarantee Fund Trust for Micro and Small Enterprises (CGFTMSE) to provide partial credit-guarantee support to banks that lend under the Trust.
A Fund of Funds for MSMEs of INR 100 billion to be set up to provide equity funding for MSMEs with growth potential and viability.
Global tenders to be disallowed for government procurement of up to INR 2 billion.
Under the PM Garib Kalyan Yojana (PMGKY), 12% each of the employer and employee contributions into the employee provident fund (EPF) for the period March-August 2020 were covered by the Government. For firms not eligible under the PMGKY, the required contribution will be reduced from 12% each to 10% (except for central state-owned enterprises, which will maintain the 12% employer contribution).
Poverty alleviation
Under the PMGKY: free provision of 5 kg of wheat or rice per person and 1 kg of pulses per household; gas cylinders for provided free of charge for three months to around 800 million families; INR 500 per month for three months provided to 200 million women with Jan Dhan Yojana bank accounts; and insurance coverage of INR 5 million per health worker.
Measures for farmers, including a 3-month loan moratorium for 30 million farmers; the interest payment and prompt loan-repayment incentive on crop loans, due on 1 March 2020, was extended to 31 May 2020; 2.5 million new Kisan credit cards issued, with a loan limit of INR 250 billion; support of INR 42 billion provided to states under the Rural Infrastructure Development Fund for rural infrastructure; and emergency working capital of INR 300 billion for farmers, through additional refinance provided by the National Bank for Agriculture and Rural Development (NABARD) to rural cooperative banks and regional rural banks.
For migrants and for urban areas, state governments are permitted to use the State Disaster Response Fund (SDRF) to create shelters and provide food and water, including three free meals a day for residents of the shelters; free provision of 5 kg of grain per person and 1 kg of channa (pulses) per family per month for two months, expected to benefit around 80 million migrants and cost INR 35 billion; assistance to self-help groups in urban areas, including through the manufacture of face masks and sanitizer; employment for migrants returning to their states, through the Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS);[b] and assistance of up to INR 50 billion for around 500,000 street vendors.
Sectoral polices
Agriculture: transfers to farmers through purchases of agricultural products at the minimum support price (worth INR 743 billion), the PM Kisan Fund (INR 187 billion) and the PM Fasal Bima Yojana (INR 64 billion); additional procurement of milk from farmers, and interest subventions of 2% per year to dairy cooperatives during 2020/21; the creation of the INR 1 trillion Agri Infrastructure Fund for farm gate infrastructure; and the pilot scheme for subsidizing transportation and storage of fresh fruit and vegetables. Fisheries: INR 200 billion for the PM Matsya Sampada Yojana (INR 110 billion for marine, inland fisheries and acquaculture activities, and INR 90 billion for infrastructure).
Energy: INR 900 billion to be provided to power distribution companies (DISCOMs) whose debt to power-generation and transmission companies is around INR 940 billion. Central public sector generation companies to provide a rebate to DISCOMs, which will be passed on to industrial consumers. New tariff policy to be released, ensuring, *inter alia,* that DISCOMs provide adequate power and their inefficiency is not a burden on consumers; progressive reduction in cross subsidies; and power departments and utilities in the union territories to be privatized
Coal mining: commercial mining to be permitted; and investment in infrastructure
Air transport: restrictions on Indian airspace to be eased; and development of new airports through public private partnerships
Legislative and administrative reform
Amendment to the Essential Commodities Act, 1955, to deregulate control of agricultural products.
Legislation on agricultural produce price and quality assurance; and agricultural marketing reform to reduce rigidities in markets.

Investment facilitation, including ranking of states by investment attractiveness and promotion of "new champion sectors"; and infrastructure upgradation.
Amendment to Companies Act, 2013 plans to allow for decriminalization of certain offences (including minor technical errors and shortcomings in CSR reporting); the National Company Law Tribunal (NCLT) to be given power to create additional/specialized benches; and defaults by smaller companies to be subject to lower penalties.
Public-sector enterprises to be privatized.
Financial and fiscal measures
Reduction of cash reserve ratio (CRR) from 4% to 3% on 28 March 2020 for one year; reduction of policy repo rate from 5.15% to 4.40%; increased limit on banks for overnight borrowing under the marginal standing facility (MSF) from 2% of statutory liquidity ratio to 3% up to 30 June 2020; and liquidity coverage ratio for banks reduced from 100% to 80%.
Special liquidity scheme of INR 300 billion for NBFCs, housing finance companies (HFCs), and micro-finance institutions (MFIs) to be launched, to help them to raise debt. Partial credit-guarantee scheme, of INR 450 billion, to help NBFCs, HFCs and MFIs with low credit rating, with the central Government guaranteeing the first 20% of losses.
Limit on state government borrowing raised from 3% to 5% of gross state domestic product, part of which is linked to specific state reform.
Relaxation in statutory and compliance requirements for filing income tax and GST returns; customs clearance 24x7 until 30 June 2020; moratorium of three months for lending institutions for loans outstanding as at 1 March 2020.

a MSMEs are to be redefined as follows: micro enterprises are those that have investment of less than INR 10 million and turnover of less than INR 50 million; small enterprises are those with an investment of less than INR 100 million and turnover of less than INR 500 million; and medium-sized enterprises are those with investment of less than INR 200 million and turnover of less than INR 1 billion.

b The MGNREGS guarantees wage employment for 100 days per financial year to rural households whose adult members volunteer to do unskilled manual work. MGNREGS, *About MGNREGS*. Viewed at: http://www.nrega.ap.gov.in/Nregs/.

Source: Government of India, 2020 *Building Atmanirbhar Bharat and Overcoming COVID-19.* Viewed at: https://www.india.gov.in/spotlight/building-atmanirbhar-bharat-overcoming-covid-19 on 31 August 2020.

1.7. In addition, immediate steps were taken in several sectors to try and mitigate the effects of the COVID-19 pandemic: in the electricity sector, deferred payments were granted to help consumers pay their bills; in telecoms, which were included in the list of essential services that had to remain operational, technical and commercial measures were taken by operators to ensure unbroken network connectivity and uninterrupted services, as the use of mobile services increased massively[10]; and, in the transport sector, major ports deferred the payment of various port charges and offered storage capacity free of charge to help operators, while private port operators were also offered deferred payments of charges and royalties.

1.8. With the decline in international commodity prices, especially petroleum, which forms around a third of India's imports, inflation, as measured by the consumer price index (CPI), has remained low since 2016; the RBI took an appropriately accommodative stance. Reflecting lower commodity prices, the current account deficit improved until 2016/17 before increasing to 2.1% in 2018/19, due to weaker international demand and rising petroleum prices; the deficit improved to 0.8% in 2019/20. With the deteriorating international and domestic environment, the central Government took certain steps to boost investment and consumption, notably a cut in the corporate tax rate in 2019 and in personal income tax rates in 2020 (see below).

1.9. Services remains the most dynamic sector, with growth averaging over 8% annually between 2014/15 and 2018/19 (Table 1.2). Growth was led by trade and repair services, communications, hotels and tourism services, and transport services. The share of services in the economy grew from under 52% in 2014/15 to 55% in 2019/20. Notwithstanding the recent slowdown, manufacturing also showed robust growth during 2014-19, driven mainly by machinery and equipment, and food products; during 2019/20, however, manufacturing growth is estimated at below 1%. In the

[10] For instance, the validity period for prepaid cards was extended; and download speed and Internet quality were reduced to prevent network congestion.

agricultural sector, production rose in 2016/17 and 2017/18, following bumper harvests; growth has moderated since then in the sector overall.

Table 1.2 Basic economic indicators, 2014-20

	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
Percentage change in gross value-added, by economic activity (at constant (2011/12) prices)						
Agriculture, forestry and fishing	-0.2	0.6	6.8	5.9	2.4	3.7
Crops	-3.7	-2.9	5.3	4.4	-1.0	..
Livestock	7.4	7.5	10.0	7.4	8.1	..
Forestry and logging	1.9	1.7	5.5	6.2	0.4	..
Fishing and aquaculture	7.5	9.7	10.4	14.7	12.0	..
Mining and quarrying	9.7	10.1	9.8	4.9	-5.8	2.8
Manufacturing	7.9	13.1	7.9	6.6	5.7	0.9
Food products, beverages and tobacco	2.7	16.2	10.8	4.6	8.7	..
Textiles, clothing and leather products	0.0	19.6	0.8	5.1	4.5	..
Metal products	-5.8	-13.7	26.6	10.7	2.1	..
Machinery and equipment	9.9	20.3	10.4	11.8	7.2	..
Other manufactured goods	17.5	16.7	3.0	3.2	5.8	..
Electricity, gas, and water supply	7.2	4.7	10.0	11.2	8.2	4.6
Construction	4.3	3.6	5.9	5.0	6.1	3.0
Services	9.8	9.4	8.5	6.9	7.7	7.0
Trade, and repair services	10.2	10.8	10.3	10.4	8.5	..
Hotels and restaurants	6.1	13.3	8.8	5.7	7.7	..
Transport, and storage	7.4	6.9	4.3	6.5	6.6	..
Railways	9.5	5.9	-3.9	7.0	5.0	..
Road transport	6.7	7.0	5.6	6.0	6.8	..
Water transport	8.3	1.8	5.9	6.5	5.8	..
Air transport	14.0	16.7	18.5	17.5	12.3	..
Services incidental to transport	7.7	7.4	7.0	7.3	7.3	..
Storage	6.1	13.0	-2.3	9.2	3.5	..
Communication and services related to broadcasting	12.8	14.3	1.3	-5.4	5.0	..
Financial services	8.5	7.3	3.4	4.8	4.7	..
Real estate, ownership of dwelling and professional services	12.2	12.1	10.8	4.6	7.6	..
Public administration and defence	6.6	3.9	8.7	10.0	9.2	..
Other services	9.7	8.0	9.8	9.8	9.5	..
Percentage share of gross value-added, by economic activity (at current basic prices)						
Agriculture, forestry and fishing	18.2	17.7	18.0	18.0	17.1	17.6
Crops	11.2	10.6	10.6	10.4	9.4	..
Livestock	4.4	4.6	4.8	5.1	5.1	..
Forestry and logging	1.5	1.5	1.5	1.4	1.3	..
Fishing and aquaculture	1.0	1.1	1.1	1.2	1.2	..
Mining and quarrying	2.7	2.3	2.3	2.3	2.3	2.1
Manufacturing	16.3	17.1	16.7	16.4	16.1	15.1
Food products, beverages and tobacco	1.6	1.7	1.9	1.8	1.7	..
Textiles, clothing and leather products	2.2	2.4	2.2	2.1	2.0	..
Metal products	2.4	1.9	2.0	2.1	2.1	..
Machinery and equipment	3.4	3.9	3.9	3.8	3.7	..
Other manufactured goods	6.8	7.3	6.8	6.7	6.5	..
Electricity, gas, and water supply	2.5	2.7	2.5	2.7	2.7	2.6
Construction	8.5	7.9	7.7	7.7	7.8	7.6
Services	51.8	52.3	52.6	52.8	54.0	55.0
Trade, and repair services	10.5	10.4	10.5	10.8	11.1	..
Hotels and restaurants	1.0	1.0	1.0	1.0	1.0	..
Transport, and storage	5.0	5.0	4.9	4.8	4.7	..
Railways	0.8	0.8	0.8	0.7	0.7	..
Road transport	3.2	3.2	3.1	3.1	3.1	..
Water transport	0.1	0.1	0.1	0.1	0.1	..
Air transport	0.1	0.2	0.2	0.1	0.1	..
Services incidental to transport	0.8	0.7	0.7	0.7	0.6	..
Storage	0.1	0.1	0.1	0.1	0.1	..
Communication and services related to broadcasting	1.8	1.9	1.8	1.6	1.6	..
Financial services	5.7	5.8	5.4	5.4	5.6	..

	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
Real estate, ownership of dwelling and professional services	14.8	15.1	15.5	15.2	15.6	..
Public administration and defence	5.9	5.8	5.9	6.1	6.2	..
Other services	7.1	7.4	7.7	7.9	8.3	..

.. Not available.

Source: Ministry of Statistics and Programme Implementation, *First Revised Estimates of National Income, Consumption Expenditure, Saving and Capital Formation, 2018-19*. Viewed at: www.mospi.gov.in/sites/default/files/press_release/Press_Note_NAD_31012020.pdf.

1.10. India does not systematically collect data on employment. However, it would appear that the rate of unemployment grew from 3.7% in 2015/16 to 6.1% in 2017/18, with urban unemployment at 7.8% and rural unemployment at 5.3%.[11] The largest share of the workforce is employed in agriculture: officially, 42.7% in 2017/18, although informal employment is higher.

1.11. Strong economic growth has resulted in a steady improvement in India's socio-economic indicators. Per capita income growth has been accompanied by an improvement in life expectancy to 69 years by 2017, compared to 63 in 2000, and a decline in mortality rates to 37 for every 1,000 live births. According to the latest data available (2015), however, the World Bank estimates that the level of poverty remains significant, at around 13.4% of the population.[12]

1.12. The priority of the central Government has therefore been to increase economic inclusion through schemes and subsidies mainly targeting the rural sector. Minimum support prices of key agricultural crops were raised, while the *PM Jan Dhan Yojana* enabled the direct transfer of a growing number of subsidies to a targeted population. The Government aims to double farmers' incomes by 2020. Central government expenditure on explicit subsidies was around 2.5% of GDP during the review period, although extra-budgetary expenditure on subsidies has increased significantly in recent years (Section 1.3).

1.13. Given India's continued need for better infrastructure, subsidies will need to be reduced and better targeted to free up resources for investment. In December 2019, India announced INR 102,000 billion (around USD 1,400 billion) for a "national infrastructure pipeline".[13] Almost 80% of its financing will be provided by the central and state governments (with equal shares), with the remainder to be provided by the private sector. Projects worth INR 42.7 billion (42% of the total) are already under implementation, projects worth INR 32.7 billion (32%) are in the conceptualization stage, and the rest are under development. It is expected other projects will be added.

1.3 Fiscal Policy

1.14. India's fiscal policy is conducted in the framework of the Fiscal Responsibility and Management (FRBM) Act, 2003, which called for the reduction and elimination of the revenue deficit by 31 March 2009. The Act was amended several times, most recently in March 2018. The 2018 amendment followed recommendations by the FRBM Review Committee Report, issued in January 2017 (Box 1.2). The amendment called for a reduction of the fiscal deficit to 3% of GDP by 31 March 2021 (fiscal year 2020/21), and for the central Government to endeavour to contain general government debt to 60% of GDP, of which the central government debt to 40%, by the end of financial year 2024/25.[14] The central Government must also try to ensure that these targets are not exceeded

[11] National Statistical Office, *Periodic Labour Force Survey, (July 2017-June 2018).* Viewed at: http://www.mospi.gov.in/sites/default/files/publication_reports/Annual%20Report%2C%20PLFS%202017-18_31052019.pdf. More recent non-government estimates based on labour market surveys put unemployment at 7.2% in January 2020. Centre for Monitoring the Indian Economy, *No improvement in new investment proposals*. Viewed at: https://www.cmie.com/. The estimate also shows that, while the rural unemployment rate has fallen sharply since December 2019 to 6%, urban unemployment rose to 9.7%.

[12] World Bank. Viewed at: https://databank.worldbank.org/data/download/poverty/33EF03BB-9722-4AE2-ABC7-AA2972D68AFE/Global_POVEQ_IND.pdf.

[13] Press Information Bureau (PIB), *Finance Minister Smt Nirmala Sitharaman releases Report of the Task Force on National Infrastructure Pipeline for 2019-2025.* Viewed at: https://pib.gov.in/PressReleseDetail.aspx?PRID=1598055

[14] The FRBM (Amendment) Rules, 2018 clarify that "the Central Government shall reduce the fiscal deficit by an amount equivalent to 0.1 per cent or more of GDP at the end of each financial year beginning with the financial year 2018-19, so that the fiscal deficit is brought down to not more than 3% of the GDP by 31 March 2021".

after these dates. The "escape" and "buoyancy" clauses recommended by the Committee were maintained in the amendment and, where the fiscal deficit is allowed to vary from these targets, "a statement explaining the reasons thereof and the path of return to annual prescribed targets … shall be laid, as soon as may be, before both the Houses of Parliament". The Fiscal Council, also recommended by the Committee, has not yet been established.

Box 1.2 FRBM Review Committee Report: key recommendations

The Committee was set up on 17 May 2016. Its terms of reference included a review of the FRBM Act over the 12 years of its implementation, and suggesting the way forward; examining the need and feasibility of a "fiscal deficit range" as a target; and the need and feasibility of aligning fiscal expansion (contraction) with credit expansion (contraction) in the economy.

The Committee recommended the repeal of the FRBM Act, 2003 and the FRBM Rules, 2004; enactment of a new Debt and Fiscal Responsibility Act and rules; adoption of a medium-term ceiling for general government debt of 60% of GDP (40% for the central Government and 20% for state governments); and adoption of the fiscal deficit as the key operational target for achieving the medium-term debt ceiling. Both the fiscal and revenue deficits were to drop as a percentage of GDP, as indicated below:

Year	Debt	Fiscal deficit	Revenue deficit
2017/18	49.4	3.5	2.30
2018/19	47.3	3.0	2.05
2019/20	45.5	3.0	1.80
2020/21	43.7	3.0	1.55
2021/22	42.0	2.8	1.30
2022/23	40.3	2.6	1.05
2023/24	38.7	2.5	0.80

The Committee also suggested that there could be a deviation from the fiscal deficit target of 0.5 percentage points ("escape clause") in the case of national emergencies or national security needs, far-reaching structural reforms in the economy with unanticipated fiscal implications, or a sharp decline in real output growth of at least 3 percentage points below the average in the previous four quarters. If there is a sharp increase in real output growth of at least 3 percentage points above the average of the previous four quarters, the fiscal deficit must fall by at least 0.5 percentage points below the target ("buoyancy clause").

To determine whether these conditions are met, the Committee recommended the appointment of a Fiscal Council whose functions would include: multi-year forecasts for the Government; debt and fiscal sustainability analyses with projections for key fiscal indicators; independent assessment of central government fiscal performance and compliance with targets established by the Act, and recommendation of changes to the fiscal strategy to ensure compliance; preparation of a Macroeconomic Framework Statement; provision of advice to the central Government on whether conditions permit the invocation of the escape or buoyancy clauses; and recommendations to return to the original fiscal targets.

Source: FRBM, *FRBM Review Committee Report, Volume I: Responsible Growth, A Debt and Fiscal Framework for 21st Century India, January 2017*. Viewed at: https://dea.gov.in/sites/default/files/Volume%201%20FRBM%20Review%20Committee%20Report.pdf.

1.15. The central government budget is announced in February every year. India's fiscal year runs from April to March. The Railway Budget, which was previously separate from the central government Budget, was incorporated into the latter in 2017.

1.16. During the period under review, the central Government's fiscal deficit fell from 4.1% of GDP in 2014/15 to 3.4% in 2018/19 (compared to a target of 3.3%). The estimate for 2019/20 was raised from 3.4% to 3.8% in the 2020/21 Budget (instead of the 3.0% required in the FRBM Act).[15] The overshoot in 2019/20 was mainly due to weaker-than-expected tax revenue from the newly implemented GST and related compensation to the states, as well as a reduction in the corporate income tax rate. According to the Medium-Term Fiscal Cum Fiscal Policy Strategy Statement, issued with the Budget, the central Government projects a decline in the fiscal deficit to 3.5% for 2020/21 and to 3.3% and 3.1%, respectively, in 2021/22 and 2022/23.[16] Central government debt, which

[15] The Budget speech indicated that the deviation of 0.5% is consistent with the trigger mechanism under the FRBM Act, which permits such a deviation on account of structural reforms in the economy with unanticipated fiscal implications. Union Budget 2020-21, *Budget Speech*. Viewed at: https://www.indiabudget.gov.in/budgetspeech.php.

[16] The Medium-Term Fiscal Cum Fiscal Policy Strategy Statement is required under the FRBM Act. It sets out a three-year rolling target for fiscal indicators, and an explanation of the factors underlying these estimates. It also indicates the fiscal policies and fiscal priorities for the ensuing financial year, and an

was expected to decline to 48% of GDP in 2019/20, has been revised upwards to 50.3%, higher than the FRBM requirement of 43.7%. The Statement notes that the progressive reduction in the debt-to-GDP ratio of the Government will ease the interest burden and allow more space to the Government to spend on other socially productive sectors without recourse to additional borrowing.

1.17. Tax revenue (net of the share of the states) remained at around 7% of GDP during the review period. Indirect taxes accounted for under half of the central government tax revenue. In 2017, the GST, a tax on value added, was introduced. The GST replaced various taxes at the central and state levels (Section 3.1.4) and is expected to broaden the tax base, improve collection, and reduce tax evasion. Its share in total tax revenue rose from 23% when it was introduced, to around 28% in 2018/19 and 2019/20. The share of customs revenue declined significantly from 15% in 2014/15 to under 6% since 2018/19, mainly due to lower commodity prices during the period. However, the authorities pointed out that the total incidence of duties (including internal taxes such as the GST and other taxes before the GST came into force) on imports did not decline (Table 1.3). Direct tax collection was considerably lower than budgeted for in 2019/20, mainly due to a cut in the corporate tax rate. The cut in personal income tax rates in 2020 is also likely to have implications for tax revenue in 2020/21. Nevertheless, the authorities believe that better compliance, combined with measures taken to broaden the tax base, led to a rise in the tax-to-GDP ratio in the medium to long term. The Budget for 2020/21 projects that income tax revenue will rise despite the cut in personal income tax rates.

Table 1.3 Central government tax revenue, 2014-21

(INR billion)

	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
Total tax revenue	**12,448.8**	**14,556.5**	**17,158.2**	**19,190.1**	**20,804.7**	**21,634.2**	**24,230.2**
Tax revenue, net of states' share	9,036.2	9,437.7	11,013.7	12,424.9	13,172.1	15,045.9	15,045.9
	(% of total tax revenue)						
Direct taxes	56.1	51.2	49.8	52.5	54.6	54.1	54.4
Corporation taxes	34.5	31.1	28.3	29.8	31.9	28.2	28.1
Income taxes	21.7	20.1	21.5	22.7	22.7	25.9	26.3
Indirect taxes	43.9	48.8	50.2	47.5	45.4	45.9	45.6
Customs	15.1	14.4	13.1	6.7	5.7	5.8	5.7
Excise duties	15.2	19.8	22.2	13.5	11.2	11.5	11.0
Service tax	13.5	14.5	14.8	4.2	0.3	0.1	0.0
GST	n.a.	n.a.	n.a.	23.1	28.0	28.3	28.5
Other taxes and duties on commodities and services	0.1	0.0	0.0	0.0	0.3	0.3	0.3
Memorandum:							
Central government balance (% of GDP)							
Gross fiscal balance[a]	-4.1	-3.9	-3.5	-3.5	-3.4	-3.8	-3.5

n.a. Not applicable.

a Revenue receipts plus capital receipts (not including borrowing and other liabilities) minus total expenditure.

Note: Up to 2018/19 actual figures; 2019/20 figures are based on revised budget estimates, and 2020/21 figures are budgeted.

Source: Union Budget (various years).

1.18. With regard to expenditure, the Government expects a reduction in spending on the food subsidy, mainly due to the use of loans from the National Small Savings Fund (NSSF) to cover around half of the subsidy provided to the Food Corporation of India (FCI) for procurement.[17] As a result, expenditure on subsidies is expected to decline to around 1.1% of GDP in 2019/20 (instead of 1.4% as budgeted) and to 1.0% in 2020/21. During the period under review, the NSSF and other special banking arrangements were increasingly used to cover various public-sector expenditures. Thus,

assessment of whether the policies will ensure compliance with the targets set out under the Act and the medium-term fiscal strategy.

[17] The NSSF is a small savings fund for the public sector, including provident fund deposits and savings certificates. NSSF loans have been increasingly used since 2016-17 by public-sector companies, including the FCI, the National Highways Authority of India, Air India, the National Rail Finance Corporation, and the Power Finance Corporation. The NSSF is used by both the central and state governments to supplement their spending requirements but state governments have reduced their reliance on it, borrowing instead on the market. Ministry of Consumer Affairs, Food & Public Distribution, *Payment to FCI to run Procurement, Storage and Distribution Network.* Viewed at: https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1580397.

while budgetary expenditure decreased, off-budget expenditures rose.[18] The Comptroller General's report to Parliament notes that such off-budget expenditures defer payment in the relevant financial year, and result in additional cost by way of interest payments.[19]

1.19. After a period of consolidation, the deficits of the state governments rose to 3.0% and 3.5% of GDP in 2015/16 and 2016/17, respectively. The rise was mainly due to increased expenditure by the states under the UJWAL Discom Assurance Yojana (UDAY), which envisaged them assuming 75% of the debt of the state electricity distribution companies over these two years (Section 4.2).[20] After falling to 2.4% in 2017/18, state deficits rose to 2.9% in 2018/19 (instead of the budgeted 2.6%), mainly as a result of increased expenditure for agriculture (such as loan waivers) and lower-than-expected revenue. It is expected that, with rising state GST revenue, the states will consolidate their fiscal position in 2019/20, although there are downside risks, with almost half of the states (12) budgeting above the required 3% threshold for 2019/20.[21] The RBI also noted that much of the improvement in state budgets is due to a reduction in expenditures, notably capital expenditures, "which has negative output effects in the medium term".[22]

1.4 Monetary and exchange rate policy

1.20. The RBI is responsible for India's monetary and exchange rate policy. The Reserve Bank Act, 1934 was amended in 2016 to give the RBI a statutory basis for flexible inflation targeting[23] based on the Monetary Policy Framework Agreement (MPFA), signed between the Government of India and the RBI on 20 February 2015. The MPFA requires the RBI to bring inflation (measured by the year-on-year change in the monthly CPI) down to 6% by January 2016 and 4% for subsequent years, within a band of plus or minus 2%. If the RBI fails to meet the target, it is required to explain to the Government the reasons for the failure, and provide an estimated period within which it could meet the target.[24] The policy interest rate required to achieve the inflation target is determined by the Monetary Policy Committee (MPC), established in September 2016 and mandated to meet at least four times a year.

1.21. Monetary policy is implemented through the use of a combination of direct and indirect instruments, principally the cash reserve ratio, the statutory liquidity ratio, and refinance facilities. The main indirect instrument is the liquidity adjustment facility (LAF), whereby the RBI uses repo and reverse repo rates to adjust short-term liquidity. The only varying policy rate remains the repo rate or the rate at which the RBI lends to commercial banks. Recently, the RBI also introduced longer-term repo operations to improve monetary transmission. The RBI's operating target is the

[18] It is estimated that extra-budgetary spending increased from around 1.4% of GDP in 2015 to 2.9% by 2018 (Subramanian, A. and Felman, J., 2019, "India's Great Slowdown: What Happened? What's the Way Out?" *Center for International Development at Harvard University, Working Paper No. 370,* December).

[19] The report also suggests that such off-budget financial arrangements understates annual expenditures on subsidies, and prevents the transparent depiction of fiscal indicators for the relevant year, and that an appropriate disclosure framework may be required for off-budget financing. Report of the Comptroller and Auditor General of India on Compliance of the Fiscal Responsibility and Budget Management Act, 2003, for the Year 2016-17. Viewed at: https://cag.gov.in/sites/default/files/audit_report_files/Report_No_20_of_2018_Compliance_of_the_Fiscal_Responsibility_and_Budget_Management_Act_2003_Department_of_Economic_Affairs_Minis.

[20] The RBI estimates the impact of the UDAY on state government budgets at around 0.7% of GDP. RBI, *State Finances: A Study of Budgets of 2019-20*. Viewed at: https://www.rbi.org.in/Scripts/AnnualPublications.aspx?head=State%20Finances%20:%20A%20Study%20of%20Budgets.

[21] According to the Annual Report of the RBI for 2018/19, the increased expenditure was mainly due to farm loan waivers, income support schemes, and an increase in the minimum support prices for certain crops in certain states. RBI, *Annual Report 2019.* Viewed at: https://rbidocs.rbi.org.in/rdocs/AnnualReport/PDFs/2ECONOMICREVIEW80E1FDD5A97642ADA02908CBC64739B9.PDF.

[22] RBI, *State Finances: A Study of Budgets of 2019-20*. Viewed at: https://www.rbi.org.in/Scripts/AnnualPublications.aspx?head=State%20Finances%20:%20A%20Study%20of%20Budgets.

[23] Previously, the RBI's approach to monetary policy was based on multiple indicators, including price stability, financial stability, and economic growth. Monetary Policy Framework in India — Experience with Multiple Indicators Approach; Speech by Mr Deepak Mohanty. Viewed at: https://rbidocs.rbi.org.in/rdocs/Speeches/PDFs/DMBEM020310.pdf.

[24] RBI, Viewed at: https://rbidocs.rbi.org.in/rdocs/content/pdfs/MPFA28022015.pdf.

weighted average call rate (WACR), which it aims to align with the policy repo rate through liquidity management.

1.22. During the period under review, with the target for CPI inflation by the end of 2016/17 at below 6%, and a focus on an inflation target of 4%, monetary policy maintained an accommodative stance, especially to encourage investment and support growth. As CPI inflation fell to below its mandated target to 5.6% by the end of 2015 and 5.7% by January 2016, the policy rate was reduced to 6.5% in April 2016. Following the central Government's decision to demonetize in November 2016, the RBI used a number of instruments, including reverse repo rate auctions, to absorb surplus liquidity in the banks; this was followed by time-limited use of an incremental cash reserve ratio (ICCR) of 100% on net demand and time liabilities of banks, and open-market sales of securities. The RBI reverted to the use of reverse repo auctions (its traditional instrument to absorb surplus liquidity) on 14 January 2017, following the decline in surplus liquidity. The demonetization dampened inflation further, and the policy rate was reduced to 6% in August 2017, where it remained until June 2018 when monetary policy was tightened by 25 basis points to 6.5% to respond to growing inflationary pressures from rising input prices of crude oil and other commodities. The MPC switched to a calibrated tightening stance in October 2018 but, by early 2019, inflationary risks had eased, and inflation was expected to remain within the 4% target. With economic growth weakening and inflation predicted to remain below the RBI's target, the MPC cut the repo rate by 25 basis points in February, April and June 2019 to 5.75%. The rate was further reduced to 5.40% in August 2019 and to 5.15% in October 2019. To address the challenges created by the current global COVID-19 pandemic, the rate was reduced substantially at the end of March 2020 to 4.4%, and then further in May to 4.0%.

1.23. Despite a decline in the repo rate, there has been concern that monetary transmission by banks has been staggered and incomplete.[25] Following the introduction of an external benchmark system for all new floating rate personal loans and loans to micro and small enterprises (MSEs) by the RBI in October 2019, most banks linked their lending rates for such loans to the RBI's repo rate.[26] There are early indications of an improvement in transmission to new rupee loans to the housing, automotive and MSE sectors. The authorities noted that weighted average lending rates on existing and new loans declined. In February 2020, loans to medium-sized enterprises were also linked to the external benchmark.

1.24. India's exchange rate policy is based on a managed float (since 1993), with the RBI intervening from time to time to prevent excessive volatility and in line with the objectives of monetary policy. The nominal effective exchange rate (NEER) depreciated during 2015/16 and 2016/17, before appreciating slightly in 2017/18. Following an increase in oil prices, a widening current account deficit, and the strengthening of the US dollar, the NEER showed sharper depreciation in 2018/19. The real effective exchange rate (REER) showed appreciation for much of this period but depreciated in 2018/19.[27] During the first half of 2019, there was modest appreciation of the Indian rupee, followed by depreciation by mid-2019, and volatility thereafter.

1.5 Balance of payments

1.25. After gradually improving between 2014/15 and 2016/17, India's current account deficit widened to 2.1% of GDP in 2018/19. In 2019/20, the deficit fell to 0.8%, due to a narrowing merchandise trade deficit, as the decline in imports outstripped that of exports during this period. The services balance continues to be positive, as it was throughout the review period. The current account deficit reflects the difference between gross domestic savings and investment in the country. While savings continued to grow since the last Review, they did not keep pace with investment. The current account deficit was financed through capital inflows, primarily in the form of foreign direct and portfolio investment. While gross FDI to India increased gradually since 2014/15, higher repatriation by foreign investors led to a decline in net FDI between 2015/16 and 2017/18; net FDI inflows improved during 2018/19 and 2019/20. Portfolio investment, which remains volatile and

[25] RBI, *Fourth Bi-monthly Monetary Policy Statement, 2019-20, Resolution of the Monetary Policy Committee*. Viewed at: https://rbidocs.rbi.org.in/rdocs/PressRelease/PDFs/PR865A67C25ACCD20475696264BABF2DFA063.PDF.

[26] RBI, *Fifth Bi-monthly Policy Statement, 2019-20, Resolution of the Monetary Policy Committee*. Viewed at: https://rbidocs.rbi.org.in/rdocs/PressRelease/PDFs/PR135049CE0509E92A44F4B7EA2FDC4A9C3340.PDF.

[27] The NEER and REER are based on a basket of six currencies: euro, Japanese yen, US dollar, British pound, Chinese renminbi, and Hong Kong dollar.

susceptible to global developments, has increased since 2016-17. Recent reductions in foreign investment restrictions, and the reduction in corporate rate of tax in 2019, may help to attract more FDI.[28]

Table 1.4 Balance of payments 2014-20

(USD million)

	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
Current account	-26,789.0	-22,087.8	-14,350.0	-48,661.1	-57,180.4	-24,550.1
Goods and services balance	-68,411.0	-60,402.2	-44,097.9	-82,474.0	-98,341.7	-72,583.8
Goods balance	-144,940.0	-130,078.7	-112,442.5	-160,035.9	-180,282.6	-157,505.9
Exports	316,545.0	266,365.3	280,138.0	308,970.4	337,236.6	320,430.9
Imports	461,484.0	396,444.1	392,580.5	469,006.3	517,519.2	477,936.8
Services balance	76,529.0	69,676.5	68,344.6	77,561.9	81,940.9	84,922.1
Receipts	158,107.0	154,311.1	164,196.6	195,088.9	208,000.4	213,191.0
Payments	81,578.0	84,634.7	95,852.0	117,527.0	126,059.5	128,268.9
Primary income	-24,140.0	-24,375.3	-26,301.9	-28,680.9	-28,861.1	-27,280.6
Credit	13,397.0	14,703.0	16,290.8	18,861.6	21,839.3	25,165.5
Debit	37,537.0	39,078.3	42,592.7	47,542.5	50,700.4	52,446.1
Secondary income	65,761.0	62,689.7	56,049.8	62,493.8	70,022.4	75,314.4
Credit	70,123.0	66,001.6	61,550.0	69,433.4	76,633.9	83,350.6
Personal transfers (current transfers between resident and non-resident households)	67,331.0	63,420.8	59,084.1	66,852.5	73,918.0	80,758.7
Debit	4,362.0	3,311.9	5,500.2	6,939.6	6,611.5	8,036.2
Capital account	85.0	40.7	149.8	-29.1	-163.5	-1,091.7
Gross acquisitions/disposals of non-produced non-financial assets	110.0	13.4	39.5	42.2	-68.0	-1,017.9
Capital transfers	-25.0	27.3	110.3	-71.2	-95.5	-73.8
Financial account	27,725.0	23,120.2	14,680.2	47,788.4	57,829.6	24,667.6
Direct investment	31,251.0	36,021.0	35,612.2	30,286.1	30,712.0	43,013.2
FDI in India	35,283.0	44,906.5	42,214.9	39,430.5	43,302.3	56,006.2
India's direct investment abroad	-4,031.0	-8,885.6	-6,602.7	-9,144.5	-12,590.3	-12,993.0
Portfolio investment	40,934.0	-4,503.1	7,611.6	22,114.9	-2,438.0	1,403.4
Portfolio investment in India	40,923.0	-4,016.0	7,765.6	22,164.7	-2,224.6	552.1
Portfolio investment by India	11.0	-487.2	-154.0	-49.8	-213.3	851.3
Financial derivatives (other than reserves) and employee stock options	-1,563.0	631.0	9,821.8	-2,870.0	1,032.1	4,098.9
Other investment	18,509.0	8,876.0	-16,814.9	41,831.7	25,184.2	35,650.2
Other equity	1,271.0	373.4	0.0	0.0	1,820.0	0.0
Currency and deposits	15,789.0	15,808.2	-12,080.9	9,675.1	10,693.1	7,964.3
Loans	-876.0	-8,203.1	-8,623.2	9,275.6	10,569.2	13,431.7
Insurance, pension, and standardized guarantee schemes	76.0	-787.0	-293.6	-1,682.7	-1,161.8	-624.6
Trade credit and advances	-111.0	-1,609.9	6,467.3	13,899.9	2,020.7	-1,025.6
Other	2,361.0	3,294.5	-2,284.5	10,663.9	1,243.0	15,904.3
Reserve assets	-61,406.0	-17,904.7	-21,550.3	-43,574.4	3,339.4	-59,498.1
Errors and omission	-1,021.0	-1,073.1	-480.0	901.8	-485.8	974.2

Note: 2019/20 figures are provisional.

Source: RBI, *Handbook of Statistics on Indian Economy*. Viewed at: https://www.rbi.org.in/Scripts/AnnualPublications.aspx?head=Handbook%20of%20Statistics%20on%20Indian%20Economy; and *Developments in India's Balance of Payments during the Fourth Quarter (January-March) of 2019-20.* Viewed at: https://www.rbi.org.in/scripts/BS_PressReleaseDisplay.aspx?prid=50020.

[28] According to the Department for Promotion of Industry and Internal Trade (DPIIT), around 90% of total FDI inflows are through the automatic route. DPIIT, Industrial Policy 2017 - A Discussion Paper. Viewed at: https://dipp.gov.in/sites/default/files/Industrial_policy_2017_DP.pdf.

1.6 Developments in Trade and Investment

1.6.1 Trends and patterns in merchandise and services trade

1.6.1.1 Merchandise trade

1.26. India's merchandise trade as a share of GDP is around 30%. Growth in both exports and imports fell sharply in 2015/16, due to lower petroleum prices and weak global demand. Since then, growth in exports has averaged around 8% annually, and imports almost 11%.

1.27. Exports increased from USD 310 billion in 2014/15 to USD 313 billion in 2019/20. Imports grew from USD 448 billion to USD 474 billion during the same period. The product composition of exports remained largely unchanged. Petroleum and mineral products, precious stones and metals, chemicals, and textiles are the largest components thereof. The share of machinery and electrical equipment increased during this period, reflecting, in part, a move towards medium technology exports with greater value added (Chart 1.1 and Table A1.1). Imports continue to be dominated by petroleum and mineral products which account for around a third of imports. The share of machinery and electrical equipment imports (especially machinery and mechanical appliances and parts, and electrical machinery and parts) also increased during this period, perhaps as a result of trade policies to encourage imports of components and export of value-added products (Chart 1.1 and Table A1.2).[29] Other imports that increased include chemicals and transport equipment.

1.28. In terms of the direction of trade, the EU-28 remains the main destination for exports, followed by the United States (Chart 1.2 and Table A1.3). Around a third of exports are destined for other countries in Asia, where the principal markets remain China; Hong Kong, China; and Singapore. The share of its exports destined for the Middle East and Africa has, however, been declining.

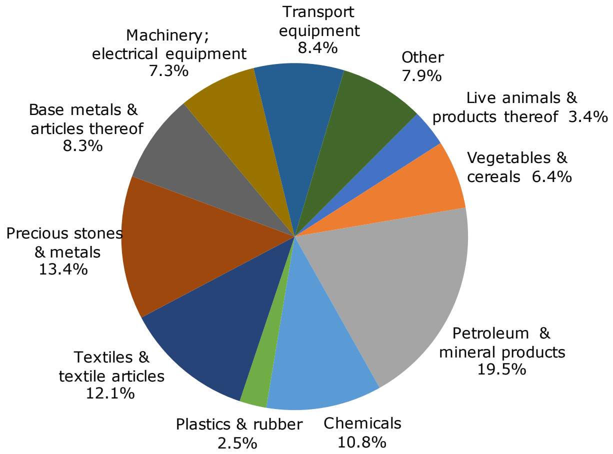
1.29. Almost 40% of India's imports in 2019/20 originated in Asia (Chart 1.2 and Table A1.4). The largest source of imports from the region is China, whose share remained relatively stable during this period. Imports from the United States increased quite significantly, while decreasing slightly from Europe (EU-28 and Switzerland) during this period. Around a quarter of imports originated in the Middle East, a share that remained relatively unchanged.

[29] Tariffs on imports of intermediate goods have been falling as part of various policies to promote the production and export of value-added products.

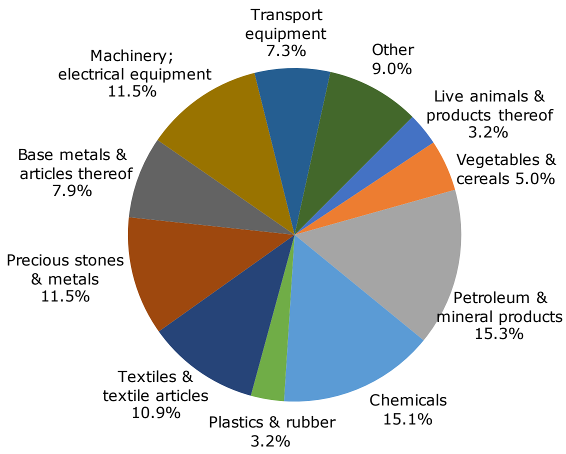
Chart 1.1 Product composition of merchandise trade, by main HS section, 2014/15 and 2019/20

2014/15 **2019/20**

Exports

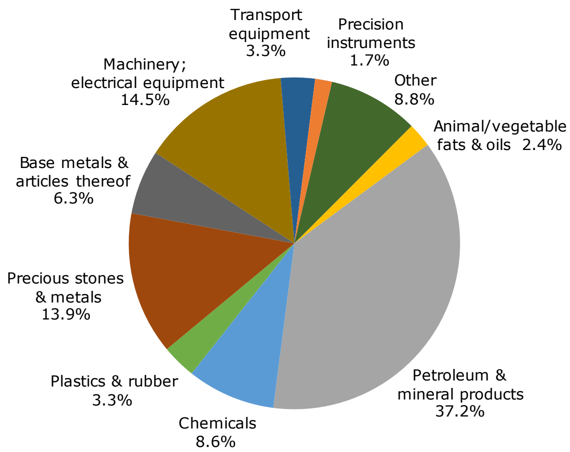


Total: USD 310.3 billion

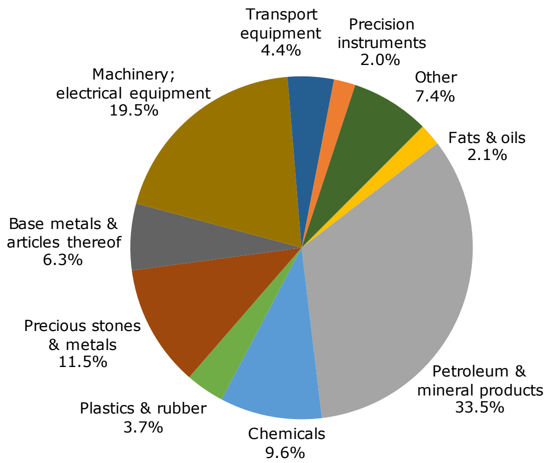


Total: USD 313.2 billion

Imports



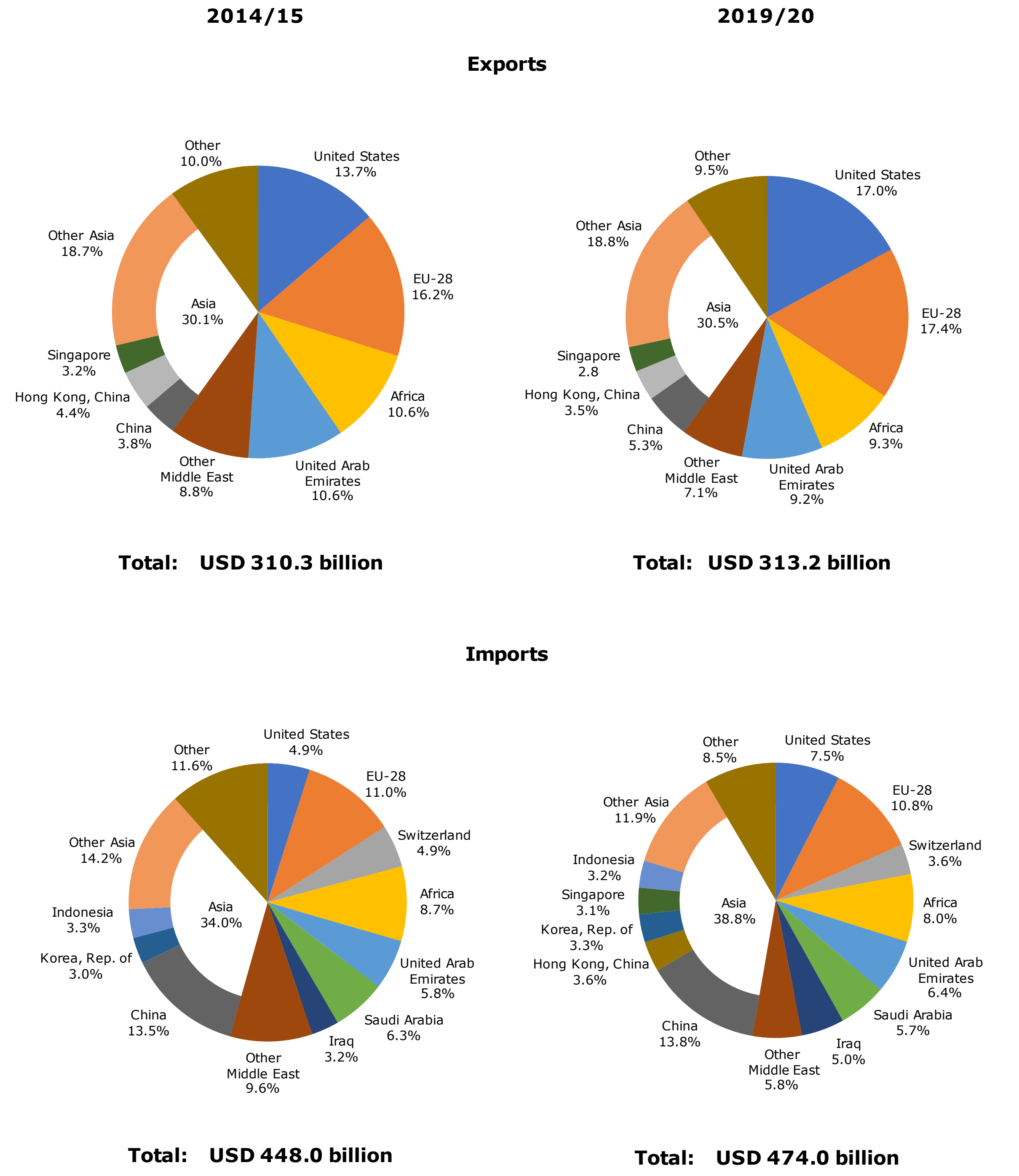
Total: USD 448.0 billion



Total: USD 474.0 billion

Source: WTO calculations, based on data from the Ministry of Commerce and Industry, Department of Commerce. Viewed at: https://commerce-app.gov.in/eidb/default.asp.

Chart 1.2 Direction of merchandise trade, 2014/15 and 2019/20



Source: WTO calculations, based on data from the Ministry of Commerce and Industry, Department of Commerce. Viewed at: https://commerce-app.gov.in/eidb/default.asp.

1.6.1.2 Services trade

1.30. India has a net surplus in its services trade. After falling in 2015/16, services exports recovered and have grown from USD 164.2 billion in 2016/17 to USD 213.2 billion in 2019/20 (Table 1.5). The main services exports are computer, information and telecommunications services, whose share increased from 47.6% to 49.6% of exports between 2014/15 and 2015/16 before declining to 45.1% in 2019/20. Other key services exports include travel services and transportation services, at 14.1% and 9.8%, respectively, in 2019/20. Imports of services grew from

USD 81.6 billion in 2014/15 to USD 128.3 billion in 2019/20. Other business services account for around one third of imports, followed by transportation and travel services.

Table 1.5 Trade in services 2014-20

(USD billion)

	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
Total credit	**158.1**	**154.3**	**164.2**	**195.1**	**208.0**	**213.2**
			(% of total credit)			
Manufacturing services on physical inputs owned by others	0.1	0.1	0.1	0.1	0.1	0.1
Maintenance and repair services n.i.e.	0.1	0.1	0.1	0.1	0.1	0.1
Transportation	11.1	9.1	9.7	8.9	9.4	9.8
Travel	12.9	13.8	14.2	14.5	13.7	14.1
Construction	1.0	1.0	1.3	1.2	1.6	1.5
Insurance and pension	1.4	1.3	1.3	1.3	1.3	1.1
Financial	3.6	3.2	3.1	2.6	2.3	2.2
Charges for use of intellectual property	0.3	0.3	0.3	0.4	0.3	0.4
Computer, information, and telecommunication	47.6	49.6	46.9	40.9	41.5	45.1
Other business	18.0	18.8	20.1	19.1	18.8	21.4
Personal, cultural, and recreational	0.8	0.9	0.8	0.8	0.9	1.0
Government goods and services, n.e.s.	0.3	0.4	0.4	0.3	0.3	0.3
Other	2.9	1.5	1.7	9.6	9.7	2.8
Total debit	**81.6**	**84.6**	**95.9**	**117.5**	**126.1**	**128.3**
			(% of total debit)			
Manufacturing services on physical inputs owned by others	0.04	0.05	0.04	0.04	0.03	0.05
Maintenance and repair services n.i.e.	0.3	0.4	0.4	0.5	1.0	0.9
Transportation	19.8	17.8	14.7	15.0	16.3	18.9
Travel	18.8	17.5	17.2	16.6	17.2	17.2
Construction	1.4	1.1	0.9	1.3	2.0	2.1
Insurance and pension	1.4	1.4	1.6	1.4	1.4	1.4
Financial	4.4	3.7	6.1	4.7	2.8	2.3
Charges for use of intellectual property	5.9	5.8	6.0	5.9	6.4	6.0
Computer, information, and telecommunication	5.0	4.8	5.0	5.5	5.9	8.0
Other business	33.9	36.7	33.7	31.2	32.1	36.5
Personal, cultural, and recreational	1.8	1.4	2.3	2.0	2.0	2.4
Government goods and services, n.e.s.	1.2	1.0	0.6	0.7	0.9	0.9
Other	6.2	8.3	11.5	15.2	12.1	3.3

Source: RBI, *Handbook of Statistics on Indian Economy*. Viewed at: https://www.rbi.org.in/Scripts/AnnualPublications.aspx?head=Handbook%20of%20Statistics%20on%20Indian%20Economy; and *Developments in India's Balance of Payments during the Fourth Quarter (January-March) of 2019-20.* Viewed at: https://www.rbi.org.in/scripts/BS_PressReleaseDisplay.aspx?prid=50020.

1.6.2 Trends and patterns in FDI

1.31. India is a net recipient of FDI. FDI inflows grew from USD 29.7 billion in 2014/15 to USD 36.8 billion in 2019/20. Services account for the sector receiving most FDI; its share increased from 11.0% in 2014/15 to 17.7% in 2019/20. The share of FDI in computer software and hardware has also increased rapidly, from 7.7% in 2014/15 to 17.0% in 2019/20. Inflows in telecommunications were also strong during 2016/17 and 2017/18, and FDI in trading was also considerable. The automobile industry continues to attract FDI, in part due to the large domestic market and relatively high tariffs (Section 4.3). FDI outflows increased from USD 4.0 billion in 2014/15 to almost USD 12.6 billion in 2018/19.

Table 1.6 FDI inflows/outflows, by main sector, 2014-20

(USD million)

	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20[a]
FDI equity inflows	**29,737**	**40,001**	**43,478**	**44,857**	**44,366**	**36,769**
	(% of FDI equity inflows)					
Services[b]	10.9	17.2	20.0	**15.0**	**20.6**	17.7
Computer software and hardware	7.7	14.8	8.4	13.7	14.5	17.3
Trading	9.2	9.6	5.4	9.7	10.1	9.6
Telecommunication	9.7	3.3	12.8	13.9	6.0	11.7
Automobile industry	9.2	6.3	3.7	4.7	5.9	6.8
Construction[c]	5.5	11.6	4.6	7.3	5.6	4.6
Chemicals (other than fertilizers)	2.6	3.7	3.2	2.9	4.5	2.3
Power	2.4	2.2	2.6	3.6	2.5	0.9
Drugs and pharmaceuticals	5.0	1.9	2.0	2.3	0.6	1.1
Total outflows	**4,031**	**8,886**	**6,603**	**9,144**	**12,590**	**..**

.. Not available.

a Up to December 2019.

b Including financial, banking, insurance, business, outsourcing, research and development, courier, technical testing, and analysis.

c Includes construction (infrastructure) activities, and construction development: townships, housing, built-up infrastructure and construction-development projects.

Note: Percentages are based on FDI equity inflows only, taken from the DPIIT.

Source: RBI, *Handbook of Statistics on Indian Economy*. Viewed at: https://www.rbi.org.in/Scripts/AnnualPublications.aspx?head=Handbook%20of%20Statistics%20on%20Indian%20Economy; and DPIIT, *FDI Statistics*. Viewed at: https://dipp.gov.in/publications/fdi-statistics.

1.32. As in previous years, Mauritius remains one of the largest investors in India, although it was overtaken by Singapore in recent years. FDI from Mauritius grew to 36% of total FDI in 2016/17; however, it has since decreased. This may partly be explained by a revision to the India-Mauritius tax treaty in 2016, which removed the exemption on capital gains tax for FDI from Mauritius. Following a revised double taxation avoidance agreement with Singapore, which entered into force in April 2017, and a new regulation discouraging foreign companies from setting up overseas entities to avoid Indian taxes by denying them local tax benefits, investment increased from Singapore and decreased from Mauritius. Other important sources of FDI include the Netherlands, Japan and the United States.

Table 1.7 FDI inflows/outflows, by main origin, 2014-20

(USD million)

	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20[a]
FDI equity inflows	**29,737**	**40,001**	**43,478**	**44,857**	**44,366**	**36,769**
	(% of FDI equity inflows)					
Singapore	22.7	34.2	20.0	27.2	36.6	31.7
Mauritius	26.4	20.9	36.2	35.5	18.2	20.3
United Kingdom	4.9	2.3	3.4	1.9	3.0	3.1
Netherlands	11.6	6.6	7.7	6.2	8.7	9.6
Japan	7.0	6.5	10.8	3.6	6.7	7.6
Germany	3.8	2.5	2.5	2.5	2.0	1.0
United States	6.1	10.5	5.5	4.7	7.1	7.6
Cyprus	2.0	1.3	1.4	0.9	0.7	0.7
France	2.1	1.5	1.4	1.1	0.9	1.3
Total outflows	**4,031**	**8,886**	**6,603**	**9,144**	**12,590**	**..**

.. Not available.

a Up to December 2019.

Note: Percentages are based on FDI equity inflows only, taken from the DPIIT.

Source: RBI, *Handbook of Statistics on Indian Economy*. Viewed at: https://www.rbi.org.in/Scripts/AnnualPublications.aspx?head=Handbook%20of%20Statistics%20on%20Indian%20Economy; and DPIIT, *FDI Statistics*. Viewed at: https://dipp.gov.in/publications/fdi-statistics.

2 TRADE AND INVESTMENT REGIMES

2.1 General Framework

2.1. India is a union of its states and union territories. Under the Constitution, which entered into force on 26 January 1950, India has an independent executive, legislature, and judiciary.

2.2. Executive power is vested in the President, who is the Head of State and is elected for five years by the members of an electoral college comprising members of both houses of Parliament and the state legislative assemblies. The President is assisted by the Council of Ministers, headed by the Prime Minister. The President appoints the Prime Minister and, on the advice of the Prime Minister, the other members of the Council of Ministers, all of whom must also be members of Parliament.

2.3. India has a parliamentary system, with a bicameral Parliament consisting of a Lower House (*Lok Sabha*, or House of the People) and an Upper House (*Rajya Sabha,* or Council of States). The Lok Sabha is subject to election every five years through universal suffrage. The Rajya Sabha is a permanent body, most of whose members are elected by the members of state legislative assemblies[1]; the term of each member is six years, with one third of Rajya Sabha members retiring every two years. Each state has an elected state legislature, and representatives in the Rajya Sabha.[2] Executive authority in the states and union territories is held by the Governor who is appointed by the President of India. The Governor of a state is assisted by the Council of Ministers, headed by the Chief Minister. The Governor appoints the Chief Minister and, on the advice of the Chief Minister, the other members of the Council of Ministers, all of whom must also be members of the state Legislature.

2.4. The legal system is based on common law and statutory legislation. The primary source of law is the legislation enacted by Parliament. All bills must be introduced in Parliament before being enacted into law. All bills, except money bills, may be introduced in either House of Parliament. They must be passed by a simple majority in each House and, once passed in one House, are sent onto the other House for adoption. Once adopted by both Houses, the bill must be approved by the President before it can become law. If Parliament cannot agree on the bill within six months, the President may summon a joint session of both Houses to discuss and vote on it. If the Bill is passed in the Joint Session, it is deemed to have been passed by Parliament.

2.5. Money bills, as defined by Article 110 of the Constitution, may only be introduced in the Lok Sabha. After passage in the Lok Sabha, the bill is transmitted to the Rajya Sabha, which, in turn, returns it within 14 days with its recommendations. The Lok Sabha may either accept or reject the recommendations, following which the bill is deemed to have been passed by both Houses of Parliament. If the bill is not sent back to the Lok Sabha within 14 days, it is also deemed to have been passed by both Houses.[3] The President must sign the bill, once passed by Parliament, in order for it to become law. Except for money bills, the President may amend the bill and return it to either House for consideration. The President may not withhold assent if the bill is returned without taking into account the recommendations made. Acts become law once published in the Gazette of India on the date of assent by the President or the date of entry into force indicated in the law.

2.6. In periods when Parliament is in recess, Article 123 of the Constitution gives the President power to promulgate ordinances, if immediate action is required. An ordinance has the same force and effect as an act of Parliament but it ceases to exist at the expiration of six weeks from Parliament reconvening, or before if both Houses disapprove it. An ordinance may be withdrawn at any time by the President.

2.7. Enabling legislation takes the form of regulations and rules which are usually drawn up by the implementing ministries or statutory bodies. In addition, government departments may issue circulars or notifications from time to time to amend regulations.

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[1] 12 members of the Rajya Sabha are nominated by the President. The Vice-President, who is elected by an electoral college of both Houses of Parliament and the state assemblies, is the *ex officio* Chair of the Rajya Sabha.

[2] There are 28 states and nine union territories. All the states, and the union territories of Delhi, Jammu and Kashmir and Puducherry, have their own legislative assemblies and representatives in the Rajya Sabha.

[3] Constitution, Article 109.

2.8. The Constitution determines the distribution of responsibilities of the state and central governments. The subjects of legislation are distributed between the central and state governments under Article 246 of the Constitution (read with the Seventh Schedule of the Constitution).[4] The Seventh Schedule of the Constitution lists certain areas, such as foreign affairs; treaties and agreements with foreign countries and their implementation; and trade and commerce, as the responsibility of the central Government (Schedule I - the Union List). In addition, while certain sectoral responsibilities also fall under the Union List (e.g. banking, insurance, and industries in the public interest), others, such as agriculture, protection against pests, and prevention of plant and animal diseases, fisheries, public health, and sanitation, are the responsibility of state governments (Schedule II - State List). Both the central and state governments have joint responsibility for other activities, such as bankruptcy and insolvency, commercial and industrial monopolies, and legal, medical and other professions (Schedule III - Concurrent List).

2.9. Under Chapter IV of the Constitution, the judiciary is headed by the Supreme Court, consisting of a Chief Justice and 30 other judges.[5] The judges are appointed by the President, after consultation with the Chief Justice and other judges as deemed necessary. The Supreme Court takes up appeals on any judgements made by the High Courts, which are the highest courts in the states and union territories. The High Courts are the appellate courts for decisions taken by district and subordinate civil and criminal courts. There are 25 High Courts, each having jurisdiction over one state and one or more union territories.

2.10. The Supreme Court's decisions are binding on all other courts in India. It also has sole jurisdiction over any disputes between the states and the central and state governments. In addition, special tribunals are established for resolving specific issues, including the Income Tax Appellate Tribunal, the Central Administrative Tribunal, the Intellectual Property Appellate Tribunal, and the Debt Recovery Tribunal.

2.11. Under Chapter V of the Constitution (Article 148), the Comptroller and Auditor General (CAG) is appointed by the President to audit, on an annual basis, the accounts of the central and state governments and any other authority or body as prescribed by any law passed by Parliament.[6]

2.2 Trade Policy Formulation and Objectives

2.2.1 Trade policy formulation

2.12. There have been no changes in the structure of trade policy formulation and implementation since the last Review. Responsibility for trade policy formulation and implementation lies with the Department of Commerce in the Ministry of Commerce and Industry, with the assistance of other ministries and agencies, such as the Ministry of Finance, the Reserve Bank of India, and sectoral ministries.[7]

2.13. The policy framework is provided by the Foreign Trade Policy (FTP), which is drawn up under the Foreign Trade (Development and Regulation) Act, 1992, and formulated and implemented by the Department of Commerce. Other key trade-related legislation includes the Customs Act, 1962, and the Customs Tariff Act, 1975 (Table 2.1). The current FTP covers the period 2015-21, and is amended periodically to take into account changing domestic and international economic considerations.

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[4] List I is known as the Union List, and includes 100 subjects over which the Union has exclusive power of legislation; List II is known as the State List, and comprises 61 items or entries over which the state legislature has exclusive power of legislation; and List III, known as the Concurrent List, comprises over 52 items over which both the central and state governments have concurrent powers to legislate.

[5] Article 124(1) as amended by the Supreme Court (Number of Judges) Amendment Act, 2008.

[6] Such bodies can include public sector enterprises. The CAG also audits the performance of programmes administered by the central and state governments.

[7] According to the Annual Report of the Department, other functions include: multilateral and bilateral commercial relations, special economic zones (SEZs), state trading, export promotion and trade facilitation, and development and regulation of certain export-oriented industries and commodities. Department of Commerce, *Annual Report 2017-18*.

Table 2.1 Principal trade-related laws, 2020

Area	Law
Foreign trade	Foreign Trade (Development and Regulation) Act, 1992 Foreign Trade (Development and Regulation) Amendment Act, 2010 Export (Quality Control and Inspection) Act, 1963 SEZ Act, 2005
Customs	Customs Act, 1962 Customs Tariff Act, 1975
Investment	Companies Act, 2013; Industries (Development and Regulation) Act, 1951 Indian Contract Act, 1872 Industrial Disputes Act, 1947
Anti-dumping/countervailing measures and safeguards	Customs Tariff Act, 1975
Taxation	Income Tax Act, 1961 Central Excise Act, 1944 Goods and Services Tax Act, 2017 State VAT Acts
Standards/TBT and labelling	Bureau of Indian Standards Act, 1986 Food Safety and Standards Act, 2006 Drugs and Cosmetics Act, 1940 Insecticides Act, 1968 Legal Metrology Act, 2009
SPS	Livestock Importation Act, 1898 Destructive Insects and Pests Act, 1914 Food Safety and Standards Act, 2006 Plant Quarantine Order, 2003, under Destructive Insects and Pests Act, 1914 Export (Quality Control and Inspection) Act, 1963 Agricultural and Processed Food Products Export Development Authority Act, 1985
Competition	Competition Act, 2002
Intellectual property rights	Copyright Act, 1957 Patents Act, 1970 Trade Marks Act, 1999 Designs Act, 2000 Geographical Indications of Goods (Registration and Protection) Act, 1999 Protection of Plant Varieties and Farmers' Rights Act, 2001 Seeds Act, 1966 Biological Diversity Act, 2002
Agriculture	National Food Security Act, 2013 Agricultural Produce Marketing Committee Act
Energy	Petroleum Act, 1934 Oil Field (Regulation and Development) Act, 1948 Petroleum and Natural Gas Board Act, 2006 Electricity Act, 2003
Banking	Reserve Bank of India Act, 1934 Banking Regulation Act, 1949 Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 Recovery of Debts due to Banks and Financial Institutions Act, 1993 Foreign Exchange Management Act, 1999
Insurance	Insurance Act, 1938 Insurance Regulatory and Development Authority Act, 1999 Life Insurance Corporation Act, 1956 General Insurance Business Act, 1972 Motor Vehicles Act, 1988
Securities	Securities and Exchange Board of India Act, 1992 Securities Contract (Regulations) Act, 1956 Depositories Act, 1996
Telecommunications	Indian Telegraph Act, 1885 Indian Wireless Telegraphy Act, 1933 Telecom Regulatory Authority of India Act, 1997
Maritime transport	Merchant Shipping Act, 1958 Indian Ports Act, 1908 Major Port Trust Act, 1963
Air transport	Aircraft Act, 1934 Airports Economic Regulatory Authority of India Act, 2008

Area	Law
Rail transport	Railways Act, 1989
Road transport	National Highways Act, 1956 Control of National Highways (Land and Traffic) Act, 2002 National Highways Authority of India Act, 1988 Carriage by Road Act, 2007

Source: Information provided by the authorities.

2.14. Expert groups and advisory bodies are also constituted from time to time to provide advice on trade policy and meeting trade policy objectives. Policy advice may also be provided by other institutions within the Central Government, such as the Director General of Foreign Trade (DGFT), the Tariff Commission, and the National Institution for Transforming India (NITI Aayog), established on 1 January 2015[8]; and non-governmental bodies, such as the Indian Institute of Foreign Trade, and chambers of commerce, such as the Federation of Indian Chambers of Commerce and Industry and the Confederation of Indian Industries.

2.2.2 Trade policy objectives

2.15. According to the FTP, India's trade policy objective is to increase its share in global exports. The current FTP (2015-21) aims to increase India's share of global exports from 2% in 2015 to 3.5% by 2020. The FTP Statement, which was released in 2015, aimed to achieve this by providing a stable and sustainable policy environment for foreign trade in merchandise and services; link rules, procedures and incentives for exports and imports with other central government schemes, such as "Make in India"; promote diversification of Indian exports; improve integration with major regions of the world; and provide a mechanism for regular appraisal to rationalize imports and reduce the trade imbalance.[9] To find a balance between meeting the needs of the growing economy and the promotion of domestic industry, a mechanism was put in place by the Department of Commerce for quarterly appraisal of imports. According to the authorities, the 21 stakeholder ministries/departments which were identified were advised to probe the need for importing various commodities and the feasibility of producing them in a cost-effective way. The objective is to develop an ecosystem conducive to formulating coordinated and rational import policies in various sectors.

2.16. To achieve these export targets, India uses incentives such as the Merchandise Export from India Scheme (MEIS), the Services Export from India Scheme (SEIS), and credit facilitation, to encourage exports. The objectives of the MEIS and the SEIS under the FTP is to offset infrastructural inefficiencies and associated costs of exporters (Section 3.2.5.).[10] On 1 September 2020, the Government announced that it would withdraw the MEIS from 1 January 2021.[11] The latest amendment to the FTP in 2017 incorporated changes resulting from India's ratification of the WTO Agreement on Trade Facilitation (TFA), including a reduction in the number of documents required for export and import, the single window interface for facilitating trade (SWIFT), and the establishment of the National Committee on Trade Facilitation.

2.17. While the overall goal remains to increase exports, since policymaking in India is largely focused on domestic issues, frequent use of trade policy is made to encourage domestic production and meet domestic inflation and supply objectives. Thus, changes are made as required to import and export restrictions and the tariff to ensure stable domestic supplies of key products. This was noted most recently in the report of the High Level Advisory Group in September 2019, which stated

[8] The NITI Aayog, which replaced the Planning Commission, was reconstituted on 7 June 2018 to include *ex officio* members, including the Ministers of Finance and Commerce. Its key objectives include "to evolve a shared vision of national development priorities and strategies with the active involvement of states in the light of national objectives". NITI Aayog, *Objectives and Features.* Viewed at https://niti.gov.in/index.php/objectives-and-features on 22 May 2019.

[9] FTP Statement 2015-20. Viewed at: http://www.eximkey.com/Upload/Spotlight/FTP2015-2020/FTPstatement2015.pdf on 22 May 2019.

[10] The MEIS replaces export incentives provided under the Focus Product Scheme, the Market Linked Focus Product Scheme, the Focus Market Scheme, the Agriculture Infrastructure Incentive Scrip, and the Vishesh Krishi Grameen Upaj Yojana. At present, the MEIS is available for more than 7,500 tariff lines/HSN Codes (for some codes under the apparel and made-up sectors of textiles, the MEIS was withdrawn with effect from 7 March 2019, through Public Notice 58 dated 29 January 2020, bringing the lines covered to around 7,500 from more than 8,000 tariff lines). Viewed at: https://content.dgft.gov.in/Website/PN58E_2020.pdf.

[11] DGFT Notification No. 30/2015-2020. Viewed at: https://content.dgft.gov.in/Website/dgftprod/4a37d60a-f0bf-4783-bc67-a17131168d46/N30E.pdf.

that "international trade receives inadequate attention both in the Government and outside in India, with the inward focus being visible across most institutions both in the public and private sectors".[12] Frequent changes in import and export policy create uncertainty for economic actors. The report calls for a reduction and rationalization of the tariff, in order to make it simple and more predictable[13] and, with regard to agriculture, recommends that "there must not be a 'stop and start' policy on exports and imports of agricultural products because that prevents farmers from taking objective decisions on sowing different crops".[14]

2.3 Trade Agreements and Arrangements

2.3.1 WTO

2.18. As a founding Member of the WTO, India provides most-favoured nation (MFN) treatment to all WTO Members (and other trading partners that are not WTO Members), except Pakistan, for which it withdrew MFN treatment on 15 February 2019.[15] Under the notification issued by the Ministry of Finance, imports of all products from Pakistan are subject to duties of 200% since 16 February 2019.[16] India accepted the Fourth and Fifth WTO Services Protocols. It is a Party to the WTO Information Technology Agreement (ITA) but has not joined the expanded ITA. India is also an observer to the WTO Agreement on Government Procurement (GPA) since February 2010. India's trade policies have been reviewed six times, most recently in June 2015.

2.19. India ratified the WTO TFA on 22 April 2016. According to its notifications to the WTO, around 72% of its commitments are in category A (implemented by 22 February 2017), and 23% in category B (which are to be implemented by 22 February 2022). It notified its contact points in April 2019.[17]

2.20. India's most recent notifications to the WTO are shown in Table 2.2.

Table 2.2 Notifications to the WTO, 1 January 2015–30 June 2020

WTO agreement	Description	Document symbol (most recent notification)	Date
Agreement on Agriculture			
Article 18.2 (DS:1)	Domestic support	G/AG/N/IND/18	31/03/2020
Article 18.2 (MA:1)	Tariff and other quota commitments	G/AG/N/IND/6	07/03/2011
Article 18.2 (MA:2)	Tariff quotas	G/AG/N/IND/17	22/08/2019
Article 18.2 (ES:1)	Export subsidies	G/AG/N/IND/9	30/07/2012
Enabling Clause			
Paragraph 2	Preferential tariff treatment for least developed countries (LDCs)	G/C/W/651/Add.1 and WT/COMTD/N/38/Add.1	18/11/2015
Paragraph 2c	Regional trade agreement (India and Thailand)	WT/COMTD/N/54	22/06/2017
GATT 1994			
Article XXVIII:5	Invocation of paragraph 5	G/MA/307	01/12/2014
Agreement on the Implementation of Article VI of the GATT 1994 (Anti-dumping)			
Article 16.4 – *ad hoc*	Semi-annual report	G/ADP/N/335/IND	18/05/2020
Article 18.5	Notification of laws and regulations	G/ADP/N1/IND/2/Suppl.8	21/04/2017
Agreement on the Implementation of Article VII of the GATT 1994 (Customs valuation)			
Article 22	National legislation Checklist of issues Notification under Decision A.3 Notification under Decision A.4	G/VAL/N/1/IND/4 G/VAL/N/2/IND/2 G/VAL/N/3/IND/1 G/VAL/N/3/IND/2	21/02/2019 21/02/2019 21/02/2019 21/02/2019
Article XVII and Understanding on the Interpretation of Article XVII (State trading)			
Article XVII:4(a)	New and full notification on state trading enterprises	G/STR/N/16/IND; G/STR/N/17/IND	03/10/2019

[12] Department of Commerce, *Report of the High-Level Advisory Group*, pg. 66. Viewed at https://commerce.gov.in/writereaddata/uploadedfile/MOC_637084606089692212_HLAG%20Report%20.pdf.
[13] *Report of the High-Level Advisory Group*, p. 130.
[14] *Report of the High-Level Advisory Group*, p. 186.
[15] Pakistan does not provide MFN treatment to India.
[16] Department of Revenue, Ministry of Finance, *Notification No. 5/2019-Customs, 16 February 2019*. Viewed at: http://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2019/cs-tarr2019/cs05-2019.pdf;jsessionid=5518F5844624F9CF43B5814A980DD355.
[17] WTO document G/TFA/N/IND/2, 11 April 2019.

WTO agreement	Description	Document symbol (most recent notification)	Date
Agreement on Import Licensing			
Article 7.3	Replies to questionnaire on import licensing procedures	G/LIC/N/3/IND/19	04/11/2019
Decision on Notification Procedures for Quantitative Restrictions			
G/L/59/Rev.1	Notification of quantitative restrictions in force	G/MA/QR/N/IND/2 and G/MA/QR/N/IND/2/Add.1	21/06/2018 24/04/2019
Agreement on Subsidies and Countervailing Measures			
Article 25.11	Semi-annual report	G/SCM/N/356/IND	06/05/2020
Article 25	New and full notification of subsidy programmes	G/SCM/N/343/IND/Suppl.1; G/SCM/N/315/IND/Suppl.3; G/SCM/N/284/IND/Suppl.5; G/SCM/N/253/IND/Suppl.4	18/10/2019
Article 32	Notification of law and regulations on subsidies and countervailing measures	G/SCM/N/1/IND/2/Suppl.9	21/11/2019
Agreement on Safeguards			
Article 12.1(a)	Notification of initiation of an investigation	G/SG/IND46	20/09/2019
Article 12.1(b)	Finding of serious injury and proposal to impose a measure	G/SG/N/8/IND/31/Suppl.2; G/SG/N/10/IND/22/Suppl.1; G/SG/N/11/IND/17/Suppl.2	06/08/2018
Article 12.4	Notification before taking a provisional measure	G/SG/N/7/IND/10/Suppl.1	30/09/2015
Article 12.4	Notification of termination with no measure imposed	G/SG/N/9/IND/17	22/04/2020
Article 12.5	Notification of proposed suspension of concessions and other obligations	G/SG/N/12/IND/1/Rev.1	14/06/2018
Agreement on Technical Barriers to Trade			
Articles 2.9 and 5.6.2	Proposed technical regulation and procedures for assessment of conformity	G/TBT/N/IND/148	27/05/2020
Agreement on Sanitary and Phytosanitary Measures			
Article 7, Annex B	Sanitary and phytosanitary regulations	G/SPS/N/IND/250	29/04/2020
Agreement on Trade Facilitation			
WT/L/931	Notification of category commitments	G/TFA/N/IND/1	14/03/2018
Articles 1.4, 10.4.3, 10.6.2 and 12.2.2	Notification on publication of information	G/TFA/N/IND/2	11/04/2019
Agreement on Trade-Related Aspects of Intellectual Property Rights			
Article 69	Notification of Contact Points	IP/N/3/IND/1	17/01/2020
General Agreement on Trade in Services			
Article III:3	Regulatory changes	S/C/N/1013	10/06/2020
Article V	Notification of economic integration agreement	S/C/N/954	17/06/2019
Article VII:4	Existing recognition measures	S/C/N/929	06/03/2019

Source: WTO Secretariat.

2.21. India was involved in 24 disputes as complainant and 32 as respondent in the WTO. The status of disputes involving India since the last Review is shown in Table 2.3. India was also a third party in 165 disputes.

Table 2.3 WTO dispute settlement cases involving India as respondent and complainant, January 2015-August 2020

Subject	Complainant/ respondent	Status	WTO document series
India as respondent			
Anti-dumping duties on USB flash drives	Chinese Taipei	Consultations requested on 25 September 2015; no dispute panel established	DS498
Certain measures on imports of iron and steel products	Japan	Decision by India to appeal the panel ruling on 14 December 2018; and by Japan to cross-appeal on 21 December 2018	DS518
Export related measures	United States	Decision by India to appeal the panel ruling on 19 November 2019	DS541
Measures concerning sugar and sugarcane	Brazil Australia Guatemala	Panel established on 15 August 2019 and composed on 28 October 2019	DS579 DS580 DS581

Subject	Complainant/ respondent	Status	WTO document series
Tariff treatment on certain goods in the information and communications technology sector	European Union Chinese Taipei	The European Union requested consultations on 2 April 2019; the United States, Chinese Taipei, Singapore, China, Japan, Canada and Thailand requested to join consultations. Panel composed on 31 August 2020	DS582 DS588
Tariff treatment on certain goods	Japan	Japan requested consultations on 10 May 2019; the United States, Singapore, Canada, Chinese Taipei, Thailand, China and the European Union requested to join consultations; panel established on 29 July 2020	DS584
Additional duties on certain products from the United States	United States	Panel constituted on 28 October 2019; composed on 7 January 2020	DS585
India as complainant			
Countervailing measures on certain hot-rolled carbon steel flat products	United States	Decision by the United States to appeal the panel ruling on 18 December 2019; joint communication from India and the United States on 14 January 2020, indicating that an appeal is to be filed at a later date	DS436
Certain measures on steel and aluminium products	United States	Panel composed on 25 January 2019	DS547
Certain measures relating to the renewable energy sector	United States	Panel report circulated on 27 June 2019; the panel report was appealed by the United States on 15 August 2019 and by India on 20 August 2019	DS510
Measures concerning non-immigrant visas	United States	Consultations requested on 3 March 2016 and 18 March 2016; El Salvador requested to join consultations. No dispute panel was established.	DS503

Source: WTO Secretariat.

2.3.2 Regional and preferential agreements

2.3.2.1 Regional trade agreements

2.22. Since January 2015, India has notified entry into force for one regional trade agreement (RTA) with Thailand, and the accession by Afghanistan to the South Asian Free Trade Agreement (SAFTA), bringing its network of RTAs to 16, as notified to the WTO.[18] In addition, services and investment commitments were notified for its agreements with ASEAN and for the Asia-Pacific Trade Agreement (APTA) during the period under review.

2.23. Most of India's RTAs are with its neighbouring countries, although a few were negotiated with countries further afield, notably in Latin America and Africa. During the period under review, trade in services and investment provisions entered into force under India's agreement with ASEAN and under the APTA. With regard to its specific commitments in the India-ASEAN agreement, India made improvements over its GATS commitments for some professional services, computer and related services, some telecommunications services, some health services, and some tourism services, although not for all ASEAN members.

2.24. With regard to the APTA, the parties agreed a framework agreement on the promotion, protection and liberalization of investment, and a framework agreement on the promotion and liberalization of trade in services. Under the framework agreement on services, the parties agreed to cooperate to improve efficiency and competitiveness, and to negotiate specific commitments to liberalize services in due course. Under the framework agreement on investment, the parties agreed to initiate negotiations to develop and implement programmes for cooperation and facilitation, promotion and awareness, liberalization, and protection. The parties also agreed a framework agreement on trade facilitation, under which they agreed to improve transparency by making their policies and procedures available to the public, and consolidate, rationalize and minimize the number

[18] WTO RTA Database. Viewed at: http://rtais.wto.org.

and diversity of fees and charges imposed on exports and imports. The agreement also established a Working Group on Trade Facilitation to review its implementation.

2.25. The parties to the SAFTA completed negotiations on a new protocol on services (the SAFTA trade in services — SATIS—Agreement), which entered into force following ratification by all parties on 29 November 2012, but this has not been notified to the WTO.[19] In November 2019, India declared that it would not sign the Regional and Comprehensive Economic Partnership (RCEP) Agreement, which now involves the ASEAN members and five other countries in the region (Australia, China, Japan, Republic of Korea, and New Zealand).[20] Negotiations with a number of other trading partners continue, including Australia, Bangladesh, Canada, the European Union, the European Free Trade Area (EFTA), the Gulf Cooperation Council, Indonesia, Iran, Israel, Mauritius, New Zealand, Peru and the Southern African Customs Union (SACU), as well as the Bay of Bengal Initiative on Multi-Sectoral Technical and Economic Cooperation (BIMSTEC).[21]

2.3.2.2 Preferential trade agreements

2.26. India receives preferences under the Generalized System of Preferences (GSP) programmes of Australia, Canada, the European Union, Japan, Kazakhstan, New Zealand, Norway, Switzerland, the Russian Federation, Turkey, and the Eurasian Economic Union. Following a review launched on 12 April 2018, the United States announced on 4 March 2019, that it would be terminating GSP preferences for India.[22] United States GSP preferences were terminated on 5 June 2019.

2.27. India also provides duty-free and quota-free treatment to LDCs, following the WTO Hong Kong Ministerial Declaration in December 2005. The scheme is open to all LDCs who register for it. Since the last Review, when 31 LDCs had declared their interest and had received preferences under the scheme, another 5 have been added, while the Maldives and Samoa graduated from the UN LDC list; therefore, the total number of LDCs that are provided preferences under this scheme is 34.[23] Data provided by the authorities indicates that the scheme now provides duty-free market access for around 94.2% of India's tariff (Section 3.1.3.5).

2.3.3 Other agreements and arrangements

2.28. Bilateral investment promotion and protection agreements are currently in force with 10 countries and regions (72 at the time of the last Review). India also signed bilateral investment treaties with 3 countries (at the time of the last Review, 14 had been signed but were not in force).[24]

2.4 Investment Regime

2.4.1 Legal framework

2.29. Establishment of companies in India is regulated by the Companies Act, 2013, as amended in 2017 and 2019, which applies to both domestic and foreign firms. The Act regulates the establishment, the functions and responsibilities of senior management, and the auditing and accounting requirements. The Act is administered by the Ministry of Corporate Affairs, which also

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[19] The authorities indicated that SATIS is yet to be implemented, as specific schedules of commitments have not been finalized. All parties except Pakistan have confirmed that they are ready with their final offers on services.

[20] Business Line, *India refuses to sign up for RCEP; says its core concerns remain unresolved.* Viewed at: https://www.thehindubusinessline.com/economy/india-says-no-to-rcep-as-its-concerns-remain-unaddressed/article29880428.ece on 22 May 2019

[21] Early announcements under the WTO's Transparency Mechanism for RTAs were made for negotiations with the EFTA, the European Union, the SACU and the BIMSTEC.

[22] The press release states "India has implemented a wide array of trade barriers that create serious negative effects on United States commerce. Despite intensive engagement, India has failed to take the necessary steps to meet the GSP criterion." Office of the United States Trade Representative, *United States Will Terminate GSP Designation of India and Turkey.* Viewed at: https://ustr.gov/about-us/policy-offices/press-office/press-releases/2019/march/united-states-will-terminate-gsp.

[23] These additional five are the Republic of Togo, the Republic of Chad, the Republic of Guinea-Bissau, the Republic of Niger, and the Republic of Guinea (Central Board of Indirect Taxes & Customs Notifications 34/2016, dated 19 May 2016; 39/2016, dated 21 June 2016; 46/2016, dated 23 August 2016; and 68/2017, dated 27 July 2017).

[24] Belarus, Brazil and Kazakhstan.

administers related legislation, such as the Limited Liability Partnership Act, 2008, and the Competition Act, 2002. Other key laws relating to investment include the Industries (Development and Regulation) Act, 1951, the Indian Contracts Act, 1872, the Industrial Disputes Act, 1947, and the Insolvency and Bankruptcy Code, 2016. In addition, the Securities and Exchange Board of India (SEBI) Act, 1992, mandates the SEBI to regulate matters relating to capital, transfer of securities, and other related matters, and the manner in which they are disclosed by companies.

2.30. A company may be established in India as a limited liability company, a branch or project office, a joint venture with a foreign investor, or a wholly foreign-owned company (subject to sectoral restrictions on foreign investment, as in Section 2.4.2.1). To establish, the investor is required to register with the Ministry of Corporate Affairs. Since 2016, this registration can be done electronically. The Simplified Pro-forma for Incorporating a Company Electronically combines five procedures previously covered by different agencies, thereby reducing the number of steps required for incorporation to five.[25] The requirement to obtain a certificate before commencing operations was removed in 2015; the Ministry of Corporate Affairs re-introduced the requirement for filing a declaration for commencing a business through the Companies (Incorporation) Fourth Amendment Rules, 2018 (Section 10A).

2.4.1.1 Compulsory industrial licensing

2.31. Under the Industries (Development and Regulation) Act, 1951, the Central Government may "direct investment into desired channels of industrial activity, *inter alia*, through the mechanism of licensing, keeping with national development objectives and goals".[26] Over the years, the number of industries that were subject to compulsory industrial licensing declined, with four industries remaining on the list at present (Table 2.4). The distillation and brewing of alcoholic drinks was removed from the list of industries requiring industrial licences, by an amendment to the Industries (Development and Regulation) Act, in 2016.

Table 2.4 Industries for which industrial licences are compulsory, 2020

Industry
Electronic airspace and defence equipment
Industrial explosives, including detonating fuses, safety fuses, gunpowder, nitrocellulose and matches
Specified hazardous chemicals: (i) hydrocyanic acid and its derivatives; (ii) phosgene and its derivatives; and (iii) isocyanates and diisocyanates of hydrocarbon not elsewhere specified
Cigars and cigarettes of tobacco and manufactured tobacco substances

Source: Department for Promotion of Industry and Internal Trade, Ministry of Commerce and Industry, *Industrial Policy*. Viewed at: https://dipp.gov.in/policies-rules-and-acts/policies/industrial-policy.

2.32. In addition, two industries continue to be reserved for the public sector (Table 2.5). Licences for investment by non-small and medium-scale enterprises to manufacture items reserved for the small and medium-sized enterprise sector (SMEs) were required at the time of the last Review; with the removal of the 20 products reserved for the SME sector in April 2015, no licences are required for such investment.[27]

[25] The procedures combined were incorporation of the company, obtaining a director identification number, reservation of company name, application for permanent account number, and application for tax deduction and collection account number. Department for Promotion of Industry and Internal Trade, *Reform Update – Starting a Business – India.* Viewed at: https://dipp.gov.in/sites/default/files/Starting_Business_Reform_07052018.pdf.

[26] Department for Promotion of Industry and Internal Trade, *Industrial Policy.* Viewed at: https://dipp.gov.in/policies-rules-and-acts/policies/industrial-policy.

[27] DPIIT Notice, *Gazette of India.* Viewed at: http://www.dcmsme.gov.in/publications/circulars/Gazette_india-15.pdf. Investors in all other sectors and industries do not require approval from the Government but must file an Industrial Entrepreneurs Memorandum (IEM) with the DPIIT. Licensing and IEM procedures were simplified, and applications can be made online in a newly developed online portal, since 16 October 2018. According to the authorities, the IEM is responsible principally for data collection on investment and certain types of industrial activity. The period of validity of industrial licences in general was extended from two years to three. However, the initial validity of industrial licences for the defence sector was increased in phases from 2 years to 15 years, further extendable up to 18 years, under the Industries (Development & Regulation) Act, 1951. If the licensee commences production during this period, the licence continues to be valid.

Table 2.5 Industries reserved for the public sector, 2020

Industry
Atomic energy
Railway operations other than:
(i) suburban corridor projects through public-private partnerships;
(ii) high-speed train projects;
(iii) dedicated freight lines:
(iv) rolling stock, including train sets and locomotives or coach manufacturing and maintenance facilities;
(v) railway electrification;
(vi) signalling systems;
(vii) freight terminals;
(viii) passenger terminals;
(ix) infrastructure in industrial parks pertaining to railway lines or sidings, including electrified railway lines; and
(x) mass rapid transport systems

Source: Department for Promotion of Industry and Internal Trade, *Industrial Policy.* Viewed at: https://dipp.gov.in/policies-rules-and-acts/policies/industrial-policy.

2.4.2 Foreign investment

2.4.2.1 Policy framework

2.33. India's foreign direct investment (FDI) regime is implemented by the Department of Promotion of Industry and Internal Trade (DPIIT), formerly the Department of Industrial Policy and Promotion, in the Ministry of Commerce and Industry, and issued through a Circular on Consolidated FDI Policy which is updated periodically. The latest update was up to 28 August 2017. Changes to the Policy are made through DPIIT Press Notes, the most recent of which was issued in April 2020 (Press Note 3).

2.34. India has continued to gradually open up sectors to FDI; sectors in which FDI is prohibited are listed in Table 2.6. Other sectors were opened up, with varying limits of foreign equity. Currently, government approval is required for investment in 11 sectors: mining, defence (for FDI in small arms manufacture), broadcasting and print media, civil aviation, satellites, telecommunications, private security agencies, trading (multi-brand and food), financial services not regulated or regulated by more than one regulator, and pharmaceuticals (Table A2.1).

Table 2.6 Sectors in which FDI is prohibited, 2020

Sector
Agriculture not included in Table A2.1
Lottery business, including government/private and online lotteries, etc.
Gambling and betting, including casinos, etc.
Chit funds
Nidhi companies
Trading in transferable development rights
Real-estate business or construction of farmhouses
Manufacturing of cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes
Activities/sectors not open to private sector investment: atomic energy and railway operations (other than permitted activities in railway infrastructure (Table A2.1)

Source: DPIIT.

2.35. Key changes since the previous Review include permitting up to 100% foreign-equity ownership in a larger number of agricultural activities through the automatic route; automatic FDI of up to 100% in the defence industry, broadcasting carriage services, and telecommunications services and in business-to-business electronic commerce activities; up to 100% FDI through the automatic route for insurance intermediaries and up to 49% in insurance companies[28]; and FDI of up to 100% through the automatic route for airports, other air services, and non-scheduled air transport services, and up to 49% in scheduled air transport services.[29] With regard to single brand

[28] DPIIT, *FDI Policy Section, Press Note No. 1 (2020 Series).* Viewed at: https://dipp.gov.in/sites/default/files/pn1_2020.pdf.

[29] DPIIT, *FDI Policy Section, Press Note No. 2 (2020 Series).* Viewed at: https://dipp.gov.in/sites/default/files/pn2_2020.pdf.

retail, the requirement for 30% of inputs to be sourced locally by retailers whose foreign-equity ownership was 51% and over was eased.[30]

2.36. There were no changes with regard to investment by nationals of Bangladesh and Pakistan, which must receive prior approval from the Central Government, even in sectors where FDI is normally automatic. The policy was revised in 2020 to add that an entity of a country which shares a land border with India, or where the beneficial owner of an investment into India is situated in or is a citizen of any such country, can invest only under the government route.[31]

2.37. Until June 2017, the main agency charged with examining and approving investment in sectors in which investment approval is required, was the Foreign Investment Promotion Board, based in the Ministry of Finance. Since 5 June 2017, examination and approval of such proposals is the responsibility of the relevant ministry or department in the sector in which the FDI is to take place. Under the Standard Operating Procedures, issued on 29 June 2017, investors must file their proposals on the Foreign Investment Facilitation Portal, maintained by the DPIIT. The proposal is transferred to the concerned administrative ministry or department which, in turn, examines the proposal within a week of receiving it. Following any additional documentation requests or questions to the applicant, the decision to grant approval is made within six weeks of receipt of the proposal. In cases where the investment proposed exceeds INR 5 billion (around USD 775 million), the proposal must also be examined by the Cabinet Committee on Economic Affairs, which takes a decision within one week of receiving the proposal.[32]

2.38. Invest India is the official investment promotion agency. It assists investors, *inter alia,* in identifying locations, market strategy, expediting regulatory approvals, and facilitating meetings with relevant government officials.

2.4.3 Investment incentives

2.39. To encourage FDI, the central and state governments provide several incentives. In addition to SEZs and export-oriented units (EOUs), which continue to operate, India introduced the Make in India scheme in September 2014, which targets investment in 25 sectors of the economy. The National Investment and Manufacturing Zones (NIMZs), as part of the National Manufacturing Policy, provide incentives for infrastructure development on a public private partnership (PPP) basis (Section 4).

2.40. Companies investing in infrastructure development in NIMZs and SEZs up to 31 March 2017 were provided a tax exemption on 100% of their profits for any 10 consecutive years in the first 15 years of operation. Tax incentives are also available for exports by companies based in SEZs and EOUs, including a 100% tax exemption on export profits for the first five years from when manufacturing commences, followed by a 50% tax exemption for the next five years, and a 50% tax exemption for the final five years if export profits are reinvested in the company.[33]

2.41. The Central Government also established public sector financial companies to finance infrastructure projects. The India Infrastructure Finance Company Limited's (IIFCL) Scheme for Financing Viable Infrastructure Projects (SIFTI) provides financing to eligible sectors as notified by the Government from time to time. The following sectors are currently eligible: transport and logistics, energy, water and sanitation, communication, and social and commercial infrastructure.

[30] The new policy continues the local procurement requirement but does not make a distinction between goods destined for the local market or for export.

[31] DPIIT, *FDI Policy Section, Press Note No. 3 (2020 Series).* Viewed at: https://dipp.gov.in/sites/default/files/pn3_2020.pdf.

[32] DPIIT, *Standard Operating Procedure (SOP) for Processing FDI Proposals, No. 1/8/2016-FC-1, 29 June 2017*. Viewed at: https://dipp.gov.in/sites/default/files/Standard%20Operation%20Procedure%20%28SOP%29%20for%20Processing%20FDI%20Proposals%20%281%29.pdf.

[33] The benefits under Section 10AA are available for companies that started operations before 31 March 2020. The 100% deduction on taxes available for SEZs notified on or after 1 April 2005 under the SEZ Act 2005 (under Section 80IAB) was available for SEZs developed before 31 March 2017.

The IIFCL may lend up to a maximum of 20% of the total project cost (and an additional 10% for takeout financing) at a rate of interest that is based on the average cost of funds.[34]

2.42. Under the Startup India programme, launched in 2016, any start-up established after 1 April 2016 (and before 1 April 2021) can get a tax exemption under Section 80IAC of the Income Tax Act on 100% of profits for any three-year period within seven years.[35] The period was increased to 3 out of 10 years, and the turnover limit for benefiting from exemption was raised from INR 250 million to INR 1 billion in the 2020-21 Budget.[36]

2.43. Assistance is also provided in the form of lending targets for all banks, of 40% of adjusted net bank credit per year to priority sectors, including agriculture, SMEs, export, education, housing, renewable energy and social infrastructure (Section 4.4.1.1). Furthermore, in the Budget for 2020-21, a 100% tax exemption was provided on interest, dividend and capital gains income of foreign sovereign wealth funds that invest in the priority sectors of infrastructure and other notified sectors before 31 March 2024 with a minimum lock-in period of three years.[37]

2.44. Other selected schemes, including those in India's most recent notification to the WTO, are in Table A3.4.

[34] IIFCL, *SIFTI.* Viewed at: https://www.iifcl.org/sifti. The interest rate consists of the IIFCL base rate and a spread above the base rate. The base rate depends, *inter alia,* on the weighted average cost of capital for the IIFCL (including cost of borrowings and cost of equity), and provisioning and administrative costs. The spread above the base rate is based on factors like the risk profile of the borrower and market conditions.

[35] Startup India. Viewed at: https://www.startupindia.gov.in/. According to a notification by the DPIIT issued on 19 February 2019, an entity shall be considered a startup if: (i) it is registered as a private limited company, a partnership firm, or a limited liability partnership in India up to a period of 10 years; (ii) it has a turnover in any financial year of less than 1 billion; and (iii) works towards innovation, development or improvement of products, processes or services, or if it is a scalable business model with a high potential of employment generation or wealth creation. DPIIT Notification (GSR 127(E)), 19 February 2019. Viewed at: https://www.startupindia.gov.in/content/dam/invest-india/Templates/public/198117.pdf.

[36] Under Section 54GB of the Income Tax Act, capital gains from the transfer of residential property is exempted from taxation (for transfers up to 31 March 2021) if it is invested in the capital of eligible start-ups, subject to certain conditions. The conditions include that: the net consideration received by the assessee is used for subscription in the equity shares of an eligible start-up before the date for providing income tax returns under Sub-section (1) of Section 139 of the Act; the eligible start-up, within one year from the date of the subscription in equity shares, uses this amount for the purchase of new assets; and, after the subscription in shares, the assessee has more than 25% share capital or more than 25% of voting shares in the eligible start-up.

[37] Budget Speech 2020-21. Viewed at: https://www.indiabudget.gov.in/doc/Budget_Speech.pdf.

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1 Measures Directly Affecting Imports

3.1.1 Customs procedures, valuation, and requirements

Customs Procedures

3.1. In India, the import (and export) of goods is governed by the Customs Act, 1962, the Customs Tariff Act, 1975, the Foreign Trade (Development and Regulation (D&R)) Act, 1992, and the Foreign Trade Policy (FTP) issued by the Directorate General of Foreign Trade (DGFT). The DGFT also issues Public Notices to implement the provisions of the Foreign Trade (D&R) Act, the Rules and Orders, and the provisions of the FTP.

3.2. Importers (and exporters) are required to register with the DGFT to obtain an Importer-Exporter Code (IEC).[1] No import (export) can take place without this Code, unless specifically exempted. Exempted categories include imports (exports) by central or state governments; imports (exports) for personal use; and imports (exports) from (to) Nepal, Bhutan, Myanmar (through the Indo-Myanmar border areas) and China (through the Gunji, Namgaya, Shipkila and Nathula ports), if consignments are of a specific value.[2]

3.3. Importers (exporters) may clear goods themselves, without an agent, or authorize licence agents, known as customs brokers, to do so. Agents must be Indian nationals holding a valid licence issued by the Commissioner of Customs.

3.4. After obtaining an IEC, the importer (exporter) must present the mandatory documents to Customs, which is mostly done electronically. Prior to 2015, the documents required to import were: bill of entry; commercial invoice; packing list; bill of lading; Foreign Exchange Control Form (Form A-1); terminal handling receipt; and certified engineer's report.[3] In 2015, the number of supporting documents required to import was reduced to three. These are: the bill of lading/airway bill, the commercial invoice *cum* packing list, and the bill of entry.[4] Additional documents maybe required for imports (exports) subject to restrictions, to policy conditions, or to a No-Objection Certificate, or that need to comply with a specific requirement under a statute.[5]

3.5. There are three types of bills of entry: for home consumption; for warehousing, and for ex-bond clearance. To facilitate customs procedures, bills of entry can be filed prior to the actual shipment, 7 days beforehand for air shipments and Inland Container Depots (ICD), and 14 days for shipments by sea.

3.6. In 2016, India introduced the Single Window Interface for Facilitating Trade (SWIFT). The main features of SWIFT are: (i) integrated risk assessment; (ii) automated routing; (iii) nine separate documents replaced by the Integrated Declaration; and (iv) online clearances. At present, some 50 government agencies are part of SWIFT; agencies are integrated gradually via circulars issued by the Central Board of Indirect Taxes and Customs (CBIC).[6]

3.7. During the period under review, India introduced the Indian Customs Electronic Gateway (ICEGATE) as the national portal of the Indian Customs of the CBIC to provide e-filing services for importers (and exporters). Through this facility, Customs offers services including electronic filing of the bill of entry (import goods declaration), shipping bills (export goods declaration), e-payment of customs duties, the possibility to sign all customs documents electronically, and a facility to file online supporting documents. ICEGATE is linked with multiple partner agencies, including the Reserve Bank of India (RBI), banks, the DGFT, the Ministry of Steel, the Directorate of Valuation,

[1] In the case of 100% export operating units/export processing zones, the IEC number is allocated by the concerned Development Commissioner of the export processing zone.

[2] FTP (2015-21) (as at 31 March 2019). Viewed at: https://dgft.gov.in/foreigns-trade-policy-2015-20-.

[3] Circular No. 01/15-Customs of 12 January 2015 and DGFT Notification No. 114 of 12 March 2015.

[4] Chapter 2 of the FTP (2015-21) (as at 31 March 2019). Viewed at: https://dgft.gov.in/sites/default/files/FTP%20Chapter%202%20as%20on%20March%2031%202019.pdf.

[5] FTP (2015-21) (as at 31 March 2019). Viewed at: https://dgft.gov.in/foreigns-trade-policy-2015-20-.

[6] Circulars No. 44/2018-Cus of 13 November 2018; No. 13/2019-Cus of 03 June 2019; No. 19/2019-Cus of 16 July 2019; and No. 03/2020-Cus of 15 January 2020.

and other government agencies involved in import (export) procedures, to facilitate customs clearance.[7] All electronic documents/messages handled by ICEGATE are processed at Customs by the Indian Customs EDI System (ICES). As at January 2020, the ICES was operational at 245 major customs locations, handling nearly 98% of imports (and exports). At that point in time, the EDI system was not available in 25 customs locations, mostly Land Customs Stations in remote areas.

3.8. A Risk Management System (RMS) was introduced in all Customs locations where the ICES is operational. Bills of entry are cleared through the RMS. The verification and/or examination of the imported goods is done selectively, based on the RMS. In general, only high-risk consignments are subject to detailed verification before clearance. As at February 2020, (latest available data) 66% of all bills of entry were cleared through the green channel (neither physical nor document examination); and 12% underwent a document check. The verification of the bill of entry depends upon the classification, value, rate of duty, and any other information that may have a bearing on the assessment of the duty levied. Bills not requiring verification are cleared immediately upon payment of duty and other charges, if any.

3.9. As a result of India's ratification of the WTO TFA in April 2016, the National Committee on Trade Facilitation (NCTF) was constituted. This inter-ministerial body facilitates the domestic coordination and implementation of the TFA provisions. It, *inter alia*, developed the Pan-India roadmap for trade facilitation, coordinating the various trade facilitation initiatives, and implemented outreach programmes informing all stakeholders about TFA projects. The NCTF introduced the National Trade Facilitation Action Plan, under which various measures to ensure the implementation of the TFA were taken.[8]

3.10. In 2016, India merged two facilitation schemes - the Accredited Client Programme and the authorized economic operator (AEO) programme - into a combined three-tier AEO programme for importers, exporters, and logistics operators, such as terminal operators, customs brokers, warehouse operators, and freight forwarders, to enhance the scope of these schemes and to provide further benefits to the entities who demonstrate strong internal control systems and compliance with the laws administered by the CBIC. In 2018, Customs further simplified the AEO accreditation process to follow global best practices. The new AEO programme introduced extensive benefits, including greater trade facilitation and self-certification.[9] An entity with AEO status is considered a "secure" trader and a reliable trading partner. As at February 2020, there were 4,175 AEO status holders.[10]

3.11. India also introduced direct port delivery (DPD) and direct port entry (DPE) for imports (exports), to reduce release times and costs. Under the DPD, imports by pre-registered clients, with containers that do not require examination, are cleared directly at the port instead of being diverted to a container freight station located outside the port. Under the DPE, used by exporters, containers packed at factories may enter directly into the port terminal prior to registration. This system was previously only available for refrigerated containers, over-dimensional cargo, motor vehicles, and perishable non-refrigerated cargo, and only for specific AEOs. Now, this facility is extended to all exports packed in containers in any manufacturing entity.

3.12. In 2016, to further facilitate trade, India introduced deferred payment of customs duties.[11] This is a mechanism for delinking duty payment and customs clearance. Duties and taxes can be payed after the arrival of the merchandise, to facilitate transit from docks to warehouses. Importers certified under the AEO programme may benefit from this mechanism. However, an eligible importer who fails to pay duty in full by the due date more than once in a period of three consecutive months is no longer be allowed to make deferred payments.

[7] ICEGATE, *About ICEGATE*. Viewed at: https://www.icegate.gov.in/about_icegate.html.

[8] CBIC, *India – National Trade Facilitation Action Plan 2017-20.* Viewed at: https://www.cbic.gov.in/resources//htdocs-cbec/implmntin-trade-facilitation/national-trade-facilitation.pdf;jsessionid=1D4236D6DDE5247C6A2C7033CC8E9224.

[9] For detailed information, refer to Circular No. 33/2016-Customs of 22 July 2016 and Circular No. 3/2018-Customs of 17 January 2018.

[10] Customs, *Indian Customs AEO.* Viewed at: http://www.cbic.gov.in/resources//htdocs-cbec/AEO-fact-sheet-2.pdf;jsessionid=1B49197827B0F80B6F1A4C1748878B4F.

[11] Deferred Payment of Import Duty Rules, Notification No. 134/2016-Customs of 2 November 2016.

3.13. According to the authorities, the various trade facilitation initiatives implemented during the period under review resulted in a remarkable improvement in the time and cost related to the clearance of imports (exports).[12]

3.14. As any other taxation statute, the Customs Act contains detailed provisions for judicial review and for the resolution of disputes through appeals.

3.15. During the review period, changes were made relating to contraventions regarding the intentional evasion of payment of duties and the improper importation (exportation) of goods (e.g. goods that are loaded or unloaded in a place other than a customs port, or prohibited imports/exports).[13] Penalties may be based on the value of the goods, or as a percentage of the duty levied. Regarding fraud or wilful mis-statement, the amount of the penalty was reduced from 25% to 15% of the duty. The penalty for the improper importation (or exportation) of goods should not exceed 10% of the duty sought to be evaded or INR 5,000, whichever is greater (Sections 112 and 114).[14]

3.16. Preshipment inspection is mandatory for imports of un-shredded and shredded metallic waste and scrap; paper, paperboard and paperboard waste; and second-hand and defective steel products (Table 3.1). However, since 2018, all metal scrap originating in Australia, Canada, New Zealand, the United Kingdom, and the United States, entering through the ports of Chennai, Tuticorin, Kandla, Jawaharlal Nehru Port Trust (JNPT) (Mumbai), and Krishnapatnam, are exempted from this requirement.[15] Imports of shredded metallic waste and scraps are allowed through all ports of India, while those of un-shredded metallic waste and scrap are permitted only through designated ports. Preshipment inspections ensure that consignments do not contain hazardous materials, toxic waste, radioactive waste/scrap, any type of arms, ammunition, mines, shells, live or used cartridges, or any other explosive material in any form. Preshipment inspection certificates are issued by accredited certifying agencies, located within and outside India.[16] Certificates attest that the consignments have been checked for radiation levels.

Table 3.1 Goods subject to preshipment inspection

HS code	Item description
7204.10.00	Waste and scrap of cast iron
7204.21.90	Waste and scrap of alloy steel, stainless, other than empty or discharged cartridges of all bores and sizes
7204.29.20	Waste and scrap of high-speed steel
7204.29.90	Waste and scrap of alloy steel, other than stainless, of high-speed steel; and empty or discharged cartridges of all bores and sizes
7204.30.00	Waste and scrap of tinned iron or steel
7204.41.00	Turnings, shavings, chips, milling waste, sawdust, filings, trimmings and stampings, whether or not in bundles
7204.49.00	Other ferrous waste and scrap
7204.50.00	Re-melted scrap ingots of iron or steel
7404.00.12	Copper scrap
7404.00.22	Brass scrap
7503.00.10	Nickel scrap
7602.00.10	Aluminium scrap
7902.00.10	Zinc scrap
8002.00.10	Tin scrap
8104.20.10	Magnesium scrap
4802	Paper and paperboard
4805.24; 4805.25	Paperboard waste

Source: Handbook of Procedures, para. 2.54; and information provided by the authorities.

[12] CBIC, *Time Release Study 2019*.
[13] Sections 111-114 of the Customs Act, 1962.
[14] Information provided by the authorities.
[15] Institute of Scrap Recycling Industries, Inc., *India Eliminates Pre-Shipment Inspection Certification (PSIC) for Metal Scrap*. Viewed at: https://www.isri.org/news-publications/news-details/2018/06/05/india-eliminates-pre-shipment-inspection-certification-(psic)-for-metal-scrap.
[16] DGFT, *Pre-shipment Inspection Policy (PSIA).* Viewed at: https://dgft.gov.in/policies/pre-shipment-inspection-policypsia.

Customs valuation[17]

3.17. Customs valuation continues to be regulated by the Customs Act, 1962 (as amended); and the Customs Valuation Rules (Determination of Price of Imported Goods) Rules, 2007 (as amended), which regulate the application of the WTO Agreement on Customs Valuation. In general, India uses the transaction value, adjusted for costs incurred by the buyer that are not included in the price of the imported good, as the customs value for imported goods.[18] These costs are added to the price actually paid for the imported good. The Central Government can, however, adopt other rules to determine the transaction value of the imported goods.[19] In addition, under the Customs Act, the CBIC may fix reference prices ("tariff values") for certain imported (exported) goods, based on their international prices and trends; these values are revised periodically. The tariff value is used to calculate customs duty (Table 3.2).

Table 3.2 Goods subject to tariff values, 2020

HS	Description of goods	Tariff value
0802.80	Areca nuts	USD 3,798/MT
1511.10.00	Crude palm oil	USD 838/MT
1511.90.10	Refined, bleached and deodorized (RBD) palm oil	USD 865/MT
1511.90.90	Others – palm oil	USD 852/MT
1511.10.00	Crude palmolein	USD 869/MT
1511.90.20	RBD palmolein	USD 872/MT
1511.90.90	Others – palmolein	USD 871/MT
1507.10.00	Crude soya bean oil	USD 898/MT
7404.00.22	Brass scrap (all grades)	USD 3,589/MT
1207.91.00	Poppy seeds	USD 3,395/MT
71 or 98	Gold in any form	USD 497/10 gr
71 or 98	Silver in any form[a]	USD 573/kg

a Silver in any form shall not include foreign currency coins, or jewellery or articles made of silver.

Source: Notification No. 4/2020-Customs, 15 January 2020.

3.18. The importer or his agent must furnish a declaration disclosing full and accurate details relating to the value of the imported goods; and any other statement, information or document, including an invoice from the manufacturer or producer of the goods, to determine their value.

3.19. Self-assessment of customs duty by importers (or exporters) was introduced in 2011 (Finance Act, 2011). This system is based on trust. The objective is to expedite the release of imported (exported) goods. Importers pay duty/tax/cess on the date of presentation of the self-assessed bill of entry. The declared value may be rejected if there is reason to doubt its accuracy. In this case, the importer may need to furnish further information. At the request of the importer, Customs should inform him/her, in writing, of the grounds for doubting the accuracy of the declared value. Thereafter, the importer is given a reasonable opportunity to be heard, before a final decision is taken.[20] The importer and/or his agent can appeal a decision regarding valuation to the Commissioner (Appeal) in the first instance. A second course of appeal lies with the Customs Excise and Service Tax Appellate Tribunal. An appeal against a decision made by the Tribunal can only be made to the Supreme Court (Customs Act, 1962). Importers are informed of their right to appeal by the adjudicating and appellate authorities, in writing.

3.20. Goods may be released from Customs, pending the final determination of the value, upon the provision of a guarantee.[21] Customs may resort to a provisional assessment of the value of the goods to assess the duty if an importer (exporter) is unable to furnish the necessary documents or information to assess the duty, or if the importer (exporter) produced all the documents and furnished full information but the customs officer deems it necessary to make further enquiries to

[17] This Section is based on WTO documents G/VAL/N/1/IND/4 of 21 February 2019 and G/VAL/N/2/IND/2 of 21 February 2019.

[18] All the costs and services are listed in Article 10 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

[19] Section 156(2)(a) of the Customs Act, 1962.

[20] Rule 12 of the Customs Valuation Rules (Determination of Price of Imported Goods), 2007.

[21] Section 18 of the Customs Act, 1962, read with the Customs (Provisional Duty Assessment) Regulations, 2011, and the Customs (Finalisation of Provisional Assessment) Regulations, 2018.

assess the duty (Section 18 of the Customs Act). In these instances, the importer (exporter) is required to execute a bond for the difference between the provisional duty assessed and the duty most likely to be assessed at the final assessment stage, and to provide a bank guarantee or cash deposit, as deemed appropriate by the importer. If the duty provisionally collected is higher than the final duty, the importer/exporter will be refunded.

3.21. India applies the Decision on the Treatment of Interest Charges[22]; and the provisions regarding the Valuation of Carrier Media Bearing Software for Data Processing Equipment (VAL/8).

3.1.2 Rules of origin

3.22. India does not use non-preferential rules of origin.

3.23. Preferential rules of origin are used in accordance with India's trade agreements. Some of the key criteria used in the determination of the rules of origin are: (i) wholly obtained; (ii) change in tariff classification; (iii) value addition; (iv) non-minimal operations; and (v) specific rules of origin.

3.24. Since its last Review, India notified the modifications, made in 2015, to the preferential rules of origin for LDCs, used under the Duty-Free Tariff Preference (DFTP) Scheme for LDCs. For goods to benefit from this Scheme, they must either be wholly produced in the territory of the exporting beneficiary, or they must fulfil local value-added content requirements based on either the ex-works price of the goods or the f.o.b. value (the 2008 rules of origin only had the f.o.b. value option), which are determined by a formula, and a change in the tariff classification at the six-digit level. [23] There is no product-specific rule under the DFTP Scheme. Cumulation is allowed.[24] During the review period, India notified the entry into force of one RTA, with Thailand. Rules of origin in the case of this RTA also follow the general rules of origin negotiated under other agreements.

3.1.3 Tariffs

3.1.3.1 Applied tariffs

3.25. In 2020/21, the applied MFN tariff consisted of 11,900 lines at the eight-digit level in the HS 2017 nomenclature.[25] India uses both *ad valorem* and non-*ad valorem* tariff rates; however, most tariffs lines (93.9%) are subject to *ad valorem* rates. There are 725 tariff lines (6.1% of the total) subject to non-*ad valorem* rates; of these, 3 are subject to specific rates (almonds in shell and shelled (2 lines), and crude petroleum), and 721 (compared to 697 at the time of the previous Review) carry mixed duty with an *ad valorem* and/or specific duty component. The mixed duties continue to apply to textiles and clothing (714 tariff lines) and to natural rubber products (7 tariff lines). To calculate the tariff indicators, the Secretariat used, for the non-a*d valorem* tariffs, a*d valorem* equivalents (AVEs), which were calculated using the unit value method, where trade data was available. AVEs were calculated for the 3 tariff lines with specific rates and for 557 of the lines with mixed duty. For the rest of the tariff lines with mixed duty, the Secretariat used only the *ad valorem* part of the rate for the calculations, as trade data was not available (Table 3.3).

Table 3.3 Tariff structure, 2014/15, 2019/20, 2020/21

	MFN applied rate		
	2014/15 (HS12)	2019/20 (HS17)	2020/21 (HS17)
Simple average rate (%)	13.0	13.9 (14.9)	14.3 (15.4)
WTO agricultural products	36.4	34.8	36.5
WTO non-agricultural products	9.5	10.8 (12.0)	11.1 (12.3)
Duty-free (% of all tariff lines)	2.7	3.0	2.7
Simple average rate of dutiable lines only (%)	13.4	14.3 (15.3)	14.7 (15.8)
Non-*ad valorem* tariffs (% of all tariff lines)	6.1	6.0	6.1
Tariff quotas (% of all tariff lines)	0.0	0.0	0.0
Domestic tariff peaks (% of all tariff lines)[a]	2.7	2.5 (3.5)	3.1 (3.7)

[22] Circular No. 38/2016 of 22 August 2016.
[23] Customs non-tariff notification No. 29/2015-Customs (N.T.) of 10 March 2015.
[24] Notification No. 100/2008 – Customs (N.T.) of 13 August 2008 (Customs Tariff (Determination of Origin of Products under the Duty-Free Tariff Preference Scheme for Least Developed Countries) Rules, 2008).
[25] The tariff, as provided by the authorities, is effective since February 2020. It does not include any changes made during the fiscal year.

	MFN applied rate		
	2014/15 (HS12)	2019/20 (HS17)	2020/21 (HS17)
International tariff peaks (% of all tariff lines)[b]	13.6	24.0 (24.7)	25.4 (26.1)
Overall standard deviation	16.5	14.5 (18.8)	15.1 (19.2)
Nuisance applied rates (% of all tariff lines)[c]	0.02	0.01 (0.02)	0.19 (0.2)
Bound tariff lines (% of all tariff lines)[d]	74.9	75.3	75.2
Total number of tariff lines	11,481	11,755	11,900
Duty-free rates	305	351	322
Ad valorem rates (>0%)	10,476	10,693	10,853
Non-*ad valorem* rates	700	711	725
Specific rates	3	3	4
Mixed duties	697	708	721

a Domestic tariff peaks are defined as those exceeding three times the overall average applied rate.
b International tariff peaks are defined as those exceeding 15%.
c Nuisance rates are those greater than zero, but less than or equal to 2%.
d Includes tariff lines that are "partially" bound.

Note: Calculations for averages are based on national tariff line levels (8-digit).
Figures in brackets include AVEs, as available. For mixed duties, where AVEs were not available, only the *ad valorem* part of the rate was used.
FY2019-20: out of 711 non-*ad valorem* rates, 547 AVEs were calculated using the unit value method.
FY2020-21: out of 725 non-*ad valorem* rates, 560 AVES were calculated.
To calculate the unit value, 2018-19 import values and quantities were used.

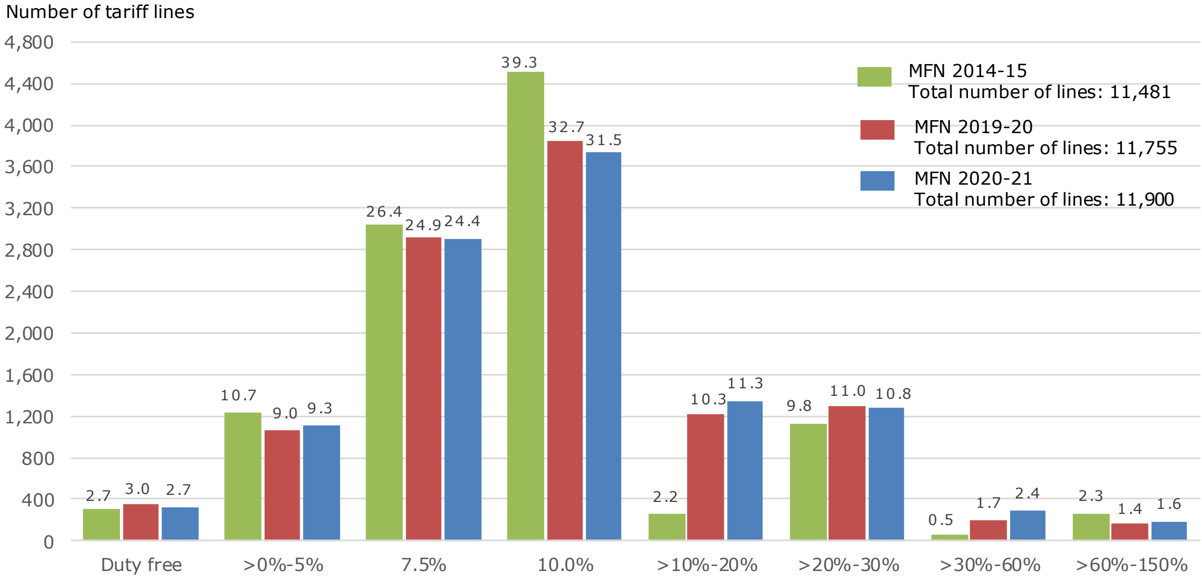
Source: WTO Secretariat calculations, based on data provided by the authorities
Calculations of AVEs: based on trade data from the Ministry of Commerce and Industry, Department of Commerce. Viewed at: https://commerce-app.gov.in/eidb/default.asp.

3.26. The simple average applied MFN tariff increased from 13.0% in 2014/15 to 14.3% in 2020/21, and to 15.4% if AVEs are considered (Table 3.3). At the time of the last Review, the average tariff had also increased from 12% in 2010/11 to 13% in 2014-15, due mainly to an increase in the tariffs affecting agricultural products (WTO definition) (36.4% in 2014/15). However, in 2019/20, the increase in average tariff was due to an increase in the average tariff of non-agricultural goods, which rose from 9.5% to 10.8%, or to 12.0% if AVES are considered (Table 3.3). The average MFN tariff for non-agricultural products rose, due to a general increase in all tariff rates, except for tariffs on transport equipment, which decreased from 32.1% to 23.0%. The most important increase affected clothing, with the average tariffs rising from 10.0% to 19.6%. Despite the increase in tariffs regarding non-agricultural products, protection for agricultural products (WTO definition), albeit declining from 36.4% in 2014/15 to 34.8% in 2019/20, remains considerably higher than the average protection for non-agricultural products. The decline in the average tariff for agriculture is mainly due to a decline in tariffs for cereals and preparations thereof (from 40.9% in 2014/15 to 32.7% in 2019/20), and of oil seeds and fats (from 33.2% in 2014-15 to 26.7% in 2019/20). Most agricultural products continue to benefit from above-average tariff protection, especially beverages, spirits and tobacco (81.1%), and coffee and tea (74.8%) (Table A3.1).

3.27. In 2020/21 the average protection for both agricultural and non-agricultural products (WTO definition) increased. Average applied tariff for agricultural goods increased from 34.8% to 36.5%, mainly due to the increase in the tariffs on oil seeds, fats, oil and their products which increased from to 26.7% to 35.1%, and that accorded to sugars and confectionary that increased from 35.4% to 47.0%. In the case of non-agricultural products, the average tariff increased slightly from 10.8% to 11.1%, mainly as a result of an increase of duties levied on leather, rubber, footwear and travel goods from 12.8% to 15.4% (Table A3.2).

3.28. The distribution of tariff rates underwent some changes since the last Review. Tariff rates continue to range from zero to 150% (considering only the *ad valorem* rates). However, at the time of the previous Review, 79.1% of all tariff lines had tariff rates between 0% and 10%; this percentage has since declined to some 69.6% in 2019/20 and to 67.8% in 2020/21; the percentage of tariff lines that bear rates higher than 10% and up to 30% increased from 12.1% to 21.3% in 2019/20 to 22.1% in 2020/21. The percentage of tariff lines with rates above 30% also increased from 2.8% at the time of the last Review to 4.0%. The most common tariff rates continue to be 10% (31.7%) and 7.5% (24.4%). The highest rates, above 60%, apply to products such as alcoholic beverages (150%), followed by animals and their products; fruit, vegetables and plants; coffee and tea; and certain motor vehicles, with tariffs of 100% (Chart 3.1 and Table A3.2).

Chart 3.1 Distribution of MFN tariff rates



Note: Figures above the bars refer to the percentage of total lines. Totals do not add up to 100% due to the exclusion of non-*ad valorem* rates.

Source: WTO Secretariat calculations, based on data provided by the authorities.

3.1.3.2 Bound tariffs

3.29. In the Uruguay Round, India bound 75.3% of its Tariff Schedule. It did not bind products such as: fish and crustacea (HS03), minerals (HS25–HS27), pharmaceutical products (HS30), fertilizers (HS31), some plastics and rubber (HS39–HS40), some textiles (HS50–HS 55 and HS56-HS63), footwear and other articles (HS64-HS67), base metals (HS72–HS79), photographic material and instruments (HS90–HS92), arms (HS93), and other manufactured articles (HS94–HS96). As with the applied MFN rates, most bound rates are *ad valorem* (92%); only textiles and clothing are bound at mixed duties, and two lines (almonds) are bound at specific rates. India bound 100% of the tariff lines related to agricultural products, at rates ranging from 10% to 300%, and 71.7% of the tariffs applied to non-agricultural products. The latter were bound at lower tariff rates, ranging from zero to 150%. The highest bound rates apply to oils seeds, fats, oils and their products (HS15).

3.30. The tariff treatment that India accords to certain goods in the information and communications technology sector is the subject of a current dispute (DS582).[26]

3.31. In 2014, India reserved the right to modify its Schedule XII under Article XXVIII:5 of the GATT 1994 for the three-year period commencing 1 January 2015.[27]

3.1.3.3 Tariff rate quota (TRQ)

3.32. India continues to maintain MFN TRQs for skimmed milk and some types of cream (HS0402.10 and HS0402.21), maize (HS1005.90), crude sunflower or safflower seed oil (HS1512.11), and rape, colza or mustard oil (HS1514.19 and HS1514.99). India also negotiated TRQs under its bilateral agreements with Sri Lanka and Nepal (Table 3.4). Since 2017, India has also implemented a TRQ of 300,000 metric tonnes for raw sugar (HS1701), at an in-quota rate of 25%, as a unilateral market access trade facilitation measure.[28]

[26] WTO document WT/DS582/1-G/L/1303, 9 April 2019.
[27] WTO document G/MA/307, 1 December 2014.
[28] Customs - Notification No. 74/2017, 7 September 2017.

Table 3.4 Products subject to tariff rate quotas, 2018-20

Description	HS code	In-quota rate 2019-20	Out-of-quota rate 2019-20	Tariff quota quantity (metric tonnes)[a]	In-quota quantity (metric tonnes)[a] 2018-19	Fill rate
MFN TRQs						
Skimmed milk and cream, in powder or granule or other solid forms	0402.10; 0402.21	15%	60%	10,000	..	..
Maize (corn), other than seed quality	1005.90	0%	50%	500,000	..	..
Crude sunflower or safflower seed oil	1512.11	50%	35%	150,000	436	0.3%
Rape, colza or mustard oil and fractions thereof	1514.19; 1514.99	35%	35%	150,000	2,580,488	100%
Preferential TRQs						
India-Sri Lanka						
Textiles and clothing	61, 62	0%	20%[b]	8 million pieces	..	..
Tea	0902	7.5%	100[%]	15 million kg	..	..
Desiccated coconut	0801.11	30%	70%	500	..	..
Pepper	0904	0%	30%, 70%	2,500	..	..
Vanaspati, bakery shortening and margarine	1516; 1517; 1518	0%	30%, 35%, 80%	50,000	..	..
India-Nepal						
Vegetable fats	1516	0%	30%, 35%, 80%	100,000	..	..
Zinc oxide	2817	0%	7.5%	2,500	..	..
Acrylic yarn	5509	0%	5%, 7.5%	10,000	..	..
Copper products	74, 8544	0%	5%, 7.5%, 10%	10,000	..	..

.. Not available.

a Unless otherwise indicated.
b 20%, or 20% and a specific part of the tariff rate, whichever is higher.

Source: WTO documents G/AG/N/IND/14 of 11 February 2019; G/AG/N/IND/16 and 17 of 22 August 2019; and data provided by the authorities.

3.33. Procedures for imports under the MFN TRQ Scheme are established by the DGFT.[29] Only public entities, including some state trading agencies such as the State Trading Corporation, may import under this Scheme. All eligible entities intending to import under the Scheme must apply to the DGFT before 1 March of the financial year preceding the year when the transaction is to take place. The DGFT evaluates the applications and allocates the quotas by 31 March. Imports must be completed (i.e. consignments must be cleared by the customs authorities) before 31 March of the financial year when the transaction takes place.

3.34. In general, there are no imports under TRQs; fill ratios are very low. According to the authorities, in certain instances, this is because the out-of-quota rate (i.e. the MFN tariff rate) is lower than the in-quota rate; hence, there is no need to use the quota. As result, in 2018-19, imports of rape, colza and mustard oil exceeded the TRQ quantities.

3.1.3.4 Tariff concessions

3.35. India continues to maintain a number of tariff concessions or exemptions that are granted on the grounds of public interest, to, *inter alia*, reduce the cost of essential imports, and promote domestic value addition.[30] These concessions are granted by issuing gazette notifications under Section 25(1) of the Customs Act. For instance, because of COVID-19, items such as artificial respiration or other therapeutic respiration apparatus (ventilators), face masks and surgical masks, personal protection equipment, and COVID-19 testing kits were exempted from import duties until

[29] *Handbook of Procedures (2015-20)* (as at 31 March 2019). Viewed at: https://dgft.gov.in/sites/default/files/HBP%20Chapter%202%20as%20on%20Mar%2031%202019_0.pdf.
[30] Customs Notification No. 50/2017. Viewed at: http://www.cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2017/cs-tarr2017/cs50-2017.pdf.

30 September 2020.[31] Tariff concessions are also granted under different schemes implemented to promote exports, such as the Export from India Scheme (EIS), the Duty Exemption/Remission Schemes, export oriented units (EOUs), electronics hardware technology parks (EHTPs), software technology parks (STPs), and bio-technology parks (BTPs) (Section 3.2.4).

3.36. Concessions may be granted based on end-user conditions. Since 2017, in order to promote employment, products used in certain initiatives in the handloom, handicraft, leather, marine, sports goods and toy sectors may be imported duty-free, up to a specific value, which is contingent on the value of the exports of the previous year.[32] Equipment used for research and development (R&D) in the pharmaceuticals and bio-technology, and agro-chemicals sectors may be imported duty-free.[33] In addition, to facilitate assessment and clearance, India implements the Project Import Scheme, a simplified process of classification and valuation; goods imported under this Scheme to set up/expand industrial projects are all classified under HS98.01, and are subject to a concessional rate of 5%.

3.37. Temporary import of goods into India for display or use at specified events are exempt from customs duties, subject to a declaration by the importer indicating the nature of the exhibition, except in the case of imports of precious or semi-precious stones or jewellery. In this case, the importer must submit a certificate from the Gems and Jewellery Export Promotion Council.[34]

3.1.3.5 Tariff preferences

3.38. India grants preferential treatment on imports originating in regions with which it has negotiated preferential agreements, provided they comply with the established preferential rules of origin. The average preferential tariff that India has negotiated in the various agreements varies considerably, as does the coverage of the preferences. The average tariff applied for some trade partners is relatively low, at 0.8%, as in the case of the agreement with the SAFTA LDCs; under this agreement, the number of duty-free lines exceeds 99%. However, in the case of the agreement with MERCOSUR, the coverage is low (3.1%), the number of duty-free lines is 3%, and the preferential tariff (14.8%) is slightly lower than the average MFN tariff. In all instances, the number of agricultural products that enjoy preferential treatment is smaller than the number of non-agricultural products (Table 3.5).

Table 3.5 Summary analysis of preferential tariffs, 2019/20

	Preferential lines[a] (% of all tariff lines)	Total		WTO agriculture		WTO non-agriculture	
		Average (%)	Duty free (%)	Average (%)	Duty free (%)	Average (%)	Duty free (%)
MFN		14.9	3.0	34.8	4.9	12.0	2.7
APTA	27.2	13.5	4.9	32.4	4.9	10.7	4.9
Bangladesh	27.4	13.5	5.0	32.4	4.9	10.7	5.0
Lao, People's Dem. Rep.	0.8	14.8	3.1	34.8	4.9	11.9	2.9
ASEAN	84.0	5.0	73.7	21.4	51.1	2.6	77.0
Philippines	83.9	5.4	64.7	22.2	41.1	2.9	68.1
MERCOSUR	3.1	14.8	3.0	34.8	4.9	11.9	2.7
SAFTA non-LDCs	75.8	7.1	3.0	14.8	4.9	6.0	2.7
SAFTA LDCs	96.2	0.8	99.2	6.1	93.5	0.0	100.0
Afghanistan	0.3	14.8	3.1	34.4	5.3	12.0	2.7
Chile	9.2	14.1	3.0	33.2	5.3	11.3	2.7
Japan	81.0	5.4	22.9	21.8	6.9	3.0	25.2
Korea, Rep. of	76.7	6.0	66.9	24.6	6.3	3.2	75.8
Malaysia	84.3	4.9	73.8	21.2	51.3	2.6	77.1
Nepal	93.7	1.1	96.7	7.4	87.9	0.2	98.0
Singapore	45.5	10.7	27.7	32.6	13.0	7.5	29.9
Sri Lanka	87.8	4.2	79.4	8.6	89.6	3.5	77.9
Thailand	1.9	14.7	4.9	34.6	5.5	11.8	4.8
LDCs	94.3	1.9	94.2	13.2	76.6	0.3	96.7

[31] Customs Notification No. 20/2020 of 9 April 2020.
[32] FTP (2015-20) (as at 31 March 2019). Viewed at: https://dgft.gov.in/sites/default/files/FTP%20Chapter%201%20as%20on%20March%2031%202019_1.pdf.
[33] Handbook of Procedures (2015-20) (as at 31 March 2019). Viewed at: https://dgft.gov.in/sites/default/files/HBP%20Chapter%202%20as%20on%20Mar%2031%202019_0.pdf.
[34] Notification No. 8/2016-Customs of 5 February 2016.

	Preferential lines[a] (% of all tariff lines)	Total		WTO agriculture		WTO non-agriculture	
		Average (%)	Duty free (%)	Average (%)	Duty free (%)	Average (%)	Duty free (%)
Memorandum:							
Afghanistan[b]	96.2	0.8	99.2	6.1	93.5	0.0	100.0
Bangladesh[c]	96.2	0.8	99.2	6.1	93.5	0.0	100.0
Korea, Rep. of[d]	78.6	5.8	68.8	24.3	6.3	3.1	77.9
Malaysia[e]	84.5	4.9	73.9	21.2	51.5	2.5	77.2
Nepal[b]	96.2	0.8	99.2	6.1	93.5	0.0	100.0
Singapore[e]	86.5	4.4	77.6	21.4	53.5	2.0	81.1
Sri Lanka[f]	91.2	2.4	79.5	5.7	89.6	1.9	78.0
Thailand[e]	84.1	4.9	74.1	21.2	51.6	2.6	77.4

a The percentage of preferential lines includes only lines for which the preferential rates are lower than the corresponding MFN applied rate.
b Based on the lowest rate applied from either the country's bilateral agreement or the SAFTA.
c Based on the lowest rate applied from either the APTA or the SAFTA.
d Based on the lowest rate applied from either the country's bilateral agreement or the APTA.
e Based on the lowest rate applied from either the country's bilateral agreement or the ASEAN.
f Based on the lowest rate applied from either the country's bilateral agreement, the APTA or the SAFTA.

Note: Only preferential tariff rates that apply to the whole line at the 8-digit level were used in this analysis.
APTA = China; Korea, Rep. of; and Sri Lanka.
ASEAN = Brunei Darussalam, Malaysia, Singapore, Thailand, Viet Nam, Myanmar, Indonesia, and Lao People's Dem. Rep.
SAFTA non-LDCs = Pakistan, and Sri Lanka.
SAFTA LDCs = Bangladesh, Bhutan, Maldives, Nepal, and Afghanistan.

Source: WTO calculations, based on data received by the authorities, and CBIC notifications. Viewed at: http://cbic.gov.in/Customs-Notifications.

3.39. India grants duty-free quota-free access to LDCs as per Paragraph 47 of the Hong Kong Ministerial Declaration of December 2005. It extended this preference to LDCs through its DFTP Scheme for LDCs, which came into effect in 2008 with tariff reductions spread over five years. The Scheme provided preferential market access on tariff lines that comprise 92.5% of the global exports of all LDCs. Subsequently, in 2014, the Scheme was modified to increase the coverage and to simplify the rules of origin procedures. Under the new expanded DFTP Scheme, India grants duty-free access on 94.2% of all tariff lines[35]; around 2.6% (309 lines) of the tariff is excluded from the Scheme, while reduced rates (with a margin of preference ranging from between 10% and 60% of the MFN rate) of preferential duties are offered for 3.2% (374 lines) of the tariff.

3.1.4 Other charges affecting imports

3.40. Since the last Review, one of the major changes regarding other duties and charges affecting imports was the replacement (in most cases) of the additional (or countervailing) duty (AD), applied in place of excise duties (the Central Value Added Tax (CENVAT)) on imports, and the special additional duty (SAD), to offset state and local taxes, by the Goods and Services Tax (GST), introduced in 2017.

3.41. The GST aims at integrating the economy, by amalgamating a large number of central and state taxes into a single tax. As a result, the GST replaced various indirect taxes at the central and state levels (Table 3.6).

[35] Customs Notification No. 8/2014, 1 April 2014. Viewed at: http://commerce.gov.in/trade/international _tpp _DFTP.pdf.

Table 3.6 Taxes replaced by the GST

Central level taxes
Central Excise Duty
Excise Duties (Medicinal and Toilet Preparations)
Additional Duties of Excise (Goods of Special Importance)
Additional Duties of Excise (Textiles and Textile Products)
Additional Duties of Customs, with some exceptions
Special Additional Duty of Customs, with some exceptions
Service Tax
Central Surcharges and Cesses, insofar as they relate to supply of goods and services: Cess on Rubber, Cess on Automobiles, Cess on Tea, Cess on Coal, Cess on Bidis, Cess on Sugar, Cess on Jute Goods, Cess on Water Consumed by Certain Industries, Clean Energy Cess, Swachh Bharat Cess, Infrastructure Cess, and Krishi Kalyan Cess
State taxes
State VAT/Sales Tax
Central Sales Tax on certain goods (e.g. crude petroleum, high-speed diesel, motor spirit, natural gas, aviation turbine fuel, and alcoholic beverages)
Octroi and Luxury Tax
Entry Tax (all forms)
Entertainment and Amusement Tax (except when levied by local bodies)
Taxes on advertisements
Purchase Tax
Taxes on lotteries, betting and gambling
State Surcharges and Cesses, insofar as they relate to the supply of goods and services

Source: PIB, *An overview of GST.* Viewed at: https://pib.gov.in/newsite/printrelease.aspx?relid=161273; and information provided by the authorities.

3.42. The introduction of the GST is expected to widen the tax base and reduce tax evasion. The tax base is to widen, as the GST affects most goods and services. The GST is expected to reduce tax evasion, as the taxes are collected at each stage of the supply chain. The GST taxes only the value addition.[36] Thus, taxpayers may get a credit for taxes paid on inputs (input tax credit) at the previous stage of production. Credits may be taken on taxes paid on all goods and services, other than a few items included in the negative list.[37] Credits may be used to pay output tax. Unutilized tax credits can be carried forward. In addition, as the GST replaced several taxes, taxpayers are not required to maintain records or show compliance with a myriad of indirect tax laws.[38]

3.43. The GST rates are fixed based on the recommendations of the GST Council. Uniform GST rates and exemptions apply across India, to ensure harmonization among the central level and the states, and between the states. As a result, India became more integrated. The previous tax regime, with a multiplicity of taxes and their cascading effects, fragmented the country, as each state had to maintain border checkpoints. This adversely affected the free flow of goods within the country, resulting in additional logistics costs and increasing the overall cost of production.[39]

3.44. The GST is a destination-based consumption tax. The revenue derived from it accrues to the state or the union territory (UT) where the consumption takes place. The GST is simultaneously levied by the Central Government and the states/UTs at a common rate (Table 3.7). Intra-state supply of goods and/or services is subject to the Central GST (CGST), collected by the Central Government; and to the state GST (SGST) or the union territories GST (UTGST), collected by the states/UTs accordingly. The integrated GST (IGST), equivalent to the CGST plus the SGST/UTGST, is levied and collected by the Central Government on all inter-state supply of goods and/or services, and on imports. There is a mechanism for settling transactions between states. Accounts are settled periodically between the Central Government and the states and the UTs, to ensure that the SGST/UTGST portion of the IGST is transferred to the state/UT where the goods or services are

[36] PIB, *An overview of GST, 25 April 2017*. Viewed at: https://pib.gov.in/newsite/printrelease.aspx?relid=161273.

[37] For more details, refer to Section 17(5) of the CGST Act, 2017. Viewed at: http://gstcouncil.gov.in/sites/default/files/CGST.pdf.

[38] Sebastian, J. (2018), *India's Goods and Services Tax: Salient Features and Post–Implementation Issues*, International VAT Monitor, March/April. Viewed at: https://www.ibfd.org/sites/ibfd.org/files/content/pdf/ivm_2018_02_in_1.pdf.

[39] Government of India (2015), *Report on the Revenue Neutral Rate and Structure of Rates for the Goods and Services Tax (GST)*.

consumed. The share of states in the CGST and IGST for the 2015-20 period was 42%, and during 2020-21 it will decrease to 41% due to revenue to be provided to the new UTs created in 2019.[40]

Table 3.7 GST rate, 2020

GST/IGST	CGST	SGST/UTGST
0%	0%	0%
5%	2.5%	2.5%
12%	6%	6%
18%	9%	9%
28%	14%	14%

Source: WTO Secretariat.

3.45. Imported goods and services are subject to the IGST. The IGST on imported goods is levied based on the transaction value of the imported product plus the customs duty imposed on the product.[41] Imported services are valued per the same rules used to value services for domestic taxes.[42] In general, the invoice value is the taxable value.[43]

3.46. The list of exempted goods and services is the same at the central and state levels. The GST applies to all goods other than alcoholic beverages and five petroleum products (i.e. crude petroleum, motor spirit (petrol), high-speed diesel, natural gas, and aviation turbine fuel). The GST Council will recommend the date when these goods will be subject to the GST. Goods that fall outside the purview of the GST, when imported, are still subject to the AD and the SAD.[44] Tobacco and tobacco products are subject to GST and, in addition, the Central Government may levy a Central Excise Duty. At present, the Central Excise Duty on tobacco is 0%. Some services are exempted from the GST.[45]

3.47. There are also exemptions on the application of the GST, based on the threshold of aggregate turnover in a financial year. Exemptions apply to: taxpayers (goods only) with an aggregate turnover of up to INR 4 million; and taxpayers (goods and services, or services only) with an aggregate turnover of up to INR 2 million.[46] In addition, small taxpayers with an aggregate turnover of up to INR 5 million (services) or INR 15 million (goods or restaurants) may opt to use the composition levy. Under this scheme, the taxpayer is taxed a fixed GST rate on turnover: 1% (goods); 5% (restaurants); or 6% (all other services).

3.48. The GST on exports and on supplies to SEZs is zero-rated.

3.49. As per the Goods and Services Tax (Compensation to States) Act, 2017, a GST Compensation Cess is levied on the supply of domestic and imported goods and services, as recommended by the GST Council. The Cess is used to finance the compensation to the states for the loss of revenue arising on account of the implementation of the GST. Compensation will be provided to a state for a period of five years from the date on which the state brings its SGST Act into force. In general, the Cess is *ad valorem* (15%), with some exceptions for tobacco products (HS24) and coal (HS2701, 2702 and 2703) for which it is specific.[47]

3.50. Other changes regarding the charges on imports were the elimination of: the Clean Energy Cess on coal, lignite and peat, in 2017; and the Education Cess and Secondary and Higher Education

[40] PRS Legislative Research, *Report of the 15th Finance Commission for FY 2020-21.* Viewed at: https://www.prsindia.org/report-summaries/report-15th-finance-commission-fy-2020-21.

[41] The Customs Law is applicable for the valuation of imported goods (Section 5(1) of the IGST Act).

[42] The base for levying the tax is the transaction value (i.e. price actually paid or payable, provided the supplier and the recipient are not related) (Section 15 of the CGST Act and Chapter IV of the CGST Rules, 2017).

[43] Information provided by the authorities.

[44] These are products that fall under Chapters 24 and 27, as listed in the Fourth Schedule to the Central Excise Act, 1944.

[45] These include agricultural services, some transportation services, services provided by government and diplomatic agencies, judicial services, educational services, medical services, transmission or distribution of electricity, and services related to renting property.

[46] These thresholds apply to all of India, except for 11 Special Category States (North-East and the hilly states); in these cases, the threshold is INR 10 lakhs.

[47] Schedule of the Goods and Services Tax (Compensation to States) Act, 2017.

Cess, in 2018.[48] Instead, a Social Welfare Surcharge (SWS) of 10% on the basic customs duty was put in place in 2018, to finance education and other social welfare schemes.[49] The SWS is only levied on imported goods, not on domestic goods. Customs duty plus the SWS are levied on all imports, unless exempt.[50]

3.51. In 2020, India imposed a Health Cess, at a rate of 5%, on imported medical devices falling under HS headings 9018-9022, to finance the health infrastructure and services.[51] The Cess is levied in addition to any other customs duties; however, it does not apply to medical devices that are exempt from customs duty and inputs/parts used in the manufacturing of medical devices.[52]

3.52. The National Calamity Contingency Duty was removed in 2017 for all goods, except for some tobacco products (*ad valorem* duties, which increased from 10%-45% in 2019-20 to 25%-60% in 2020-21[53] and non-*ad valorem* duties[54], which also increased); and crude petroleum (HS 2709.00.00) (INR 50 per tonne).[55]

3.1.5 Import prohibitions, restrictions, and licensing

3.53. India continues to impose import prohibitions and restrictions. The DGFT may, through a notification, impose restrictions on imports (and exports) to: (i) protect human, animal or plant life or health; public morality; historical heritage; the environment; and intellectual property rights (IPRs); (ii) prevent the use of deceptive practices; the use of prison labour; and the traffic of arms, ammunition and implements of war; (iii) and to comply with United Nations Security Council resolutions. In addition, some products may only be imported through designated state trading enterprises (STEs). These imports (canalized items) can only be imported via specified transportation channels and methods. These include petroleum products, bulk agricultural products such as grains and vegetable oils, and some pharmaceutical products. All restricted items and items permitted to be imported by STEs, except live animals required for R&D, may be imported without an authorization by government-recognized R&D units.

3.1.5.1 Import prohibitions

3.54. India applies import prohibitions, mainly on health and safety grounds, and these continue to apply to products such as meat and offal from wild animals, tallow fat, animal rennet, and unprocessed ivory (Table 3.8).[56] Since the last Review, India has also applied import prohibitions to shark fins, leather from reptiles, and fur skin. Most of these restrictions apply to goods no matter their origin; however, some import prohibitions are country-specific. Imports of milk and milk products from China have been prohibited, since 2015, on health grounds.[57]

[48] Taxation Law (Amendment) Act, 2017, and the Union Budget 2018-19.

[49] Finance Act, 2018.

[50] For the whole list of goods exempted from the SWS, refer to: Notification No. 11/2018-Customs, 2 February 2018.

[51] The Finance Bill, Bill No. 26 of 2020. Viewed at: https://www.indiabudget.gov.in/doc/Finance_Bill.pdf.

[52] Notification No. 08/2020-Customs, 2 February of 2020.

[53] HS2403.11.10, HS2403.19.90, HS2403.91.00, HS2403.99.10, HS2403.99.20, HS2403.99.30, HS2403.99.40, HS2403.99.50, HS2403.99.60 and HS2403.99.90 (25%), and HS2403.19.10 (60%) (WTO Secretariat, based on the 2020-21 Tariff Schedule provided by the authorities).

[54] HS2402.20.10 (INR 200 per thousand), HS2402.20.20 (INR 250 per thousand), HS2402.20.30 (INR 440 per thousand), HS2402.20.40 (INR 440 per thousand), HS2402.20.50 (INR 545 per thousand), HS2402.20.90 (INR 735 per thousand), HS24 02.90.10 (INR 600 per thousand), HS2403.19.21 (INR 1 per thousand) and HS2403.19.29 (INR 2 per thousand) (WTO Secretariat, based on the 2020-21 Tariff Schedule provided by the authorities).

[55] National Calamity Contingent Duty, Annexure 7 of Taxation Laws (Amendment) Act, 2017.

[56] WTO document G/MA/QR/N/IND/2 of 21 June 2018; and information provided by the authorities.

[57] Notification No.1/2015-2020, 23 April 2019.

Table 3.8 Import prohibitions

HS code	Description
0207.43.00	Fatty livers, fresh or chilled
0208.90.10	Other meat and edible meat offal, fresh, chilled or frozen of wild animals
0209.10.00	Pig fat
0209.90.00	Poultry fat
0305.71.00	Shark fins
0410.00.10	Edible products of animal origin, n.e.s., of wild animals
0504.00.31	Guts of other animals for natural food casings of wild animals
0504.00.41	Guts other than for natural food casings of wild animals
0504.00.51	Bladders and stomachs of wild animals
0505.10.10	Feathers of a kind used for stuffing; down of wild birds
0505.90.21	Other feathers (excluding for stuffing purposes) of wild birds
0505.90.31	Powder and waste of feathers or parts of feathers of wild birds
0505.90.91	Skins and other parts of wild birds
0506.10.11	Bones, including horn-cores, crushed, of wild animals
0506.10.21	Bone grist of wild animals
0506.10.31	Ossein of wild animals
0506.10.41	Bones, horn cones and parts thereof, not crushed, of wild animals
0506.90.11	Bone meal of wild animals
0506.90.91	Other of wild animals
0507.10.10	Ivory
0507.10.20	Ivory powder and waste
0510.00.91	Ambergris, castoreum, civet and musk; cantharides; bile; glands of wild animals
0511.91.10	Fish nails
0511.91.20	Fish tails
0511.91.30	Other fish waste
0511.99.21	Sinews and tendons of wildlife
0511.99.92	Bovine embryos of wildlife
1501.10.10	Lard
1501.20.00	Other pig fat
1501.90.00	Poultry fat
1502.10.10	Mutton tallow
1502.10.90	Other tallow
1502.90.10	Unrendered fats
1502.90.20	Rendered fats or solvent extraction fats
1502.90.90	Other fats
1503.00.00	Lard stearin, lard oil, oleostearin, oleo-oil and tallow oil, not emulsified or mixed or otherwise prepared
1504.10.99	Other fats and oils and their fractions, of fish or marine mammals, whether or not refined, but not chemically modified
1504.20.30	Sperm oil
1504.20.90	Other fats and oils and their fractions, of fish, other than liver oils
1504.30.00	Fats and oils and their fractions, of marine mammals
1506.00.10	Neat foot oil and fats from bone or waste
1506.00.90	Other animal fats and oils and their fractions, not chemically modified
1516.10.00	Animal fats and oils and their fractions
1517.10.10	Margarine of animal origin
1517.90.30	Imitation lard of animal origin
1518.00.40	Animal or vegetable fats and oils and their fractions, boiled, oxidized, dehydrated, sulphurized, blown, polymerized by heat in a vacuum or in inert gas or otherwise chemically modified, excluding those of Heading 1516: inedible mixtures or preparations of animal or vegetable fats or oils of Chapter 15, n.e.s.
1522.00.10	Degras[a]
1522.00.20	Soap stocks
1522.00.90	Other animal or vegetable waxes
3507.10.11	Microbial rennet: animal rennet
3507.10.19	Other enzymes; prepared enzymes not elsewhere specified or included
3507.10.91	Animal rennet
3507.10.99	Other animal rennet
4113.30.00	Leather of reptiles
4301.10.00	Furskins of mink
4301.60.00	Furskins of fox
4301.80.00	Other furskins (e.g. chinchilla)
4302.11.00	Tanned or dressed furskins of mink
4302.19.40	Tanned or dressed furskins of Tiger-cat
4303.10.10	Articles of apparel and clothing accessories of wild animals covered under the Wildlife Protection Act, 1972

HS code	Description
4303.90.10	Other articles of furskin of wild animals covered under the Wildlife Protection Act, 1972
4403.99.18	Red sanders (*Pterocarpus Santalinus*)
8517	Telephone sets, including telephones for cellular networks or for other wireless networks; other apparatus for the transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network), other than transmission or reception apparatus of Heading 8443, 8525, 8527 or 8528
9601.10.00	Worked ivory and articles of ivory
Country-specific prohibitions	
China:	
0401	Milk and cream, not concentrated or containing added sugar or other sweetening matter
0402	Milk and cream, concentrated or containing added sugar or other sweetening matter
0403	Buttermilk, curdled milk and cream, yogurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter, or flavoured or containing added fruit, nuts or cocoa
0405	Butter and other fats and oils derived from milk; dairy spreads
0406	Cheese and curd
1704	Sugar confectionery (including white chocolate), not containing cocoa
1901	Malt extract; food preparations of flour, groats, meal, starch or malt extract, not containing cocoa or containing less than 40% by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of Headings 0401 to 0404, not containing cocoa or containing less than 5% by weight of cocoa calculated on a totally defatted basis n.e.s.
1905	Bread, pastries, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper, and similar products

a Residues resulting from the treatment of fatty substances or animal or vegetable waxes.

Note: Tariff lines affected are based on the HS12 nomenclature.

Source: WTO document G/MA/QR/N/IND/2, 21 June 2018.

3.55. Imports of certain goods (48 tariff lines at the HS eight-digit level) are subject to import prohibitions depending upon their import price (Table 3.9). These imports are prohibited or restricted when the c.i.f. price is lower than the minimum import price (MIP). According to the authorities, MIPs are imposed to protect the domestic growers/farmers and their livelihood. Line ministries decide which products should be subject to MIPs.

Table 3.9 Imports subject to minimum import prices (MIPs), as at end-December 2019

HS code	Description	MIP	Import policy
0801.32.10	Cashew kernels, broken	INR 680/kg	Prohibited
0801.32.20	Cashew kernels, whole	INR 720/kg	Prohibited
0802.80.10	Areca/betel nuts, whole	INR 251/kg	Prohibited
0802.80.20	Areca/betel nuts, split	INR 251/kg	Prohibited
0802.80.30	Areca/betel nuts, ground	INR 251/kg	Prohibited
0802.80.90	Areca/betel nuts, other	INR 251/kg	Prohibited
0904.11.20	Light black pepper, neither crushed nor ground	INR 500/kg	Prohibited
0904.11.30	Black pepper, garbled, neither crushed nor ground	INR 500/kg	Prohibited
0904.11.40	Black pepper, ungarbled, neither crushed nor ground	INR 500/kg	Prohibited
0904.11.50	Green pepper, dehydrated, neither crushed nor ground	INR 500/kg	Prohibited
0904.11.60	Pepper pinheads, neither crushed nor ground	INR 500/kg	Prohibited
0904.11.70	Green pepper, frozen or dried, neither crushed nor ground	INR 500/kg	Prohibited
0904.11.80	Pepper other than green, frozen, neither crushed nor ground	INR 500/kg	Prohibited
0904.11.90	Other, neither crushed nor ground	INR 500/kg	Prohibited

HS code	Description	MIP	Import policy
0904.12.00	Pepper, crushed or ground	INR 500/kg	Prohibited
0908.31.10	Cardamoms, large (*amomum*), neither crushed nor ground	INR 500/kg	Free
0908.31.20	Cardamoms, small (*ellettaria*), Alleppey green, neither crushed nor ground	INR 500/kg	Free
0908.31.30	Cardamoms, small, Coorg green, neither crushed nor ground	INR 500/kg	Free
0908.31.40	Cardamoms, small, bleached, half-bleached or bleachable, neither crushed nor ground	INR 500/kg	Free
0908.31.50	Cardamoms, small mixed, neither crushed nor ground	INR 500/kg	Free
0908.31.90	Cardamoms, other, neither crushed nor ground	INR 500/kg	Free
2515.11.00	Marble and travertine, crude or roughly trimmed	USD 200/MT	Restricted
2515.12.10	Merely cut, by sawing or otherwise, into blocks or slabs of a rectangular shape: blocks	USD 200/MT	Restricted
2515.12.20	Merely cut, by sawing or otherwise, into blocks or slabs of a rectangular shape: slabs	USD 200/MT	Restricted
2515.12.90	Merely cut, by sawing or otherwise, into blocks or slabs of a rectangular shape: other	USD 200/MT	Restricted
4012.11.00	Retreaded tyres, of a kind used on motor cars (including station wagons and racing cars)	USD 25 per tyre	Restricted
4012.12.00	Retreaded tyres, of a kind used on buses or lorries	USD 175 per tyre	Restricted
4012.13.00	Retreaded tyres, of a kind used on aircraft	USD 175 per tyre	Restricted
4012.19.10	Retreaded tyres for two wheelers	USD 25 or 175 per tyre[a]	Restricted
4012.19.90	Other retreaded tyres	USD 25 or 175 per tyre[a]	Restricted
4012.20.10	Used pneumatic tyres for buses, lorries and earth-moving equipment, including light commercial vehicles	USD 175 per tyre	Restricted
4012.20.20	Used pneumatic tyres for passenger automobile vehicles, including two-wheelers, three-wheelers and personal type vehicles	USD 25 per tyre	Restricted
6802.10.00	Tiles, cubes and similar articles	USD 40 per m^2 [b]	Free
6802.21.10	Marble blocks or tiles	USD 40 per m^2 [b]	Free
6802.21.20	Marble monumental stone	USD 40 per m^2 [b]	Free
6802.21.90	Other marble, travertine and alabaster	USD 40 per m^2 [b]	Free
6802.23.10	Granite blocks or tiles	USD 50 per m^2 [b]	Free
6802.23.90	Other granite	USD 50 per m^2 [b]	Free
6802.29.00	Other stone	USD 50 per m^2 [b]	Free
6802.91.00	Marble, travertine and alabaster	USD 40 per m^2 [b]	Free
6802.92.00	Other calcareous stone	USD 40 per m^2 [b]	Free
6802.93.00	Granite	USD 50 per m^2 [b]	Free
6810.11.10	Cement bricks	USD 50 per m^2	Free
6810.11.90	Other building blocks and bricks	USD 50 per m^2	Free
6810.19.10	Cement tiles for mosaic	USD 50 per m^2	Free
6810.19.90	Other tiles	USD 50 per m^2	Free

HS code	Description	MIP	Import policy
6810.91.00	Articles of cement: prefabricated structural components for building or civil engineering	USD 50 per m^2	Free
6810.99.10	Concrete boulders	USD 50 per m^2	Free
6810.99.90	Other articles of cement	USD 50 per m^2	Free

a Import of retreaded tyres for buses, lorries and earth-moving equipment, including bigger size vehicles and light commercial vehicles, is permitted freely if the per tyre c.i.f. value is USD 175 or above. Import of retreaded tyres for passenger automobile vehicles, including two-wheelers, three-wheelers and personal type vehicles, is permitted freely if the per tyre c.i.f. value is USD 25 or above.
b For maximum thickness of slab of 20 mm.

Note: The MIP for pepper under HS subheading 0904 is subject to certain conditions. See DGFT Notifications No. 50/2015-2020 (5 February 2018), No. 53/2015-2020 (21 March 2018), and No. 21/2015-2020 (25 July 2018).
Items falling under HS Chapters 25 and 40 are restricted if not imported under the MIP.
Items falling under HS Chapters 08, 09, and 68 are prohibited if not imported under the MIP.

Source: DGFT Notifications No. 36/2015-2020 (17 January 2017), No. 42/2015-2020 (6 December 2017); No. 33/2015-2020 (17 September 2018); and No. 8/2015-20 (12 June 2019). Viewed at: http://dgft.gov.in/policies/notifications.

3.1.5.2 Import licensing and restrictions

3.56. To facilitate the importation of restricted items, an import licensing system is in place. In 2019/20 there were 440 tariff lines (3.7% of all tariff lines) subject to import licensing.[58] All importers holding a valid IEC may apply for a licence. Import licences are issued, on an MFN basis, by the DGFT. The practice of routing import licensing applications through the sponsoring authorities was stopped. Applications are considered by the Exim Facilitation Committee, a single administrative organ, constituted for this purpose.[59] Import licences are valid for 18 months, renewable for 6 months on merit. Fees are calculated based on the c.i.f. value of imports, one per thousand of the c.i.f. value, with a minimum of INR 500 and a maximum of INR 100,000.[60] Import licences are issued for a specific port as specified by the applicant. If the import policy specifies a port of entry for a particular product, then the licence will indicate it.

3.57. The DGFT may refuse to grant an import licence, *inter alia*, if the applicant has contravened any law; if India decides to import through a STE; or if the applicant is not eligible in accordance with any provisions of the FTP. In addition, import licences of specified goods, services or technology may be suspended or cancelled without giving prior notice to the licence holder. The importer (exporter) may contest the decision, through the DGFT's grievance redressal mechanism, within six months, when it would be reassessed.[61]

3.58. Some licences are subject to an actual-user condition, which means that the imported product cannot be sold in the domestic market, and it must be used for a specific reason. A list of items that are granted licences with actual-user conditions does not exist; these conditions apply on a case-by-case basis. The Secretariat cannot provide more details regarding these changes because, as indicated by the authorities, for more details on the list of products, whose import conditions have changed, it is necessary to search by product, on the DGFT website.

3.59. Most second-hand goods, except second-hand capital goods, require a licence to be imported.[62]

3.60. Import licences are also used to administer quotas. Quotas are distributed on an MFN basis, unless there is a memorandum of understanding (MoU) with a trading partner. For instance, during fiscal year (FY) 2017-18, 125,000 MT of pulses were imported from Mozambique under an MoU; this was raised to 200,000 MT on 1 June 2020. Under the FTP 2015-21, quotas were established for

[58] WTO Secretariat calculations, based on online information taken from the DGFT. Viewed at: http://dgft.gov.in/basiccontent/itchs-schedule-1-import-policy-2017.
[59] WTO document G/LIC/N/3/IND/18, 17 January 2018; and information provided by the authorities.
[60] Appendix-2K of the FTP.
[61] The Foreign Trade (Development and Regulation) Act, 1992.
[62] FTP (2015-20) (as at 31 March 2019); and information provided by the authorities.

several pulses (Table 3.10).[63] In 2018, India also imposed a quota of 100,000 MTof peas (including yellow, green, dun and kaspa peas) for a period of three months (1 April to 30 June 2018), which was extended three times.[64] New quotas were announced in April 2020 for FY 2020-21. On 28 March 2020, quantitative restrictions on imports of peas were announced of up to 150,000 tonnes (for green peas and other peas) and 400,000 tonnes (for pigeon peas). Quotas on imports of certain varieties of pulses were imposed to protect small and marginal farmers, who were affected by an increase in imports, to ensure their food and livelihood security.[65]

Table 3.10 Import quotas

Product	Quota volume/FY (2019-2020)	Purpose
Marble and similar stones (HS.2515.11.00, HS 2515.12.10, HS 2515.12.20 and HS 2515.12.90)	Eliminated on 1 October 2016	..
Sandalwood (HS4403.99.22)	4,795 MT	Protect plant life; and conservation of exhaustible natural resources
Toor dal (HS 0713.60.00)	4 lakh/MT	Protect small and marginal farmers
Moong dal (HS 0713.31.00)	1.5 lakh/MT	Protect small and marginal farmers
Urad dal (HS 0713.31.00)	1.5 lakh/MT	Protect small and marginal farmers
Peas (HS 0713.10.00)	1.5 lakh/MT	Protect small and marginal farmers

.. Not available.

Source: WTO documents G/LIC/N/3/IND/15, 9 March 2016; and G/LIC/N/3/IND/18, 17 January 2018; and information provided by the authorities.

3.61. India may impose quantitative restrictions if the Central Government, after conducting an investigation, determines that goods are imported in such an increased quantity and under such conditions as to cause or threaten to cause serious injury to domestic industry. Quantitative restrictions may not be imposed on goods originating from a developing country, if the share of imports of such goods from that country does not exceed 3%; or, where such goods originate from more than one developing country, as long as aggregate imports from all these countries do not exceed 9% of the total imports of the specific good into India. This type of quantitative restriction, unless revoked earlier, expires four years from the date of its imposition.[66]

3.62. Imports of metallic waste and scrap are allowed only if they do not contain hazardous, radioactive material, any type of arms, or any other explosive material. Imports of scrap can take place only through designated ports, without exception.[67]

3.63. Certain products may only be imported through specific ports. These are: natural rubber (HS4001) (Chennai and Nhava Sheva (Jawaharlal Nehru Port); palm oil (HS1511) (all ports, except ports in Kerala); new vehicles (16 entry points); and used/second-hand vehicles (Mumbai Port).

3.64. Imports of jewellery and coins (HS7113, HS7114, HS7115, and HS7118) from the Republic of Korea continue to be restricted.[68]

3.65. On 5 September 2019, the import policy of certain items in Chapters HS72, HS73 and HS86 was revised from being free to subject to compulsory registration under the Steel Import Monitoring

[63] The decisions regarding the allocation of quotas are available online at: http://dgft.gov.in/other-commetiee-decisions.

[64] DGTF Notifications No. 4/2015-2020, 25 April 2018; No. 15/2015-2020, 2 July 2018; No. 31/2015-2020; 29 August 2018; No. 32/2015-2020, 30 August 2018; and No. 37/2015-2020, 28 September 2018.

[65] Information provided by the authorities.

[66] The Foreign Trade (Development and Regulation) Act, 1992 (as amended) and the Foreign Trade (Development and Regulation) Amendment Act, 2010 No. 25 of 19 August 2010.

[67] These ports are Chennai, Cochin, Ennore, Nhava Sheva (Jawaharlal Nehru Port), Kandla, Mormugao, Mumbai, New Mangalore, Paradip, Tuticorin, Vishakhapatnam, Pipava, Mundra, Kolkata, and Krishnapatnam. For more details on the type of metallic waste and scrap which can be imported freely, refer to the Procedures of Import in the Shredded Form; unshredded, compressed and loose form are laid down in Para 2.54 of the Handbook of Procedures. DGFT, *Handbook of Procedures (2015-20) (as at 31 March 2019)*. Viewed at: https://dgft.gov.in/sites/default/files/HBP%20Chapter%202%20as%20on%20Mar%2031%202019_0.pdf.

[68] DGFT Notification No. 25/2015-2020, 25 August 2017.

System, to allow the authorities to monitor the trade volumes.[69] Currently, no other goods are monitored.[70]

3.1.6 Anti-dumping, countervailing, and safeguard measures

3.1.6.1 Anti-dumping measures

3.66. The main legislation regarding anti-dumping and countervailing measures are Sections 9, 9A, 9B and 9C of the Customs Tariff Act, 1975 (as amended); and the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (as amended).

3.67. During the period under review, India made several notifications to the WTO regarding amendments to the legislation related to anti-dumping and countervailing measures.[71] All these amendments took place prior to the period under review, and some of them date back to 2002 and 2003, namely those related to conditions to determine whether a Member has non-market economy status for the purpose of the anti-dumping investigation.[72] Other amendments related to, *inter alia*, the responsibilities of the designated authorities; the principles to determine injurious price; the review of an anti-dumping duty (sunset reviews)[73]; and circumvention measures.[74]

3.68. In May 2018, the Directorate General of Trade Remedies (DGTR), under the Department of Commerce, replaced the Directorate General of Anti-dumping and Allied Duties (DGAD) as the sole agency dealing with all trade remedies in India. The DGTR deals with anti-dumping, countervailing, and safeguard (both duty increases and quantitative restrictions) measures. Prior to the creation of the DGTR, the DGAD dealt with anti-dumping and countervailing cases; and the Directorate General of Safeguards (DGS) and the Directorate General of Foreign Trade (DGFT) both dealt with safeguards.[75] The DGTR is in charge of conducting anti-dumping, countervailing and safeguard investigations, and for making recommendations to the Minister of Finance regarding the imposition of any such measures.

3.69. An application to initiate an anti-dumping investigation can be made either by, or on behalf of, the concerned domestic industry to the DGTR. Applications are deemed valid if made by domestic producers who account for at least 25% of total domestic production of the article in question. An application is also considered to be made on behalf of the domestic industry if it is supported by domestic producers whose collective output accounts for more than 50% of the total production of the like article. For an anti-dumping investigation to be initiated, the petitioner must furnish sufficient evidence regarding dumping of the goods in question; injury to the domestic industry; and a causal link between the dumped imports and alleged injury to the domestic industry.

3.70. The Designated Authority may also initiate the proceedings *ex officio/suo-motu*, based on information received from the Collector of Customs. During 2015–19, the DGTR did not initiate any

[69] DGFT Notification No. 17/2015-2020, 5 September 2019.

[70] Information provided by the authorities.

[71] WTO documents G/ADP/N/1/IND/2/Suppl.5 - G/SCM/N/1/IND/2/Suppl.5 to Suppl. 8, 12 October 2015 to 21 April 2017.

[72] Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Amendment Rules, 2002. Customs Notification No.1/2002 Customs (N.T.), 4 January 2002; and Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Amendment Rules, 2003. (Notification No. 101/2003 – Customs (N.T.)), 10 November 2003 (WTO documents G/ADP/N/1/IND/2/Suppl.8 - G/SCM/N/1/IND/2/Suppl.8, 21 April 2017).

[73] The Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Amendment Rules, 2011. Notification No. 15/2011-Customs (N.T), 1 March 2011 (WTO documents G/ADP/N/1/IND/2/Suppl.5 - G/SCM/N/1/IND/2/Suppl.5, 12 October 2015).

[74] The Refund of Anti-Dumping Duty (Paid in Excess of Actual Margin of Dumping) Rules, 2012. Notification No. 5/2012-Customs (N.T.), 19 January 2012 (WTO documents G/ADP/N/1/IND/2/Suppl.7 - G/SCM/N/1/IND/2/Suppl.7, 9 October 2015).

[75] Amendment to the Government of India (Allocation of Business) Rules, 1961, 7 May 2018. Press Information Bureau, Government of India, Ministry of Commerce and Industry. Viewed at: https://pib.gov.in/newsite/PrintRelease.aspx?relid=179195.

investigations *suo-motu*. The procedure for *suo-motu* investigations is the same as those based on an industry petition, as per the Anti-Dumping Rules (Box 3.1).

3.71. The DGTR may suspend or terminate the investigation in the following cases: (i) if there is a request in writing from, or on behalf of, the domestic industry affected, at whose instance the investigation was initiated; (ii) if there is no sufficient evidence of dumping or injury to justify continuation of the investigation; (iii) if the margin of dumping is less than 2% of the export price; (iv) the volume of dumped imports from a country is less than 3% of the total imports of the like product into India, unless the volume of dumped imports collectively from all such countries is more than 7% of the total imports; and (v) if injury is negligible. The Authority may also terminate or suspend an investigation after the preliminary findings if the exporter concerned is ready to agree upon a price undertaking.

Box 3.1 Stages of the investigation process, 2020

A. Preliminary screening:
The application is checked to ensure that it is fully documented and provides sufficient evidence for initiating an investigation. If the evidence is not adequate, then a deficiency letter is issued. Unless the deficiencies are rectified, the submission made before the Authority cannot be construed as an application pending before it.
B. Initiation:
The DGTR determines if the application is made by, or on behalf of, the domestic industry. It also examines the accuracy and adequacy of the evidence provided in the application. When there is sufficient evidence regarding dumping, injury, and causal link, a public notice is issued. This notice is issued once the initiation is decided.
C. Access to information:
The Designated Authority provides access to the non-confidential evidence presented by various interested parties to all interested parties, on request.
D. Preliminary findings:
The DGTR starts conducting the investigation and, in appropriate cases, makes a preliminary finding containing detailed information on the main reasons behind the determination. The preliminary finding is normally made 60 days from the date of initiation and, in most cases, between 90 and 120 days of initiation.
E. Provisional duty:
A provisional duty not exceeding the margin of dumping may be imposed, based on the preliminary finding. The provisional duty may be imposed only after the expiry of 60 days from the date of initiation of the investigation. The provisional duty remains in force for up to 6 months. It may be extended to 9 months under certain circumstances.
F. Oral evidence and public hearing:
The Designated Authority may allow the oral presentation of relevant information. However, oral submissions are considered only if they are subsequently provided in writing.
G. Disclosure of information:
The DGTR informs all interested parties of the essential facts, which form the basis for its decision, before the final finding is made.
H. Final determination:
Within one year of the date of initiation of the investigation, the Designated Authority determines if the article under investigation is being dumped and submits its final findings to the Central Government.
I. Time-limit for an investigation process:
The normal time allowed by the statute for the conclusion of an investigation and the submission of final findings is one year from the date of initiation of the investigation. This period may be extended by 6 months.

Source: WTO Secretariat.

3.72. A provisional anti-dumping duty may be recommended by the Designated Authority in its preliminary findings. Statutorily, the provisional anti-dumping duty cannot be levied earlier than 60 days from the date of initiation of proceedings. The DGTR usually recommends the imposition of provisional duties after the expiry of the mandatory period of 60 days, and levies them for a period of about three months, although they may levied for a period not exceeding six months, which may be extended to nine months under certain circumstances.

3.73. The DGTR recommends the imposition of a final anti-dumping duty that removes the injury to the domestic industry.[76] India follows the lesser duty rule; it applies the amount of anti-dumping duty equal to or lower than the margin of dumping that would remove the injury to the domestic industry.[77]

3.74. Anti-dumping duties may not be levied on goods imported under the Advance License Scheme (Advance Authorization Scheme) or on imports by EOUs/export processing zones (EPZs) units, even if such imports are from trading partners that are dumping or are under investigation. The final anti-dumping duty paid on imported goods used to manufacture exports may be refunded under the Duty Drawback Scheme.

3.75. An anti-dumping duty may be levied retrospectively under certain circumstances.[78] However, it cannot be levied retrospectively beyond 90 days from the date of issuance of the notification imposing duty. So far, the DGTR has not imposed any duty retroactively.

3.76. If the final anti-dumping duty is higher than the provisional duty already imposed and collected, the difference is not collected from the importer. However, if the final anti-dumping duty is lower than the provisional duty already collected, the difference is refunded to the importer. Moreover, if the provisional duty is withdrawn as a result of a negative final finding, the provisional duty already collected is refunded to the importer.

3.77. An anti-dumping duty remains in force for a period of five years from the date the duty is imposed, which is the date that the Department of Revenue issues the notification imposing the duty. However, the duty may be reviewed at any time prior to the expiration of the period. Before the expiration of a measure, the Designated Authority may initiate a sunset review, on its own initiative or as a result of a request from an interested party. The anti-dumping duty may continue to remain in force pending the outcome of such a review for a further period not exceeding one year.[79] However, if the Central Government, in a review, is of the opinion that the cessation of the duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time to time, extend the period of such imposition for a further period of five years starting from the date of order of the extension.

3.78. The domestic industry must file a petition to seek extension for an anti-dumping measure, at least 270 days prior to the date of its expiry (or 240 days prior to the date of expiry of the measure, with justification for the delay). An order of initiation or rejection is generally issued within 45 days of the date of receipt of the petition.[80] Sunset reviews may be initiated *suo muto;* however, according to the authorities, this has not been done.

3.79. Sunset reviews must be concluded within 12 months of their date of initiation.[81] The Central Government may, under special circumstances, extend this period by six months.[82] While the sunset review is being conducted, the anti-dumping duty may be extended for one year, pending investigation. In a sunset review, the DGTR examines the likelihood of either the continuation or recurrence of dumping and injury. In accordance with the result of the investigation, the review may result in the renewal of the duty, its withdrawal, or the variation of the level of the duty. A review

[76] DGTR, *FAQ*. Viewed at: http://www.dgtr.gov.in/faq.

[77] Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (Notification No. 2/95 – Customs (N.T.), 1 January 1995 (as amended)).

[78] Namely if: (i) there is a history of dumping which caused injury or that the importer was, or should have been, aware that the exporter practiced dumping and that such dumping would cause injury; and (ii) the injury caused by massive dumping of an article imported in a relatively short period of time is likely to seriously undermine the remedial effect of the anti-dumping duty liable to be levied.

[79] Rule 23 (1) of the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Amendment Rules, 2011 (Notification No. 15/2011-Customs (N.T.), 1 March 2011).

[80] DGTR Trade Notice No. 02/2017, 12 December 2017 (Annex D).

[81] Sub-rule (1) of Rule 23 of the Anti-dumping Rules.

[82] Rule 17(i)(a) of the Anti-dumping Rules.

should follow the same procedure as prescribed for investigation of a fresh case, to the extent possible.[83] However, the methodology to be adopted for such an examination has not been prescribed. Hence, the DGTR may examine whichever parameters it deems relevant for a likelihood analysis, if it can justify its determinations. However, according to the authorities, the parameters for likelihood analysis used by the DGTR are in accordance with Annexure II of the Anti-dumping Rules, 1995 (i.e. those used in a normal investigation). Regarding sunset reviews, the onus is on the domestic industry to *prima facie* establish the likelihood of continuation or recurrence of dumping and injury. The DGTR may reject a request for initiation if it is not substantiated and if there is no *prima facie* evidence of likelihood.[84]

3.80. Duties are collected during the sunset review investigation. In the case of no dumping/injury, the duty charged during that period is not refunded.[85]

3.81. During the period under review, most measures were subject to sunset reviews. The duties were extended in most of the cases, except in the investigations initiated in 2017, when most duties were withdrawn. In those instances, when the measure was extended, the duties were not changed (Table 3.11).

Table 3.11 Sunset reviews (SSRs), 2015-20

	2015	2016	2017	2018	2019	2020
SSRs due[a]	18	13	21	11	23	38
SSR petitions not received	5	4	2	2	8	9
SSRs initiated[b]	**13**	**9**	**15**	**7**	**9**	**12**
Ongoing investigations	0	0	0	0	0	0
Same duty continued	10	8	1	3	6	0
Duty changed	0	0	0	0	0	0
Duty withdrawn	3	1	9	4	3	0
SSRs terminated	0	0	5	0	0	0
SSR petitions found deficient	0	0	4	2	6	0
SSR petitions under scrutiny	0	0	0	0	0	2

a The total number of SSRs due in a year is the total number of anti-dumping measures expiring in that year.

b Investigations are initiated up to 6 months prior to the expiry of the anti-dumping duty.

Source: Information provided by the authorities.

3.82. The order determining the existence of dumping may be appealed before the Customs, Excise and Service Tax Appellate Tribunal (CESTAT). However, only the final findings/order of the Designated Authority can be appealed before the Customs, Excise Service Tax Appellate Tribunal (CESTAT) (previously CEGAT). Appeals should be filed within 90 days of the date the determination order is issued. During 2015-19, some 200 decisions made by the Designated Authority were appealed before the CESTAT.[86]

3.83. India's legislation has provisions to address circumvention of anti-dumping measures; these were included in 2012 in the Customs Tariff Act, 1975 (i.e. Section 9A (1A)). The provisions refer to three types of circumvention: (i) alteration of the description, name or composition of the subjected article (minor alteration); (ii) importing the article in an unassembled form (assembly operations); or (iii) by changing its country of export or origin (transhipment). Section 9A (1A) also states that if the Designated Authority deems that circumvention of anti-dumping duty has taken place, the anti-dumping duty may be extended. The Anti-Dumping Rules, 1995 (as amended) lay down the definition of circumvention (Rule 25), the process to initiate an investigation to determine circumvention (Rule 26), the process to determine the existence of circumvention (Rule 27), and

[83] Rule 23 (1) of the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Amendment Rules, 2011 (Notification No. 15/2011-Customs (N.T,), 1 March 2011).

[84] Section 9A(5) of the Customs Tariff Act, 1975, and Rule 23(3) of the Anti-dumping Rules made thereunder, lay down the provisions for conducting a sunset review.

[85] Information provided by the authorities.

[86] Information provided by the authorities.

the review of circumvention (Rule 28).[87] In 2020, the Rules were again amended to further clarify the definition of circumvention.[88]

3.84. The DGTR may initiate circumvention investigations upon receipt of a written complaint by the domestic industry, provided that the application contains sufficient evidence for initiation. India's legislation also allows for *suo motu* initiation, where any information of such evidence is received from the Commissioner of Customs or any other source. The circumvention investigation must be completed within 12 months and must not exceed 18 months from the date of initiation; if this happens, reasons must be recorded in writing by the Designated Authority. Once the existence of circumvention is determined, the DGTR may recommend the imposition of an anti-dumping duty on imports that have been found to be circumventing an existing anti-dumping duty. Such duty may also be imposed retrospectively from the date of initiation of the investigation. A public notice recording the findings is issued. Generally, the existing anti-dumping duty is extended to the circumventing product.[89] The anti-dumping duty on the circumventing product is co-terminus with the tenure of the anti-dumping duty imposed on the circumvented product.

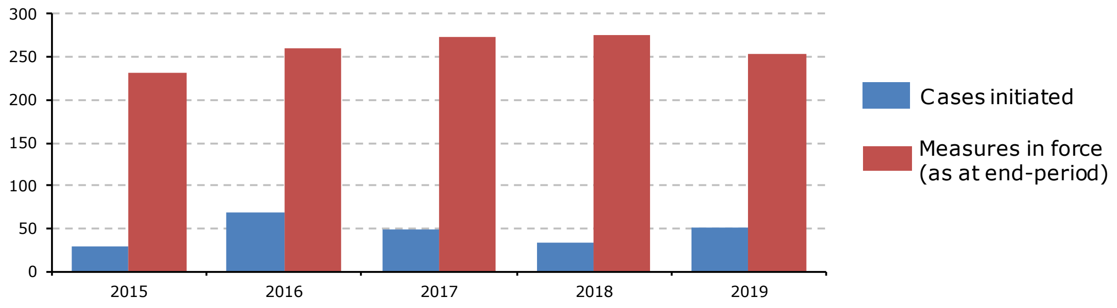
3.85. During the period under review, India imposed five circumvention remedies, for diclofenac sodium (China); cold-rolled stainless steel (China, the EU, Republic of Korea, South Africa, Chinese Taipei, Thailand, and the United States); jute sacking bags (Bangladesh); glass fibre (China); and O-Acid (China).[90]

3.86. India continues to be an active user of anti-dumping measures; it is currently the main user of antidumping measures in the WTO. During 2015-19 (December 2019), India initiated 233 investigations, a sharp increase since 2011-14 (June), when the number of initiations stood at 82. Most of the investigations initiated during the review period are related to products originating in China, followed by those originating in the Republic of Korea and the EU-28. At end-2019, India had imposed 254 anti-dumping duties. These measures affected mainly chemicals and products thereof, accounting for 40.6% of all measures (Chart 3.2). The average length of an anti-dumping measure in force as at December 2019 was 5.9 years; however, 58 measures have been in place for more than 10 years.[91] These measures apply mainly (45%) to China.

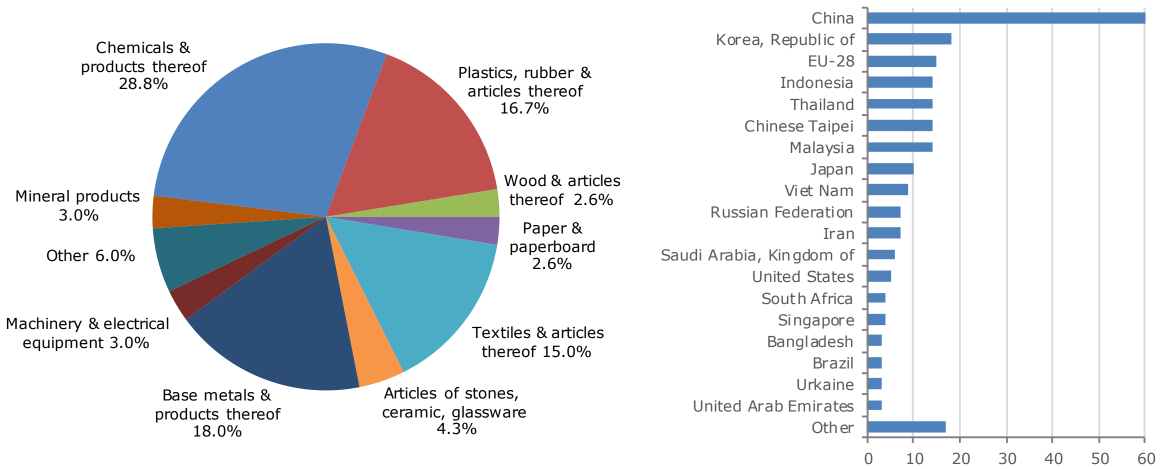
[87] The Custom Tariff (Identification Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Amendment Rules, 2012; Customs Notification N°6/2012, 19 January 2012 (WTO documents G/ADP/N/1/IND/2/Suppl.7 - G/SCM/N/1/IND/2/Suppl.7, 9 October 2015).
[88] Customs Notification No. 09/2020, 2 February 2020.
[89] Information provided by the authorities.
[90] Information provided by the authorities.
[91] WTO document G/ADP/N/328/IND, 28 October 2019; and WTO Secretariat.

Chart 3.2 Anti-dumping measures, 2015-19

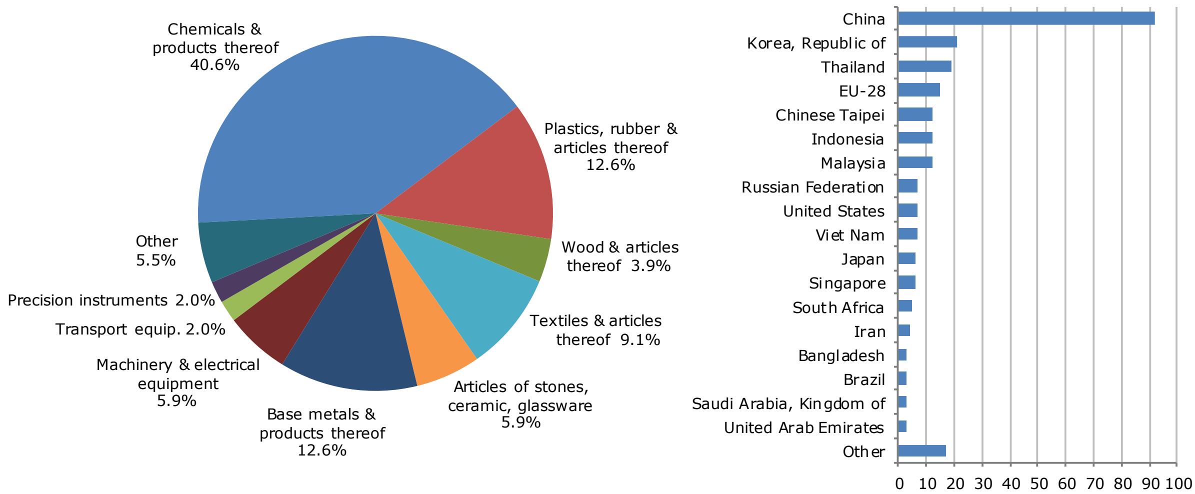
Number of investigations initiated and measures in force:



Investigations initiated by product and partner, 2015 to 2019:



Total measures in force by product and partner, as at end-December 2019:



Source: WTO, Integrated Trade Intelligence Portal (I-TIP).

3.1.6.2 Countervailing measures

3.87. The main pieces of legislation regarding countervailing measures are Sections 9, 9B and 9C of the Customs Tariff Act, 1975 (as amended), and the Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidised Articles and for Determination of Injury) Rules, 1995, (as amended).

3.88. The DGTR, which is responsible for anti–dumping, is also the Authority in charge of administering countervailing measures. It initiates investigations to determine the existence, degree and effect of any alleged subsidy in relation to imports, upon receipt of a properly documented application by, or on behalf of, the domestic industry. The DGTR may also initiate investigations on its own behalf (Rule 6(4) of Countervailing (CVD) Rules, 1995). The application furnished by the industry should include, *inter alia*, evidence of subsidy on imports; if possible, its amount; injury; and causal link.

3.89. The Central Government imposes a countervailing measure only after determining that injury to a domestic industry, which is difficult to repair, was caused by massive imports in a relatively short period, of an article that is subsidized. The Designated Authority has one year from the date of initiation of an investigation to determine if the article under investigation is being subsidized, and submits to the Central Government its recommendation as to the amount of duty which, if levied, would be adequate to remove the injury to the domestic industry. The Central Government may, in exceptional circumstances, extend the aforesaid period of one year by six months. Moreover, in cases in which the Designated Authority has suspended the investigation on acceptance of a price undertaking, and subsequently resumed the same investigation because of a violation of this price undertaking, the period during which the price undertaking was in force is not taken into account to calculate the period of one year. The countervailing duty imposed, by notification in the Official Gazette, on the subsidized exports from a trading partner cannot exceed the amount of the subsidy/ies. The countervailing duty is in addition to any other duty imposed under the Customs Tariff Act, 1975 or other laws.

3.90. The Central Government may impose a provisional countervailing duty based on the preliminary findings recorded by the Designated Authority. A provisional duty may not be imposed prior to 60 days from the date of issue of the public notice indicating the decision to initiate the investigation. The duty remains in force for a period not exceeding four months. If the final countervailing duty is lower than the provisional duty imposed and collected, the differential is refunded to the importer.

3.91. Unless revoked earlier, the countervailing duty remains in effect for five years from the date imposition. However, if the Central Government, in a review, determines that the termination of the duty is likely to lead to the continuation or recurrence of subsidization and injury, it may, from time to time, extend the period of the measure for a further five years. If a review is initiated prior to the conclusion of the original measure, the countervailing duty remains in force, pending the conclusion of the review, for a period not exceeding one year.

3.92. In 2020, the Rules, 1995, to provide for investigation into cases of circumvention of countervailing duty.[92] As a result of the amendment, if it is considered that exports are circumventing a countervailing duty in force, the Designated Authority may initiate an investigation on its own initiative or at the request of the interested party, to determine the existence and effect of any alleged circumvention of the countervailing duty. The government of the exporting trading partner is notified prior to the initiation of the investigation. These investigations should take 12 months; they should not exceed 18 months. Circumventing duties may be imposed retroactively to the date when the investigation was initiated. The circumvention measures remain in place for the duration of the countervailing measure. The imposition of a circumventing measure may be reviewed. As at July 2020, no cases of circumvention in countervailing duty measures had been initiated in India.

3.93. During 2015-20 (January), India initiated 20 countervailing investigations, and 11 measures were in place. As in the case of anti-dumping duties, most of the measures applied to imports originating in China (Table 3.12).

[92] Notification No. 10/2020 Customs (N.T.), 2 February 2020.

Table 3.12 Countervailing measures, January 2020

HS	Product	Date of initiation	Duties in force	Termination	Member
8503	Castings for wind-operated electricity generators	29.05.2014	19.01.2016		China
7219; 7220	Certain hot-rolled and cold-rolled stainless steel flat products	12.04.2016	07.09.2017		China
4011.20	New pneumatic tyres for buses and lorries	27.03.2018	24.06.2019		China
7306.40.00; 7306.61.10; 7306.11.00; 7306.21.00	Stainless steel welded pipes	09.08.2018	17.09.2019		China, Viet Nam
2925.11.00	Saccharin	10.08.2018	30.08.2019		China
3904.69.90	Fluoroelastomers	14.08.2018		05.02.2019	China
3808.91.99; 3808.93.90; 3808.99.90	Atrazine	27.08.2018	17.09.2019		China
7407.10.10; 7407.10.20; 7408.11.90; 7408.19.20; 7408.19.90; 7409.11; 7409.19	Continuous cast copper wire rods	10.09.2018	08.01.2020[a]		Indonesia, Malaysia, Thailand, Viet Nam
7007.19.00; 7003.19.90; 7005.10.10; 7005.10.90; 7005.21.90; 7005.29.90; 7005.30.90; 7007.19.00	Textured and tempered glass, whether coated or uncoated	12.09.2019			Malaysia
7005.10.90	Clear float glass	01.10.2019			Malaysia
7219; 7220	Products of stainless steel	18.10.2019			Indonesia
4002.19	Styrene butadiene rubber	29.10.2019			Korea, Rep. of
4411.12; 4411.13; 4411.93; 4411.14; 4411.92	Fibreboards	05.11.2019			Indonesia, Malaysia, Sri Lanka, Thailand, Viet Nam

a CBIC, *Ministry of Finance Notification No. 1/2020-Customs (CVD).* Viewed at: https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-others2020/csot01-2020.pdf.

Source: WTO Secretariat, *Subsidies and Countervailing Measures*. Viewed at: https://www.wto.org/english/tratop_e/scm_e/scm_e.htm.

3.1.6.3 Safeguard measures

3.94. Until May 2018, safeguard measures were administered by the Directorate General of Safeguards (DGS) (duties), and the Directorate General of Foreign Trade (DGFT) for safeguards that took the form of quantitative restrictions. Currently, the DGTR is the sole agency dealing with safeguard (both duty increases and quantitative restrictions) measures. The Standing Board of Safeguards (chaired by the Commerce Secretary) considers the recommendations of the Designated Authority, and decides whether to recommend the imposition of a safeguard measure to the Ministry of Finance, which levies the duty.

3.95. Safeguards continue to be regulated by: Sections 8B, and 8C of the Customs Tariff Act, 1975 (as amended); the Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997; the Customs Tariff (Transitional Product Specific Safeguard Duty) Rules, 2002; and the Safeguard Measures (Quantitative Restriction) Rules, 2012.

3.96. Applications to initiate an investigation to impose a safeguard measure must be made on behalf of the domestic industry. On receipt of a written application, the Director General initiates an investigation to determine the existence of "serious injury" or "threat of serious injury" to the domestic industry, caused by the import of an article in such increased quantities. A public notice is issued to the interested parties for them to file responses. The non-confidential versions of the application/responses are kept open for inspection for the interested parties. The DGTR may impose a provisional duty based on preliminary findings, if a delay in imposing an early remedy may further deteriorate the condition of an ailing industry.[93] The provisional duty remains in force for maximum

[93] Information provided by the authorities.

of 200 days from the date of imposition. For the final determination, the DGTR examines all the submissions made by the parties during the course of the investigation. After the final determination is made and the final findings are issued, the matter is then referred to the Board of Safeguards, which, in turn, decides whether the imposition of a measure is needed. If, in accordance with the final determination, there is no need to impose a definitive measure, and if a preliminary duty was imposed, the duty collected is refunded.

3.97. Safeguard investigations take eight months from the date of initiation until their conclusion; however, this period might be extended.

3.98. Safeguard duties may remain in force for a maximum of four years from the date of imposition, unless it is determined that the threat of injury for the industry still exists; under these circumstances, the safeguard measure may be extended. In these cases, there would be a review investigation. However, a safeguard duty can, under no circumstances, continue to be imposed beyond a period of 10 years from the date on which the duty was first imposed.

3.99. Safeguard duties may be levied in addition to anti-dumping and countervailing duties or in addition to any other duties imposed under any other laws. Safeguard duties are not levied on articles imported by export-oriented undertakings (EOUs, foreign trade zones (FTZs) or SEZs.

3.100. During the period under review, India initiated seven safeguard investigations, three of which resulted in the implementation of a measure; one investigation was dismissed; and three are ongoing (Table 3.13). Regarding the ongoing investigation related to imports of single-mode optical fibre, the DGTR recommended the imposition of a provisional safeguard duty of 25% for imports originating in all countries, with the exception of developing countries other than China.[94] India imposed an *ad valorem* safeguard duty in all instances that a final safeguard measure was imposed, except in the case of hot-rolled flat products of steel, which are subject to a specific duty.[95] During the period 2015-19, India withdrew six safeguard measures, all within the maximum four-year period for which a safeguard may be imposed. As in the case of anti-dumping, India is a major use of safeguard measures. As at June 2019, India had initiated 46 safeguard measures (12% of all the safeguards investigations initiated at the WTO), there is one safeguard measure in force.

Table 3.13 Safeguard duties, 2015-19

HS code	Description	Initiation	In force	Withdrawn
1108,1903, 283410, 3505	Sodium nitrite	17.04.13	26.02.14	25.05.15
7304.19, 7304.23, 7304.29, 7304.31, 7304.39, 7304.51, 7304.59, 7304.90	Seamless pipes, tubes and hollow profiles of iron or non-alloy steel	22.04.13	13.08.14	12.02.17
2905.17, 3823.70	Saturated fatty alcohols	13.02.14	28.08.14	27.02.17
2918.15	Sodium citrate	04.03.14	01.10.14	31.12.17
3907.20	Flexible slabstock polyol, of molecular weight 3,000 to 4,000	22.05.14		22.01.15
2841.30	Sodium di-chromate	26.05.14		22.01.15
7219.31, 7219.32, 77219.33, 7219.34, 7219.35, 7220.20, 7220.90	Cold-rolled flat products of stainless steel, of chromium type, 400 series	19.09.14		01.04.15
7208, 7219.31, 7219.32, 7219.33, 7219.34, 7219.35, 7220.20, 7220.90, 7225.30	Hot-rolled flat products of non-alloy and other alloy steel, in coils of a width of 600 mm or more	07.09.15	29.03.16	31.12.17
7208, 7225	Hot-rolled flat sheets and plates of alloy or non-alloy steel	07.12.15	23.11.16	31.12.18
7601	Unwrought aluminium (aluminium, not alloyed, and aluminium alloys)	19.04.16		07.11.16

[94] WTO documents G/SG/N/8/IND/32; G/SG/N/10/IND/23; and G/SG/N/11/IND/18, 21 November 2019.

[95] For hot-rolled flat sheets and plates (excluding hot-rolled flat products in coil form) of alloy or non-alloy steel having nominal thickness less than or equal to 150 mm and nominal width of greater than or equal to 600 mm under HS headings 7208 and 7225 (72254013, 72254019, 72254020, 7225030 and 73359900). (WTO documents G/SG/N/8/IND/30; G/SG/N/10/IND/21; and G/SG/N/11/IND/16, 15 August 2016).

HS code	Description	Initiation	In force	Withdrawn
8541.40.11	Solar cells, whether or not assembled in modules or panels	19.12.17	30.07.18	
2907.11.10	Phenol	23.08.19		
9001.10.00	Single-mode optical fibre	23.09.19		
2905.12.20	Isopropyl alcohol	04.11.19		

Source: WTO, *I-TIP database*.

3.2 Measures Directly Affecting Exports

3.2.1 Customs procedures and requirements

3.101. Exporters or their agents must obtain an Importer-Export Code (IEC) from the DGFT prior to filing the shipping bill and the other required documents electronically. Manual filing is allowed only where it is not feasible to make an electronic submission.

3.102. Since the previous Review, in order to facilitate trade, the number of mandatory documents required for exports was reduced from seven to three.[96] At present, the mandatory documents required for exports are the bill of lading, the commercial invoice *cum* packing list and the shipping bill (or bill of export).[97] However, exports subject to restrictions may require additional documents, such as export licences. Likewise, exporters benefiting from the different export promotion schemes might require further registrations and documents (Table 3.14).

Table 3.14 Export authorization

Authorization	Validity period
Export authorization for special chemicals, organisms, materials, equipment and technologies (SCOMET)	24 months
Export authorization for other restricted goods	24 months
Export Promotion Capital Goods (EPCG) authorization	24 months
Advance authorization for deemed exports	12 months or length of the project, whichever is longer
Advance authorization for other exports	12 months

Source: WTO Secretariat.

3.103. As in the case of imports, exports are cleared through a risk management system; hence consignments are examined, assessed or cleared based on their associated risk. As a result, any export consignment can be examined by Customs (even up to 100%), if there is any specific intelligence in respect of the said consignment. There is no routine examination of perishables. Examination of such cargo takes place only if there is some risk, and with the prior permission of the concerned officials. The examined perishable cargo should be cleared from Customs within 24 hours, unless there is contravention of any law. In addition, Customs should not seize any cargo with the aim of disrupting the manufacture and/or scheduled delivery of the exports. In exceptional cases, Customs may seize a consignment if there is evidence of serious irregularity. In these cases, goods should be released within seven days, unless the irregularities are substantiated.

3.104. India issues preferential and non-preferential certificates of origin (CoOs), if required by the importing country. The non-preferential CoOs provide evidence of the origin of goods but do not bestow any right to preferential tariffs. The fee to issue this type of CoOs may not exceed INR 100 per certificate. In 2019, an online platform to issue CoOs was launched.[98]

3.105. India implements the Export and Trade Houses Scheme, whose objective is to recognize established exporters by granting them a specific status, e.g. one-star to five-star export houses. Exporters of goods, services and technology are all eligible. Status recognition depends on export performance, based on export value during the current and previous three financial years (two

[96] Before 2015, the required documents were: shipping bill, commercial invoice, packing list, bill of lading, foreign exchange control form, terminal handling receipt, and technical certificate.

[97] Circulars No. 01/2015 - Customs, 12 January 2015; and No. 15/2015 - Customs, 18 May 2015; and DGFT Notification No. 114, 12 March 2015.

[98] Common Digital Platform for Issuance of Certificates of Origin, *Overview*. Viewed at: http://coo.dgft.gov.in.

financial years for gems and jewellery) (Table 3.15). For MSMEs, manufacturing units with International Organization for Standardization (ISO)/Bureau of Indian Standards (BIS) certification, and units located in the North-Eastern states or in the agri-export zones, export earnings are doubled when calculating export performance. Benefits depend upon the level granted to the exporter, but all relate to trade facilitation, for instance: self-declaration at customs and self-certification of origin.

Table 3.15 Thresholds to obtain status holder

Status category	Export performance (USD million)
One-star export house	3
Two-star export house	25
Three-star export house	100
Four-star export house	500
Five-star export house	2,000

Source: FTP 201520.

3.2.2 Taxes, charges, and levies

3.106. The Second Schedule of India's Customs Tariff Act lists all goods that are subject to export taxes. The Schedule lists some 50 products at the HS four-, six-, or eight-digit level, including basmati rice, coffee, tea, sugar, specified ores, raw wool and cotton, and iron-related products. However, at present, most of these products bear a duty of 0%; export taxes apply solely to some minerals and hides, skins and leather (Table 3.16). However, in 2016-17 and 2017-18, due to a drop in the production of sugar and hence a shortage of sugar to meet domestic supply, an export tax of 20% was imposed on sugar.[99] This tax was removed in 2018 to encourage the sugar industry to export. In general, India uses this policy as required, to, *inter alia*, ensure domestic supply of raw materials for higher value-added industries, promote further processing of natural resources, or ensure an "adequate" domestic price. Hence, the constant changes regarding export taxes.

Table 3.16 Export taxes, 2019-20 (February 2020)

HS code	Product	Rate (% of the f.o.b. value)
2606.00.10	Bauxite, not calcined	15%
2606.00.20	Bauxite, calcined	15%
2614.00.10	Ilmenite, unprocessed	10%
2614.00.20	Ilmenite, upgraded	2.5%
2606.00.90	Other aluminium ores, including laterite	15%
41	Hides, skins and leather, tanned and untanned, all sorts	40%[a]
7204	Ferrous waste and scrap, re-melted scrap ingots of iron or steel	15%

a As per Customs Notification No. 27/2019, July 2019.

Source: CBIC.

3.107. India continues to apply a cess on certain exports, to finance the development of specific industries. The products and the cess rates have not changed since the previous Review in 2015 (Table 3.17).

Table 3.17 Export Cess, 2020

Product	Cess rate
Shellac and lac-based products	INR 2.30 per quintal
Certain spices	0.5% on the f.o.b. value
Tobacco	0.5% on the f.o.b. value
Manganese ore	INR 4 per tonne
Chrome ore	INR 6 per tonne
Mica products	3.5% of the f.o.b. value
Iron ore	INR 1 per tonne

Note: The cess on manganese ore, chrome ore, and iron ore is levied under the Iron Ore Mines, Manganese Ore Mines, and Chrome Ore Mines Labour Welfare Cess Act, 1976.

Source: CBIC.

[99] Department of Food and Public Distribution, *Exports.* Viewed at: https://dfpd.gov.in/exp.htm.

3.2.3 Minimum export prices

3.108. India continues to maintain minimum export prices (MEPs), to ensure domestic supply, at reasonable prices, of goods deemed important for domestic consumption. MEPs are imposed on a specific item, from time to time, generally on essential items, in consultation with the concerned administrative department in the Central Government, after taking into account, inter alia, domestic availability/production, domestic prices, and quantity exported; thus, there is no specific list of items that may be subject to MEPs. During the period under review, the products that were subject to MEPs were mustard oil in packs of up to 5 kg (unchanged since the last Review), potatoes, and onions (Table 3.18).

Table 3.18 Minimum export prices (MEPs), 2015-20

Product	DGFT Notification No. (date)	MEP and/or comments
Potatoes	15 (26.07.2016)	USD 360/MT
	32 (27.12.2016)	MEP removed
Edible oil in branded consumer packs up to 5 Kg	17 (06.08.2015)	USD 900/MT
	08 (18.05.2016)	USD 900/MT. MEP does not apply to rice bran oil
	43 (27.03.2017)	USD 900/MT. MEP does not apply to groundnut oil, sesame oil, soya bean oil and maize (corn) oil
	01 (06.04.2018)	MEP removed, except for mustard oil (USD 900/MT)
Onions	19/2015-20 (13.09.2019)	USD 850/MT
	49/2015-20 (02.03.2020)	MEP removed

Source: WTO Secretariat.

3.2.4 Export prohibitions, restrictions, and licensing

3.109. India's Export Policy lists the export requirement for each export product. Products are classified as free, restricted, prohibited, or traded exclusively by STEs. Exports deemed "free" are allowed without a licence issued by the DGFT. However, some of these items must comply with conditions stipulated in other laws, such as rules of origin; technical specifications; environmental, sanitary and health norms; and quality requirements (Table 3.19). Products that are restricted are usually subject to export licences, issued by the DGFT but, in certain instances, in addition to the licence, other requirements may apply.[100] Regarding the prohibited items, some of them are prohibited with exceptions. In these cases, for the same tariff line, there could be two or three different policies: prohibited and free; prohibited and restricted; or prohibited, restricted and free. This type of policy applies to four tariff lines at the HS eight-digit level, related to live animals and products.[101]

Table 3.19 Export restrictions by HS section, 2019-20

(No. of tariff lines)

HS Section	Free with conditions	Restricted	Restricted with conditions	Prohibited	Prohibited with exceptions
01 Live animals and products	331	12		27	12
02 Vegetable products	270	8	2		7
03 Fats and oils	93			12	2
04 Prepared food, beverages and tobacco	16	4	5		
05 Mineral products	3	6	1		
06 Chemicals and products thereof	267	5	2	1	3
07 Plastics, rubber, and articles thereof	17				
08 Raw hides and skins, leather, and its products	19				
09 Wood and articles of wood			1	4	15
10 Pulp of wood, paper and paperboard	12			3	
11 Textiles and textile articles	19	1			
16 Machinery, electrical equipment, etc.	38	5			
17 Transport equipment	9	28			
18 Precision equipment	55	10			
19 Arms and ammunition	6				

[100] The procedures for obtaining export licences for restricted items is detailed in Trade Notice No. 50/2018-19, 18 March 2019.

[101] The specific lines that are subject to this type of policy are: HS0106.32.00, HS0106.33.00, HS0106.39.00 and HS0511.99.99 (Export Policy, 2018, as amended).

HS Section	Free with conditions	Restricted	Restricted with conditions	Prohibited	Prohibited with exceptions
20 Miscellaneous manufactured articles	1	1			
21 Works of art, etc.	2				
Total	**1,158**	**80**	**11**	**47**	**39**

Source: DGFT. Viewed at: https://dgft.gov.in/CP/.

3.110. Export restrictions and prohibitions are notified on an annual basis; they are usually in place for a specific period. However, as with other trade policy instruments, during this period, the DGFT, through a notification, may change the policy to meet specific policy objectives (e.g. self-sufficiency or containment of domestic prices). India continues to use trade policy to meet non-trade policy objectives, changing policies constantly, thus diminishing the predictability of the trade policy regime. In addition, the use of export restrictions and prohibitions seems to be in contradiction with India's main trade policy goal, which is to increase its share of global exports from 2.0% in 2015 to 3.5% by 2020 (Section 2.2.2).

3.111. In addition, export licences for specific goods, services or technology may be suspended or cancelled without giving the holder of the licence previous notice. The importer (exporter) may contest the decision within six months of the order; it would then be reassessed.[102] According to the authorities, this applies only to items specified in the Special Chemicals, Organisms, Materials, Equipment and Technologies (SCOMET) list, exports of which are regulated.[103]

3.112. During the review period, the DGFT, on the recommendation of the Ministry of Environment, Forest and Climate Change (MoEF&CC), imposed a yearly export quota of 310 MT on red sanders wood exclusively sourced from private land (including Pattaland).[104]

3.2.5 Export support and promotion

3.113. India continues to implement a series of programmes to promote exports, which apply to all sectors; however, some are sector-specific, e.g. those that apply to agriculture (Section 4.1). Most of these programmes grant fiscal and financial incentives, while others provide marketing assistance.

3.114. During the period under review, India did not provide a notification regarding export subsidies for agriculture goods.

3.2.5.1 Export from India Scheme (EIS)

3.115. In 2015, India introduced the Export from India Scheme (EIS) through the FTP 2015-21. The EIS was implemented to offset inefficiencies regarding infrastructure and associated costs. Under it, there are two schemes: one for merchandise, the Merchandise Exports from India Scheme (MEIS); and the other for services, the Services Exports from India Scheme (SEIS).

3.116. The MEIS replaced five schemes, i.e. the Focus Product Scheme, the Market Linked Focus Product Scheme, the Focus Market Scheme, the Agri. Infrastructure Incentive Scrip, and the Village Industry Scheme (Vishesh Krishi and Gram Udyog Yojana Schemes (VKGUY)).[105]

3.117. Under the MEIS, exporters receive a "duty credit scrip" when exporting eligible goods, some 7,500 tariff lines at the eight-digit level in 2020, listed in the MEIS Schedule Appendix 3B of the Handbook of Procedures, to specific markets, which are classified into three categories.[106] The amount of the "scrip, which is equivalent to 2%, 3% or 5% of the f.o.b. value of the export, varies

[102] The Foreign Trade (Development and Regulation) Act, 1992.
[103] DGFT, *Appendix 3 List of SCOMET Items*. Viewed at: http://dgftcom.nic.in/exim/2000/itchs2017/export/append3.pdf.
[104] Public Notice. No. 74/2015-20, 18 February 2019. Viewed at: http://164.100.59.247/sites/default/files/PN%2074%20dated%2018.02.2019%20Eng_0.pdf.
[105] Press Information Bureau, *Merchandise Export from India Scheme*. Viewed at: http://pib.nic.in/newsite/PrintRelease.aspx?relid=148539.
[106] Category A (the traditional markets) includes: Canada, the European Union, and the United States; Category B (emerging and focus markets): Africa, Latin America and Mexico, CIS countries, Turkey, West Asian countries, ASEAN countries, Japan, the Republic of Korea, China, and Chinese Taipei; and Category C: other markets.

according to the exported good.[107] In general, export items with high domestic content and value addition are accorded higher level of "scrip rates.[108] Higher rates are granted to: agricultural and village industry products, presently covered under Special Agriculture and Village Industry Scheme (Vishesh Krishi and Gram Udyog Yojana); value-added and packaged products; eco-friendly and green products produced with waste from agricultural products; labour-intensive products; goods produced by a large number of producers and/or exporters; industrial products from "potential winning" sectors; and hi-tech products with high export earning potential.

3.118. Until 2018, the "duty credit scrip" could be used to pay duties levied on imported inputs or final goods, with some exceptions, including some agricultural and capital goods; and central excise duties on inputs or goods procured on the internal market. In 2018, the MEIS scope was widened, and now "scrips" are allowed for debit for the import of items which were earlier not permitted (Table 3.20).[109] The "scrips", and the goods imported or domestically procured against them, can be transferred.

Table 3.20 Items for which MEIS duty credit scrips cannot be used

Garlic, peas, and all other vegetables (HS Chapter 7) with a duty higher than 30%
Tea, coffee and pepper (HS Chapter 9)
All oil seeds (HS Chapter 12)
Natural rubber (HS Chapter 40)
Capital goods: • general-purpose agricultural tractors >25 horsepower (hp) and ≤75 hp; • stationary diesel engines; • irrigation pumps; • threshers for cereals; • combine harvesters suitable only for wheat and paddy crops; and • animal-driven implements

Source: Appendix 3A of the FTP 2015-20.

3.119. In 2015, the MEIS covered 4,914 tariff lines at the eight-digit level and had a budget of INR 180 billion. Since then, the coverage and the budget allocated to it have increased. In 2020, some 7,500 tariff lines at the eight-digit level were included in the Scheme, and the budget amounted to INR 390.6 billion.[110]

3.120. Handicrafts, handloom products, books/periodicals, leather footwear, toys, and customized fashion garments[111] sold through e-commerce platforms or exported through courier or foreign post offices, of a f.o.b. value of up to INR 500,000 per consignment, may benefit from the MEIS.

3.121. Goods manufactured and exported from a SEZ/ EOU are eligible for the MEIS. However, goods exported from units located in Electronic Hardware Technology Parks (EHTPs) and Free Trade and Warehousing Zones (FTWZs) are not eligible, nor are SEZ/EOU/EHTP/Bio-technology Park (BTP)/FTWZ products exported through domestic tariff area (DTA) units, or goods imported to be exported in the same condition, or goods that are trans-shipped through India. Deemed exports[112] and exports subject to minimum export prices or export duties are not eligible either.[113]

3.122. On 1 September 2020, India announced that the Scheme would end on 1 January 2021. In addition, a limit of INR 20 million was placed on the value of exports that can benefit from the MEIS

[107] The duty credit scrip is a pass issued to exporters, which allows them to import commodities with a duty deduction (non-payment of taxes) of the amount specified in the scrip.

[108] Ministry of Commerce and Industry, *Starred Question No. 113 to be Answered on 7th December, 2015*. Viewed at: https://commerce.gov.in/writereaddata/UploadedFile/MOC_635975493407970101_LS20151207.pdf.

[109] Public Notice No. 24/2015-2020, 26 July 2018.

[110] Information provided by the authorities.

[111] Customized fashion garments are made on the specific request/order of a customer and, accordingly, are tailored/manufactured.

[112] Deemed exports are goods produced in India that do not leave Indian territory but are still considered as exports under some provisions of the FTP.

[113] Press Information Bureau, *Merchandise Export from India Scheme*. Viewed at: http://pib.nic.in/newsite/PrintRelease.aspx?relid=148539.

between 1 September 2020 and 31 December 2020.[114] The MEIS will be replaced by the Remission of Duties or Taxes on Export Products (RoDTEP), a scheme for exporters to get a reimbursement on taxes, duties and levies which are not exempted or refunded under any other existing mechanism.[115]

3.123. The SEIS, in operation since 2015, replaced the Served from India Scheme (SFIS). The SEIS is available only to notified services (Table 3.21). It applies to service providers incorporated in India, while the SFIS only applied to services provided by Indian nationals with foreign exchange earnings of at least INR 1 million. Thus, the SEIS provides rewards to all service providers of notified services located in India (national or foreign-owned), providing services from India, regardless of the constitution or profile of the service provider.

Table 3.21 Services eligible under the SEIS

Business services	Construction and engineering services
Tourism and travel services	Educational services
Recreational, cultural and sporting services	Environmental services
Transport services	Health and social services
Communication services	

Source: Department of Commerce and Industry, Public Notice No. 45/2015-2020, 5 December 2017.

3.124. The rate of the duty credit scrip under the SEIS is based on net foreign exchange earned. The rate of the reward is 7% of total foreign exchange earned. The reward issued as scrip may be used to purchase all types of goods and services, and to pay tax. It is fully transferable. Incentives under the SEIS are also available to units located in SEZs.

3.2.5.2 Duty exemption/remission schemes[116]

3.125. Duty exemption/remission schemes enable exporters to import inputs duty-free, including replenishment of inputs or duty remission. During the period 2015-20, the DGFT implemented schemes such as: the Advance Authorisation (AA) Scheme; the Duty-Free Import Authorisation (DFIA) Scheme; and the Duty Drawback (DBK) Scheme (a duty remission scheme).

3.126. Under the AA Scheme, inputs to be incorporated into exports may be imported free of customs duties and other charges affecting imports (Table 3.22). There is also a Special Advance Authorisation Scheme specifically for exports of apparel and clothing accessories (HS 61–HS 62), under which fabric, but not other inputs, may be imported duty-free.[117]

3.127. The DFIA Scheme also allows for inputs to be imported duty-free to produce exports subject to minimum value-addition (Table 3.22). The DGFT, by means of a Public Notice, may exclude any product(s) from the purview of the DFIA Scheme. For example, various drugs procured from unregistered sources are excluded from the Scheme.[118]

[114] DGFT Notification No. 30/2015-2020, 1 September 2020. Viewed at: https://content.dgft.gov.in/Website/dgftprod/4a37d60a-f0bf-4783-bc67-a17131168d46/N30E.pdf.

[115] Press Information Bureau, *Cabinet approves scheme for "Remission of Duties and Taxes on Exported Products (RoDTEP)" to boost exports Scheme for enhancing Exports to International Markets*. Viewed at: https://pib.gov.in/PressReleseDetail.aspx?PRID=1606281; and CBIC, *RoDTEP Committee*. Viewed at: https://www.cbic.gov.in/htdocs-cbec/home_links/RoDTEP-Committee.

[116] Based on the FTP 2015-21.

[117] For more information on this specific Scheme, refer to Paragraph 4.04 of the FTP.

[118] Information provided by the authorities.

Table 3.22 Duty exemption/remission schemes, 2020

	AA Scheme	DFIA Scheme
Inputs that may be imported duty-free	Inputs to be incorporated in exports	The DGFT may exclude any product(s) from the purview of the Duty-Free Import Authorisation (DFIA) Scheme. There are no general criteria; exclusion is on a case-by-case basis, depending on the sensitivity of the export product and the inputs used to manufacture it.
	Fuel, oil, and catalysts	
	Spices (HS Chapter 9), only if used in crushing, grinding, and sterilizing or manufacturing of oils or oleoresins (not for cleaning, grading, or re-packing)	
	Spare parts, up to 10% of c.i.f. value of total imports	
Minimum value addition	15%, except:	20%
	Copper products and petroleum: 8% (Appendix 4D of the FTP)	
	Tea: 50%	
	Gems and jewellery: according to the type of jewellery (see paragraph 4.61 of Handbook of Procedures)	
Validity	12 months	12 months. Not renewable
Export fulfilment	18 months; it may be modified if pre-import conditions apply	12 months from the date of issue of the DFIA
Other provisions	The period to import is as prescribed in the FTP Handbook of Procedures	Exports must take place through specific ports; to use other ports, an application is required
	Pre-import conditions may be imposed. According to the authorities, this means that the exporter must import the duty-free inputs prior to starting to export	For inputs considered sensitive, the exporter must provide a declaration regarding the technical characteristics, qualities and specifications, in the shipping bill
	Restricted imports are allowed without the required licence/permit; restricted exports must obtain export authorization or permission	Restricted imports may be imported; restricted exports must obtain the required export authorization
	Imports reserved for STEs cannot be imported; items reserved for export by STEs can be exported	Imports reserved for STEs cannot be imported; items reserved for export by STEs can be exported
	AAs are not transferable	DFIAs are transferable
	Inputs may also be purchased from national suppliers/STEs/EOUs/EHTPs/BTPs/Software Technology Parks (STPs)	n.a.

n.a. Not applicable.

Source: FTP 2015-21.

3.128. The Duty Drawback Scheme, which is still regulated by the Customs Act, 1962 and the Customs and Central Excise Duties Drawback Rules, 2017 (earlier rules of 1995 amended and superseded), is still in force. The Scheme seeks to reimburse duties and taxes levied on any imported/domestically procured inputs used to manufacture exports. Prior to the implementation of the GST in 2017, the duties and taxes reimbursed under the Scheme were: (i) customs duty; (ii) central excise duty; and (iii) service tax. Since the implementation of the GST, in 2017, the duties reimbursed are restricted to the customs and central excise duties. There are two types of duty drawback: (i) the "all industry rate" (AIR); and (ii) the brand rate.

3.129. The AIR of the duty drawback is essentially an average rate based on the average value of inputs and the duties (both customs and excise) levied on inputs used to produce a particular class of goods.[119] The AIR is reviewed annually, based on, *inter alia,* the average prices of inputs, their import-indigenous ratio, duty rates, and the average f.o.b. value of the exports; thereafter, it is notified in the annual Drawback Schedule. The AIR or the amount refunded is either *ad valorem*, calculated as a percentage of the f.o.b. value of exports, or a specific per-unit value. A cap or maximum amount that can be refunded applies to certain products.

[119] For more on the full list of factors used to determine the amount or rate of drawback, refer to Rule 3(2) of the Customs and Central Excise Duties Drawback Rules, 2017.

3.130. The brand rate of duty drawback is used when there is no AIR for a specific export product, or when the existing AIR neutralizes less than 80% of the duties paid on materials used to manufacture the export. To benefit from the brand rate, exporters must apply to the jurisdictional Principal Commissioner of Customs/Commissioner of Customs (previously the Central Excise Commissionerate) so that a rate for the good to be exported is determined; the Commissioner takes the final decision.[120]

3.131. If the export value of the goods produced is less than the value of the imported inputs, the drawback cannot be used. In addition, the amount of the drawback may not exceed one third of the market price of the export.[121]

3.132. India continues to implement other schemes to promote exports of gems and jewellery. These are: (i) Advance Procurement/Replenishment of Precious Metals from Nominated Agencies; (ii) Replenishment Authorisation for Gems; (iii) Replenishment Authorisation for Consumables; and (iv) Advance Authorisation for Precious Metals. Under these schemes, exporters can import inputs, to manufacture exports, duty-free. These schemes cannot be used in addition to other export-promotion schemes, such as the AA Scheme and the DFIA Scheme. Under these schemes, only nominated agencies may import gold, silver, platinum, and diamonds.[122]

3.133. The Export Promotion Capital Goods (EPCG) Scheme, which has been in place since 1991, provides tax concessions only for imports of capital goods. As under other export schemes, goods may be imported under the EPCG Scheme subject to export obligations (Table 3.23).

Table 3.23 Export Promotion Capital Goods (EPCG) Scheme, 2020

Inputs that may be imported duty-free	Capital goods
Exemptions of other charges affecting imports	Capital goods imported for exports are also exempt from IGST and Compensation Cess until 31.3.2021 (Chapter 5.01(a) of the FTP (2015-21))
Validity of the authorization	24 months from the date of issue. Cannot be renewed
Export fulfilment	6 years from the date that the authorization is issued (Chapter 5.01 (c) of the FTP (2015-21))
Export obligation	Equivalent to six times the duties, taxes and cess saved on capital goods (Chapter 5.01 (c) of the FTP (2015-21)). The export obligation for green technology products is 75% of the original, and there are also reduced export obligations (25%) for exporters based in the North-East region, and Jammu and Kashmir. If capital goods are sourced in India, the export obligation is reduced by 25% from the original
Time frame to fulfil the export obligation	In the first four years of operation, exporters must fulfil at least 50% of the export obligation, and the rest in the last two years. With a view to promoting exports, if the export obligation is fulfilled earlier, part of the export obligation is waived. Where the exporter fulfils between 75% and 100% of the export obligation in half or less than half of the original specified export obligation period, the remaining export obligation is waived.
Other provisions	Restricted imports are permitted only if approved by the Exim Facilitation Committee (EFC). An authorization, issued by the EFC, is also required if the exports proposed to benefit from the EPCG Scheme are restricted goods
	"Deemed exports" may also be counted towards the fulfilment of the export obligation, along with usual benefits available for "deemed exports"[a]
	Shipments under the AA Scheme, the DFIA Scheme, the Drawback Scheme, or other reward schemes also count towards the fulfilment of the export obligation under the EPCG Scheme
	Capital goods may be procured from domestic manufacturers or EOUs.

a "Deemed exports" are goods manufactured in India under different export promotion schemes, such as: AA, Advance Authorisation for Annual Requirement, and DFIA; EOU, STP, EHTP and BTP; and goods under the EPCG that have not been exported but sold in the Indian territory. Deemed exports are, in general, eligible for benefits according to the scheme under which they were produced.

Source: FTP 2015-21.

[120] Until 2017, the brand rate of duty drawback was granted under Rules 6 and 7 of the Drawback Rules, 1995, and, thereafter, under Rules 6 and 7 of the Customs and Central Excise Duties Drawback Rules, 2017.
[121] Rule 9 of the Customs and Central Excise Duties Drawback Rules, 2017.
[122] FTP, paras. 4.31-4.53.

3.2.5.3 Export zones and other schemes

3.134. India continues to implement the Export Oriented Units (EOU) Scheme, the Export Processing Zones (EPZ)/Special Economic Zones (SEZs) Scheme, the Electronics Hardware Technology Parks (EHTP) Scheme, the Software Technology Parks (STP) Scheme and the (Bio-Technology Parks) BTP Scheme, to promote exports, generate employment and attract investment. An EOU/EHTP/STP/BTP unit may import and/or procure from the domestic tariff area (DTA) or bonded warehouses in the DTA or international exhibitions held in India, without payment of duty, all types of goods, including capital goods, provided that these are not prohibited. Goods imported or procured from bonded warehouses in DTAs are not subject to customs duties. They are subject to GST, which is refunded.

3.135. Enterprises established in EOUs/EPZs/SEZs/EHTPs/STPs/BTPs must have positive net foreign exchange (NFE) earnings, and specific sectors may need to comply with other provisions/conditions.[123] NFE earnings are calculated cumulatively in five-year periods, starting from the first year of production. If a unit is unable to fulfil the NFE earning requirement, the five-year period for the calculation may be extended.[124]

3.136. In general, under these Schemes, the entire production should be exported. However, producers, with some exceptions (i.e. pepper and pepper products, and marble), may sell finished goods in the domestic tariff area (DTA, if they fulfil the positive net foreign exchange (NFE) requirement upon payment of customs duty and GST. Producers of gems and jewellery may sell up to 10% of the f.o.b. value of exports of the preceding year in the DTA. Sales of services, including software, are allowed in the DTA up to 50% of the f.o.b. value of exports and/or up to 50% of foreign exchange earned.

3.137. State trading does not apply to EOUs, except with respect to exports of chrome ore/chrome concentrate.[125]

3.2.5.4 Transport and marketing assistance

3.138. In 2019, India introduced the Transport and Marketing Assistance (TMA) Scheme. The Scheme was initially in effect from 1 March 2019 to 31 March 2020, but it was extended. Under this Scheme, financial assistance is provided to transport and commercialize agriculture products in specific exports markets. Under the TMA Scheme, a certain portion of freight charges are reimbursed to exporters.[126] The amount reimbursed depends upon the export destination; it varies from INR 700 to INR 3,500 per tonne (subject to periodic adjustments).

3.139. Exporters must be registered to participate in the Scheme. All agricultural products (HS Chapters 1 to 24), with some exceptions, are covered under the Scheme (Table 3.24). Exports must take place through ports that use the Electronic Data Exchange system. Benefits granted under the TMA Scheme cannot apply to: goods produced under the EOU/EPZ/SEZ/EHTP/STP/BTP Schemes; exports of imported goods that have not undergone any transformation; goods that are trans-shipped through India; products subject to MEPs or export duty; and/or goods exported through courier or foreign post offices using e-commerce platforms.

[123] DGFT, FTP, *Appendix 6B, Sector Specific Requirements for EOUs*. Viewed at: https://dgft.gov.in/sites/default/files/6B.pdf.

[124] The detailed method of calculation of NFE earnings is given in Para 6.10 of the Handbook of Procedures 2015-20.

[125] Other regimes (EHTP/STP/BTP) do not deal with ores.

[126] DGFT, *Public Notice No. 82/2015-20, dated 29 March 2019 – Procedure and ANF for availing Transport and Marketing Assistance (TMA) for Specified Agriculture Products – regd*. Viewed at: http://dgft.gov.in/sites/default/files/Eng.%20PN%2082%20dt%2029.3.19_0.pdf; and PIB, *Transport and Marketing Assistance (TMA) for Specified Agriculture Products.* Viewed at: http://pib.nic.in/newsite/PrintRelease.aspx?relid=189200.

Table 3.24 Products not eligible under the TMA Scheme, 2019

HS chapter	HS codes	Description
1, 2 and 5	All HS codes	Live animals Meat and edible meat offal Products of animal origin, not elsewhere specified or included
3	0306.17	Other shrimp and prawns
4	0401	Milk and cream, not concentrated or containing added sugar or other sweetening matter
	0402	Milk and cream, concentrated or containing added sugar or other sweetening matter
	0403	Buttermilk, curdled milk and cream, yogurt, kephir, and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter, or flavoured or containing added fruit, nuts or cocoa
	0404	Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included
	0405	Butter and other fats and oils derived from milk; dairy spreads
	0406	Cheese and curd
7	0703	Onions, shallots, garlic, leeks and other alliaceous vegetables, fresh or chilled
10	1001, 1006	Wheat and meslin Rice
13 and 14	All HS codes	Lac; gums, resins and other vegetable saps and extracts, vegetable plaiting materials; vegetable products not elsewhere specified or included
17	1701, 1703	Cane or beet sugar and chemically pure sucrose, in solid form; raw sugar not containing added flavouring or colouring matter; and molasses resulting from the extraction or refining of sugar
22 and 24	All HS codes	Beverages, spirits and vinegar; and tobacco and manufactured tobacco substitutes

Source: Public Notice No. 82/2015-20, 29 March 2019.

3.140. The Market Access Initiatives (MAI) Scheme, an export promotion scheme in force until 31 March 2021[127], provides financial assistance for export promotion initiatives. Under the Scheme, resources are mainly assigned to priority sectors (e.g. cottage and handicrafts industries, and leather). Preference is also given to support SMEs. Assistance for each activity is on a cost-sharing basis; 65% (90% in the priority sector) of the project is financed by public funds. Under the MAI Scheme, Towns of Export Excellence (TEE) are granted financial assistance to finance the marketing of exports, capacity-building, and the development of technological services.[128] The Marketing Development Assistance (MDA) Scheme is also intended to provide financial assistance, on an annual basis, for a range of export promotion activities (e.g. trade fairs in India or abroad, and export promotion seminars).

3.141. In 2014, the DGFT implemented the *Niryat Bandhu* Scheme for mentoring new and potential exporters through training and outreach programmes. The Scheme targets mainly MSMEs based on their export potential.[129]

3.2.6 Export finance, insurance, and guarantees

3.142. The export sector is considered as one of the priority sectors in India (Section 4.4.1.1). Export finance is, therefore, provided by commercial banks (including foreign banks) and the Export-Import Bank of India (Exim Bank). The Exim Bank provides financing to exporters and buyers (including overseas governments and financial institutions) of Indian goods, services, and projects.

[127] Ministry of Finance (Department of Expenditure) OM No. 42(02)/PF-II/2014, 10 January 2020.

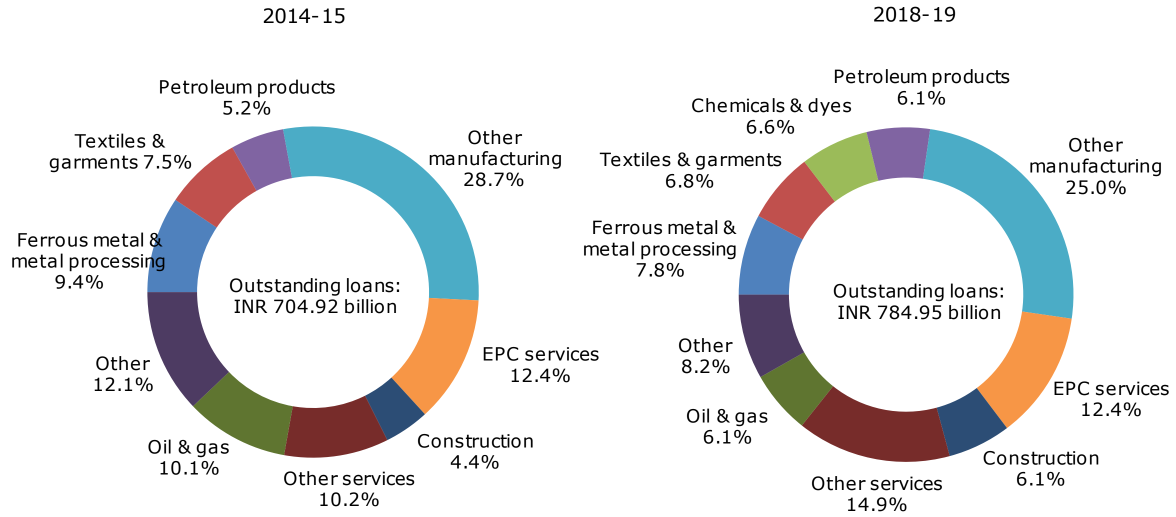
[128] Under the FTP 2015-21, towns producing goods worth INR 750 crore or more have been notified as Towns of Export Excellence (TEEs), based on their potential to export. For TEEs in the handloom, handicraft, agriculture and fisheries sectors, the threshold is INR 1.5 billion.

[129] DGFT. Viewed at: https://www.dgft.gov.in/sites/default/files/NiryatBandhu2014.pdf.

It also offers various guarantees to exporters to secure "project exports" and export contracts.[130] In addition to finance, the Exim Bank provides export intelligence services.[131]

3.143. In 2017/18, the Exim Bank approved loans amounting to INR 978.3 billion, up from INR 647.8 billion in 2016/17. Loans were extended mainly to the manufacturing and energy sectors (Chart 3.3).

Chart 3.3 EXIM Bank: loans by sector, 2014-15 and 2018-19, as at end-March



a Engineering procurement construction services.

Note: Loans to staff, banks, counter-guaranteed banks, and foreign governments are excluded.

Source: EXIM Bank.

3.144. Export credit insurance continues to be provided by the state-owned Export Credit Guarantee Corporation Limited (ECGC), which retains 90% of the market, as it protects short-, medium-, and long-term risks.[132] The ECGC offers mainly export credit insurance to protect: (i) Indian exporters against the risk of non–payment due to commercial and political risks; and (ii) banks and other financial institutions against losses incurred in extending credit facilities to exporters. Insurance cover for exporters guarantees the reimbursement of up to 80%-90% of the export value[133]; higher coverage (up to 95%) may be extended to small exporters.[134] Other financial products to secure exports include an export factoring facility for MSMEs, and insurance to protect overseas investments against political risks.[135] MSMEs account for 85% of the ECGC's clients.[136]

3.145. The ECGC continues to administer the National Export Insurance Account (NEIA), in place since 2006, to provide credit insurance to "project exports" in sectors of strategic and national importance for India (i.e. electricity; railways; capital and engineering goods; housing, hospitals, and related civil infrastructure; and water supply), which are not eligible to obtain insurance cover through the private sector or the ECGC. Since 2006, the NEIA has supported 144 export projects in 43 countries, to a total value of USD 6.6 billion.[137]

[130] Exim Bank of India, *Financial Products*. Viewed at: https://www.eximbankindia.in/project-exports.
[131] Exim Bank of India.
[132] Information provided by the authorities.
[133] Exim Mitra, *About Us*. Viewed at: https://eximmitra.in/en/about-exim-mitra.
[134] Information provided by the authorities.
[135] Department of Commerce and Industry, *Export Credit Guarantee Corporation of India Limited*. Viewed at: https://commerce.gov.in/InnerContent.aspx?Id=228; and ECGC. Viewed at: https://www.ecgc.in/factoring-2/.
[136] Department of Commerce (2018), *Annual Report 2017-18*. Viewed at: https://commerce.gov.in/writereaddata/uploadedfile/MOC_636626711232248483_Annual%20Report%20%20 2017-18%20English.pdf.
[137] Information provided by the authorities.

3.3 Measures Affecting Production and Trade

3.3.1 Incentives

3.146. India's explicit subsidies continue to be targeted mainly at supporting the agricultural sector, ensuring food security, and reducing poverty. As a result, food and fertilizer subsidies accounted for most of the explicit subsidies in 2020-21 (71%) (Table 3.25). Food subsidies include: (i) the subsidy granted to the Food Corporation of India (FCI) under the National Food Security Act (NFSA)[138]; (ii) the subsidy for decentralized procurement of food grains under NFSA[139]; and (iii) the sugar subsidy granted under the Public Distribution System.[140]

Table 3.25 Explicit subsidies, 2015-21

	2015-16[a]	2016-17[a]	2017-18[a]	2018-19[a]	2019-20[b]	2020-21[b]
Total (INR billion)	**2,641.1**	**2,348.1**	**2,244.3**	**2,992.53**	**2,635.27**	**2,621.08**
	(% of total)					
Food subsidies	52.8	46.9	44.7	45.0	41.0	44.0
Fertilizer subsidies	27.4	28.2	29.6	32.0	30.0	27.0
Imported (urea)	4.6	3.2	3.2	13.0	15.0	14.0
Indigenous (urea)	14.5	17.0	16.5	8.0	5.0	5.0
Nutrient-based	8.3	8.0	9.9	11.0	10.0	9.0
Petroleum subsidies	11.4	11.7	10.9	11.0	15.0	16.0
Interest subsidies	6.3	7.6	9.9	9.0	10.0	11.0
Other subsidies	2.1	5.5	4.9	3.0	4.0	2.0

a Actual expenditures.
b Revised budget.

Source: Government online information; Union Budget (various issues); and information provided by the authorities.

3.147. Indigenous urea is subsidized under the Fertilizer New Pricing Scheme (NPS) and the Uniform Freight Policy (UFP) (a freight subsidy). These schemes are intended to make fertilizers available to farmers at reasonable prices, and to grant producers a reasonable return. The maximum retail price (MRP) of urea is statutorily fixed. In 2019/20, the MRP of a 45 kg bag of urea was INR 242, and the MRP of a 50 kg bag was INR 268 (excluding taxes, levies and charges towards neem coating). The difference between the cost of fertilizers at the farm gate and the MRP paid by the farmer is a subsidy given to the fertilizer manufacturer/importer. Under the UFP, a subsidy is granted to urea producers/importers to cover the freight costs from plants/ports to the districts where it is to be used, to ensure that fertilizers are available across India.

3.148. As local production of urea is not enough to meet domestic demand, India also subsidizes imports. The price of imported fertilizer is controlled under the Fertilizer Control Order and is thus statutorily regulated. The same price applies to locally produced and imported fertilizers.

3.149. The Nutrient Based Subsidy (NBS) Scheme, introduced in 2019 for decontrolled phosphatic and potassic fertilizer, remains in place. Under this Scheme, India subsidizes the retail price of indigenous phosphatic and potassic fertilizers, to promote the balanced use of nitrogen, phosphorus, and potassium (NPK) nutrients to protect soil health and enhance productivity. A fixed annual subsidy, based on the nutrient content of each fertilizer, is transferred to the manufacturers.[141] Even if prices of NPK fertilizers are decontrolled, these continue to be monitored to ensure a reasonable price based on a formula.[142]

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[138] A subsidy to cover the difference between the cost of production of food grains and the price at which they are sold under the different welfare schemes implemented in India and the cost of keeping buffer stocks/strategic reserve.

[139] A subsidy to the state governments that procure food grains for central pool under the Decentralized Procurement of Food Grains Scheme.

[140] A subsidy to provide sugar at a subsidized rate to families covered under *Antyoday Ann Yojana*.

[141] PIB Press Release, 19 July 2019. Viewed at: https://pib.gov.in/newsite/PrintRelease.aspx?relid=191930; and Department of Fertilizers, *FAQ*. Viewed at: http://fert.nic.in/faq#n219.

[142] For full details on the rate of the subsidy, refer to Department of Fertilizers, *Citizen's Charter*. Viewed at: http://fert.nic.in/page/phosphatic-and-potassic-pk-policy.

3.150. Subsidies for irrigation and electricity for low-income or resource-poor producers are still provided (Section 4.1).

3.151. India continues to provide subsidies to petroleum products, such as liquefied petroleum gas (LPG) and kerosene. Under the Direct Benefit Transfer (DBT) Scheme, the Government supports oil-marketing companies (OMCs), which, in turn, finance the purchase of LPG by households (with annual income of up to INR 1 million), under the Direct Benefit Transfer (PAHAL) Scheme, launched in 2014. Under the PAHAL Scheme, households may purchase a maximum of 12 cylinders per year of domestic LPG at market-determined prices, and subsequently receive a subsidy, a transfer into their bank accounts, for each cylinder acquired. The annual limit of 12 cylinders was set to ensure that the benefit reaches domestic customers, and that subsidized LPG is not diverted for commercial purposes. In 2019-20, the amount of the subsidy was INR 161.39 per LPG cylinder, down from INR 237.1 in 2018-19.[143] As at end-2019, 258.4 million LPG consumers had joined the PAHAL Scheme, and INR 1,235.6 billion had been transferred to them. An additional scheme, to provide clean fuel to households, the LPG Connection to Poor Households, was launched to motivate households below the poverty line to shift to cleaner fuel.[144]

3.152. Kerosene consumed by poor households is still distributed and subsidized through the Public Distribution System (PDS) network (ration shops) of the state governments and UTs.

3.153. During the review period, India notified programmes established or maintained in the fisheries sector to the WTO Committee on Subsidies.[145] India also notified programmes implemented to promote investment in the manufacturing sector and in specific industries/sectors, e.g. leather and textiles, hybrid and electric vehicles, shipbuilding, forestry, mining, and information technology and telecommunications. The purpose of these programmes is to increase employment, upgrade technology, protect the environment, and facilitate industrialization in remote areas. Most of the assistance is via grants or fiscal incentives. According to India's notifications, the trade effects that may result from these programmes cannot be estimated (Table A3.3).

3.154. India also notified several programmes to support the agricultural sector under the Green Box, in addition to the input subsidies generally available to low-income or resource-poor producers, which are considered development programmes, and the price support mechanism/administered prices. The subsidized inputs include irrigation, fertilizers, and electricity. Administered prices apply to, *inter alia*, coarse cereal, cotton, groundnuts, pulses, rapeseed/mustard, rice, sunflowers, yellow soya beans, and wheat. India also provides a subsidy on premiums of agricultural insurance for production loss not exceeding 30% of the average production.[146] Additional programmes to support the sector are also implemented (Section 4.1.4).

3.155. In addition to the programmes notified to the WTO Committee on Subsidies, India continues to maintain a series of incentive programmes to encourage investment and production, some applied horizontally at national and regional levels and others at the sectoral level. Some of these programmes target small marginal farmers (SMFs); SMEs or start-ups.[147]

3.156. India also implements a Scheme for Development of Pharmaceuticals Industry to ensure drug security by increasing the efficiency and competitiveness of the domestic pharmaceutical industry (Table 3.26). Grants are provided under the Scheme, which is divided into sub-schemes, each with different budgets. Hence, grants vary according to the sub-scheme. The objective of the Pharmaceuticals Technology Upgradation Assistance Scheme (PTUAS), one of the sub-schemes, is to assist SMEs to upgrade their plants to adopt international standards so that they can enter the global market.

[143] Information provided by the authorities.

[144] PIB, *Subsidy on Petroleum*, 25 April 2016. Viewed at: https://pib.gov.in/newsite/PrintRelease.aspx?relid=141145.

[145] WTO documents G/SCM/N/284/IND, 26 October 2016; G/SCM/N/284/IND/Suppl.1, 5 September 2017; G/SCM/N/284/IND/Suppl.2 and G/SCM/N/315/IND, 18 September 2018; and G/SCM/N/284/IND/Suppl.3 and G/SCM/N/315/IND/Suppl.1, 7 March 2019.

[146] WTO documents G/AG/N/IND/12, 1 May 2018; G/AG/N/IND/13, 20 July 2018; and G/AG/N/IND/15, 29 March 2019.

[147] Startup India. Viewed at: https://dipp.gov.in/programmes-and-schemes/industrial-promotion/startup-india on 14 January 2020.

Table 3.26 Scheme for Development of Pharmaceuticals Industry

Assistance to Bulk Drug Industry for Common Facility Centre (CFC)
Budget: INR 2 billion. Assistance: grant of a maximum of INR 1 billion per CFC or 70% of the project cost of the CFC, whichever is less
Assistance to Medical Device Industry for CFC
Budget: INR 1 billion Assistance: grant of a maximum of INR 250 million per CFC or 70% of the project cost of the CFC, whichever is less
Pharmaceuticals Technology Upgradation Assistance Scheme (PTUAS)
Budget: INR 1.4 billion Assistance: subsidized interest on loans of a maximum provided by a scheduled commercial bank/financial institution The upper limit of the interest subsidy is 6% per annum for a period of three years. The maximum loan is INR 40 million
Assistance for Cluster Development
Budget: INR 300 million Assistance: grant of a maximum of INR 200 million per cluster or 70% of the cost of the project, whichever is less
Pharmaceutical Promotion Development Scheme (PPDS)
Budget: INR 60 million Assistance: financial support for conducting export promotion activities

Source: Viewed at: http://pharmaceuticals.gov.in/schemes/scheme-development-pharmaceutical-industry.

3.157. In 2015, the Policy of Reservation for exclusive manufacture in the Small-Scale Industries (SSI) (now micro and small enterprises (MSE)) sector was eliminated. As a result, the remaining 20 items reserved for exclusive manufacture in the MSE sector were de-reserved.[148] Therefore, currently, there are no items reserved for exclusive manufacture in the MSE sector. However, India implements a number of schemes related to finance, infrastructure, technology upgrade and marketing, to promote the MSE sector.[149]

3.3.2 Standards and other technical requirements

3.158. Over the review period, the legislation on standardization was substantially amended when the Bureau of Indian Standards (BIS) Act, 2016, came into force in 2017, replacing the BIS Act, 1986. As a result of the introduction of the new BIS Act: (i) multiple conformity assessment schemes, including self-declaration of conformity, became possible; (ii) any agency, in addition to the BIS, may be appointed by the Central Government to assess conformity for mandatory certification; (iii) the Central Government may require any product to be brought under mandatory certification; (iv) mandatory hallmarking for gold and silver was introduced; (v) further measures to protect consumers were introduced; (vi) measures may be taken against retailers (not only manufacturers) and individuals (not only companies) for non-compliance with Indian standards; and (vii) more severe penal provisions were introduced. The 2016 Act covers goods, services, systems, and processes; previously, only goods were covered.[150]

3.159. The BIS, under the Department of Consumer Affairs, is responsible for standardization. It was officially established as India's national standards body under the BIS Act, 2016.

3.160. The BIS formulates Indian standards in all sectors, except in those stipulated in the Agricultural Produce (Grading and Marking) Act, 1937, and the Drugs and Cosmetics Act, 1940.[151] In this context, the Directorate of Marketing and Inspection (DMI) under the Ministry of Agriculture and Farmers' Welfare, issues grading standards for 164 commodities; and the Central Drugs

[148] Notification No. 998(E), 10 April 2015.

[149] For the full list of the Schemes, refer to Ministry of Micro, Small & Medium Enterprises, *All Schemes*. Viewed at: https://msme.gov.in/all-schemes.

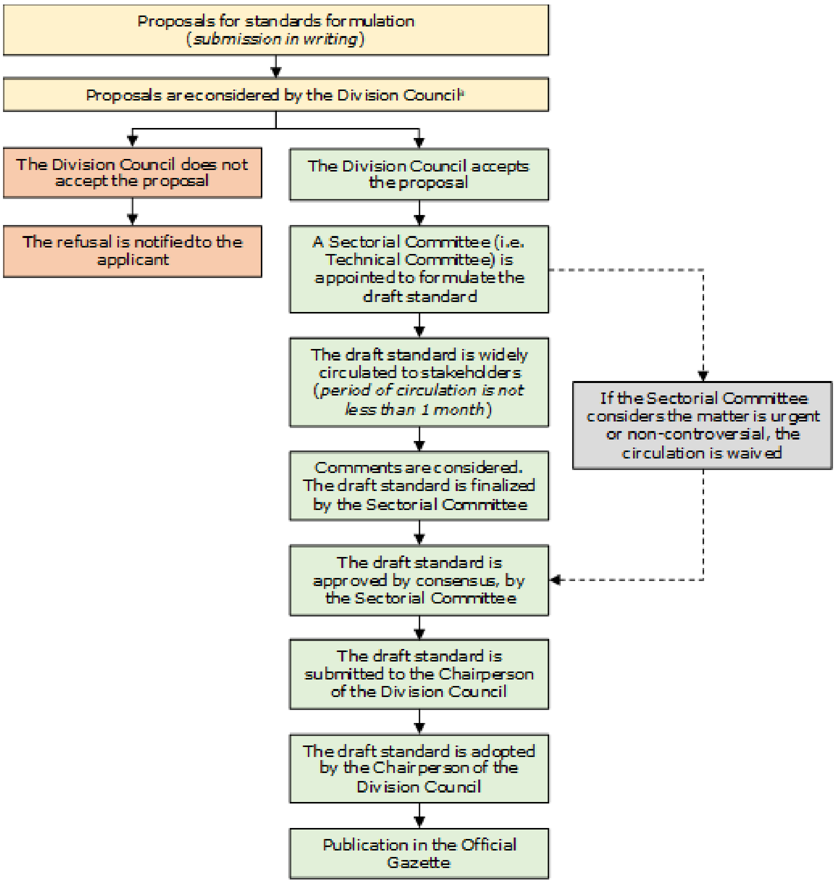
[150] BIS, *Annual Report 2017-18*. Viewed at: https://bis.gov.in/?page_id=2367; Department of Consumer Affairs, *Bureau of Indian Standards*. Viewed at: https://consumeraffairs.nic.in/organisation-and-units/division/bureau-indian-standards; Press Information Bureau, *Bureau of Indian Standards (BIS) Act 2016 brought into force with effect from 12th October, 2017*. Viewed at: https://pib.gov.in/newsite/PrintRelease.aspx?relid=171705; and information provided by the authorities.

[151] Section 41, BIS Act, 2016.

Standard Control Organization (CDSCO) issues standards for drugs and medical devices.[152] The BIS may recognize other standards-developing organizations (SDOs) in India that develop sector-specific standards; however, this has not yet been done.[153]

3.161. The procedure to adopt Indian standards has not been substantially revised since 2015 (Chart 3.4). Indian standards are developed by sectional (technical) committees, comprising public and private-sector representatives, and academics. Individuals, industries, and public agencies may submit proposals to formulate standards to the committees. It takes 9 to 24 months to formulate a standard.[154] The use of Indian standards is voluntary, but may become mandatory if it is stipulated in a contract or referred to in a piece of legislation or in a Quality Control Order issued by the Department for Promotion of Industry and Internal Trade (DPIIT).[155] In this case, Indian standards would become technical regulations. The relevant ministry is responsible for deciding which standards should become technical regulations. Standards are reviewed every five years (or earlier).[156] In March 2018 (latest data available), there were 19,294 Indian standards, 27.3% of which were harmonized with international standards.[157] India has a free online catalogue, but standards are not free of charge.[158]

Chart 3.4 Procedure for the formulation of standards, 2019



a The BIS has 14 Division Councils.

Source: Section 22, BIS Rules, 2018; and BIS, *Process of Standards Formulation*. Viewed at: https://bis.gov.in/?page_id=188.

[152] Confederation of Indian Industry, *National Conformity Assessment System*. Viewed at: http://indiastandardsportal.org/Detail.aspx?MenuId=19.
[153] Information provided by the authorities.
[154] Information provided by the authorities.
[155] Section 24, BIS Rules, 2018.
[156] Section 23, BIS Rules, 2018; and BIS, *Process of Standards Formulation*. Viewed at: https://bis.gov.in/?page_id=188.
[157] BIS, *Annual Report 2017-18*. Viewed at: https://bis.gov.in/?page_id=2367.
[158] BIS, *Sale of Standards*. Viewed at: https://bis.gov.in/?page_id=116393; and information provided by the authorities.

3.162. Technical regulations are formulated in accordance with the Code of Good Practice of the WTO Agreement on Technical Barriers to Trade and by sectoral legal instruments. In India, the relevant sectoral entities are responsible for formulating and implementing technical regulations.[159] Technical regulations apply to both domestically produced goods and imports.

3.163. The steps to develop technical regulations are broadly common to all sectors, and did not change substantially over the review period (Chart 3.5). In general, draft technical regulations are subject to national and international public consultations. Comments by national stakeholders must be received within 60 days, and WTO Members have at least 60 days to provide comments. Finalizing draft technical regulations takes 6 to 12 months, including approval, vetting, and translation into Hindi. Once technical regulations are finalized as rules, regulations (or Quality Control Orders for those issued by the DPIIT), they are published in the Official Gazette and are simultaneously notified to the WTO. There is no minimum prescribed period of time for a technical regulation to enter into force; a reasonable period of time is given. Technical regulations are amended on an *ad hoc* basis.[160] India does not have a consolidated online catalogue of draft and approved technical regulations.

Chart 3.5 Development of technical regulations by the DPIIT

Step 1: Data collection and analysis
The DPIIT identifies all the stakeholders, and gathers and analyses the required data (production, trade, infrastructure, and any implementing challenges)

Step 2: Meetings with stakeholders
Positions of different stakeholders are considered

Step 3: Dissemination of Quality Control Order (QCO)
Governmental agencies, quality institutions, conformity assessment bodies, industries and their associations are asked to promote awareness about the QCO

Step 4: WTO notification
The QCO is notified to the WTO (60 days)

Step 5: Gazette notification
Gazette notification is released and reasonable time is given for implementation

Source: DPIIT, *Technical Regulations*. Viewed at: https://dipp.gov.in/technical-regulations.

3.164. During 2015-20 (end-June), India notified 102 new technical regulations to the WTO, regarding consumer, health and environmental protection. Amendments to nine technical regulations, that had already been notified, were also submitted. During the same period, 24 specific trade concerns were raised in the WTO Committee on Technical Barriers to Trade. The BIS is the national enquiry point for the WTO for all sectors other than telecom. The enquiry point for the telecom sector is the Telecom Engineering Centre (TEC).

3.165. Conformity assessment with Indian standards is regulated by the BIS (Conformity Assessment) Regulations, 2018, which provide for different types of conformity assessment schemes, including self-certification.[161] Self-certification requires the manufacturer to register with the BIS, have samples tested by BIS-recognized laboratories, and complete a self-declaration of conformity.[162]

3.166. Product certification is voluntary, for both domestic and imported products, except for products that must comply with Indian standards, even if these are not considered technical regulations, for public health and safety and for the protection of the environment. The relevant sectoral entities, in consultation with stakeholders, decide which products require mandatory certification. There are two mandatory certification schemes:

- Scheme I (mandatory certification) includes 264 products (up from 92 in 2015) which require factory and market surveillance. These include certain types of cement, household electrical devices, food products (e.g. milk powder), and steel and steel products; and

[159] Information provided by the authorities.
[160] Information provided by the authorities.
[161] Press Information Bureau, *Bureau of Indian Standards (BIS) Act 2016 brought into force with effect from 12th October, 2017*. Viewed at: https://pib.gov.in/newsite/PrintRelease.aspx?relid=171705; and BIS, *Hallmarking overview*. Viewed at: https://bis.gov.in/?page_id=247.
[162] BIS (Conformity Assessment) Regulations, 2018

- Scheme II (mandatory registration) includes 50 electronics and IT products, and solar photovoltaic products, which only require market surveillance.[163]

3.167. In addition to the two current schemes, the Central Government may introduce others.

3.168. Certified products may use the BIS Standard Mark (ISI symbol). Licences to use this symbol are granted for up to two years and may be renewed for up to five years.[164] Foreign manufacturers must have an authorized representative in India to obtain a licence to use the BIS Standard Mark (ISI symbol). The terms to grant a licence to a foreign manufacturer varies according to the product. The certification process for imports includes an on-site visit. The licence fee amounts to INR 1,000.[165] The BIS also manages the ECO Mark for environmentally friendly products; its use is voluntary.

3.169. The BIS has eight laboratories to perform conformity assessment tests. It also recognizes other laboratories (OSLs) (some 243), which comply with the BIS Laboratory Recognition Scheme, 2018; no overseas OSLs have been recognized.[166] OSL services are used when testing is not viable for the BIS.[167] The accreditation of laboratories is carried out by the National Accreditation Board for Testing and Calibration Laboratories (NABL) and the National Accreditation Board for Certification Bodies (NABCB).

Labelling

3.170. Pre-packaged commodities for retail sale, including imports, must comply with the labelling requirements contained in the Legal Metrology (Packaged Commodities) Rules, 2011 (as amended).[168] Labels should be in either English (preferred) or Hindi. Since 2017, imports must indicate the country of origin or the place of manufacture/assembly.[169] These Rules do not apply to garments, which, since 2017, have been subject to specific labelling requirements.[170]

3.171. Labelling of pre-packaged/pre-packed food and wholesale food packages must also comply with the requirements contained in the Food Safety and Standards (FSS) (Packaging and Labelling) Regulations, 2011.[171] No changes to the requirements (ingredients, nutritional information, etc.) were introduced over the review period. Imported food must also display the Food Safety and Standard Authority of India (FSSAI) logo, along with the FSSAI licence number. The FSSAI is in the process of reviewing the labelling regulation. In addition to the labelling requirements stipulated in the Regulations, specific labelling requirements apply to alcoholic beverages, food additives, health supplements, and organic food.

3.3.3 Sanitary and phytosanitary requirements

3.172. The entities involved in the development and adoption of sanitary and phytosanitary (SPS) measures are the Food Safety Standards Authority of India (FSSAI) for food safety and human health; the Directorate of Plant Protection, Quarantine and Storage, for plant health; and the Department of Animal Husbandry and Dairying, for animal health (Table 3.27). These agencies are also India's national enquiry points under the WTO SPS Agreement.

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[163] Information provided by the authorities.
[164] BIS (Conformity Assessment) Regulations, 2018.
[165] BIS, *Foreign Manufacturers Certification Scheme*. Viewed at: https://bis.gov.in/?page_id=2151; and information provided by the authorities.
[166] Information provided by the authorities.
[167] BIS, *Annual Report 2017-18*. Viewed at: https://bis.gov.in/?page_id=2367; BIS, *Laboratory Services Overview*. Viewed at: https://bis.gov.in/?page_id=1769; and BIS, *Laboratory Recognition Scheme, 2018.* Viewed at: https://bis.gov.in/PDF/lab/Final_LRS_2018_17082018.pdf.
[168] Legal Metrology (Packaged Commodities) Rules, 2011. Viewed at: http://megweights.gov.in/acts.html.
[169] Legal Metrology (Packaged Commodities) (Amendment) Rules, 2015, 2016 and 2017. Viewed at: https://consumeraffairs.nic.in/acts-and-rules/legal-metrology.
[170] Advisory for enforcement of provisions of Rules for Readymade Garments/Hosiery products, 16 December 2016. Viewed at: https://consumeraffairs.nic.in/acts-and-rules/legal-metrology.
[171] FFSAI, *Product Standards*. Viewed at: https://fssai.gov.in/cms/product-standards.php.

Table 3.27 Institutions in charge of SPS, 2019

Agency	Functions
Ministry of Agriculture and Farmers' Welfare	
Directorate of Plant Protection, Quarantine and Storage	Plant and plant-related products
Directorate of Marketing and Inspection	Raw and semi-processed agricultural commodities, and meat and meat products
Central Insecticide Board and Registration Committee	Import, manufacture, sale, transport, distribution, and use of insecticides
Ministry of Fisheries, Animal Husbandry and Dairying[a]	
Department of Animal Husbandry and Dairying (DAHD)	Responsible for policies relating to livestock production, preservation, protection from disease, and fisheries
Ministry of Health and Family Welfare	
Food Safety and Standards Authority of India (FSSAI)	To establish standards for food, and regulate production, storage, distribution, sale and import to ensure availability of safe and wholesome food for human consumption
Ministry of Commerce and Industry	
Export Inspection Council (EIC)	The EIC, through export inspection agencies (EIAs) is responsible for quality control and inspection of notified commodities, and for ensuring compliance with importing-country requirements

a This Ministry was established in May 2019 to include departments previously under the Ministry of Agriculture and the Ministry of Food Processing Industries.

Source: Information provided by the authorities.

3.173. According to information provided by the authorities, India's legislative framework for food safety, animal and plant health did not undergo any major changes since 2015. India does not have a single law governing the SPS system (Table 3.28). Over the review period, several regulations to implement the Food Safety and Standards Act, 2006, were adopted; these are related to, *inter alia*, food or health supplements, the food-recall procedure, imports (e.g. licensing of food importers, clearance, and sampling and analysis)[172], organic food, and packaging.

Table 3.28 Main legislation related to SPS matters

Food safety
Food Safety and Standards Act, 2006 (as amended)
Live animals and livestock products
Livestock Importation Act, 1898 (as amended)
Fish and fishery products; milk products; egg products; honey; poultry meat products; fresh meat (chilled/frozen); processed meat products; basmati rice; fruit and vegetable products; gelatin, ossein and crushed bones; animal casings; and feed additive and premixture
Export (Quality Control and Inspection) Act, 1963, and Export (Quality Control and Inspection) Rules, 1964, as amended
Raw and semi-processed agricultural commodities, and meat and meat products
Agricultural Produce (Grading and Marketing) Act, 1937 (as amended)
Insecticide Act, 1968
Plant and plant-related products
Plant Quarantine Order (Regulations of Import into India), 2003 (as amended)
Destructive Insects and Pests (Amendment and Validation) Act, 1992
Insecticides Rules, 1971
Insecticides Act, 1968
Destructive Insects and Pests Act, 1914

Source: Information provided by the authorities.

3.174. The Plant Quarantine (Regulation of Import into India) Order, 2003 (PQ Order 2003) (as amended) and the Destructive Insects and Pests Act, 1914, are the main pieces of legislation that regulate India's National Plant Protection Organization (NPPO). The main objective of this legislation is to prevent the introduction of exotic pests posing a threat to agriculture; thus, they are amended as required by the changing phytosanitary conditions. To prevent the introduction and/or spread of quarantine pests and ensure their control, imports of plants/plant products (for consumption and

[172] Food Safety and Standards (Import) Regulation, 2017.

propagation); germplasm/genetically modified organisms (GMOs)/transgenic plant material for research purposes; deleterious weed species; and live insects/fungi and other microbial cultures/bio-control agents may be prohibited, restricted or regulated.

3.175. Imports of primary agricultural products require a sanitary-phytosanitary import permit, following the requirements established by PQ Order 2003. Under the Order, plants and plant materials may be imported after an Import (Pest) Risk Analysis (PRA) is conducted, based on scientific principles[173]; thereafter, products are categorized under Schedules IV (prohibited), V (imported on the recommendation of an identified institution with a phytosanitary certificate), VI (import permit and phytosanitary certificate are mandatory), VII (may be imported without an import permit/less risk) and VIII (weeds that require quarantine).

3.176. To import plants and plant materials other than those listed in the Schedules, importers must file an application to conduct a PRA, to include the agricultural commodities in the relevant Schedule. PRAs involve: an evaluation of the risk of introducing a pest, its establishment, and spread potential; an assessment of the economic and environmental impact of its introduction; and the need to adopt risk-mitigating measures. It may also involve the visit of phytosanitary experts to the production site to carry out pre-shipment inspections and evaluate post–harvest treatment technologies and quarantine inspection, and certification facilities. The cost of such a visit is borne by the exporting country. In the event of interception of a quarantine pest in imported consignments, further imports are suspended until the earlier PRA is reviewed and the risk-mitigating measures are evaluated.

3.177. Agricultural commodities are classified into two categories, namely: plants and plant materials for consumption, which may be imported through all the notified ports under PQ Order 2003[174]; and seeds and propagative materials for sowing/propagation, which may be imported only through six major ports: Amritsar, Bengaluru, Chennai, Kolkata, Mumbai and New Delhi. Commodities meant for consumption may be imported through all the notified ports under PQ Order 2003.

3.178. Imports of plants and seeds used for propagation (e.g. cuttings, saplings or bud woods), listed in Schedules V and VI of the PQ Order 2003, may be subject to post-entry quarantine inspection. These plants and seeds must be grown in post-entry quarantine facilities, established by, and at the cost to, the importer, and approved and certified by the inspection authority. The quarantine period is determined based on the type of plant materials and the time taken by them to grow to the stage where symptoms of disease appear.

3.179. Exports of agricultural commodities are checked as per the requirements of importing countries. Export inspections involve sampling and detailed laboratory tests in the case of seeds and planting materials for propagation, whereas visual examination with a hand lens, and washing tests are carried out for plant materials meant for consumption. The export inspections are conducted, in most cases, at the exporters' premises.[175]

3.180. The Directorate of Marketing and Inspection (DMI) develops quality standards (AGMARK Standards) for any articles scheduled in the Agricultural Produce (Grading and Marketing) Act, 1937. These include fruit, vegetables, cereals, pulses, oilseeds, vegetable oils, ghee, spices, honey, creamery butter, wholemeal wheat flour (wheat *atta*), and chickpea flour (*besan*).[176] Standards are developed according to the Food Safety and Standards Act, 2006, and are based on scientific data, Codex Alimentarius and the ISO. The DMI implements a certification scheme for agricultural

[173] The risk analysis is based on, *inter alia*, the type of pest known to be associated with the particular product in the exporting country; the organisms that already exist in India; and the potential impact of such organisms on India's international trade.

[174] At present, there are 90 entry points, including 44 seaports, 23 airports and 23 land custom stations notified for the imports of plants and plant material. There are also 75 inland container depot/container freight stations. Eleven foreign post offices have also been notified. Directorate of Plant Protection, Quarantine & Storage, *Strengthening & Modernisation of Plant Quarantine Facilities in India*. Viewed at: http://ppqs.gov.in/divisions/plant-quarantine/strengthening-modernisation-plant-quarantine-facilities-india.

[175] For more details, refer to Plant Quarantine Information System, *Exports*. Viewed at: http://plantquarantineindia.nic.in/PQISPub/html/Export.htm.

[176] DMI, *Agmark Certification Scheme*. Viewed at: https://dmi.gov.in/Documents/Final%20Text%20Matter%20related%20to%20QC%20Section.pdf.

commodities traded in the domestic and international markets. The scheme is voluntary, except for blended edible vegetable oils and fat spreads.[177]

3.181. The Department of Animal Husbandry and Dairying (DAHD), previously under the Ministry of Agriculture, currently under the Ministry of Fisheries, Animal Husbandry and Dairying, continues to deal with sanitary issues, related to, *inter alia*, imports of livestock and livestock products. These imports are also regulated by the Livestock Importation Act, 1898 (as amended).

3.182. The DAHD is responsible for animal health and veterinary public health. It monitors and controls the production, processing and distribution of animal products, and takes measures to prevent, control and eradicate animal diseases and pests; it also exercises oversight of the safety of products, by-products and derivatives for human or animal consumption. It maintains border quarantine posts and internal control posts to ensure compliance with the sanitary requirements relating to the import or export of animals and animal products and by-products. The DAHD develops and implements central government schemes to prevent, control and contain animal diseases; and also issues guidelines to the states and UTs.[178]

3.183. Measures taken by the DAHD are based on risk assessment carried out by the Animal Quarantine and Certification (AQC) and Services in the Central Government's official laboratories. Testing of imported livestock/livestock products is done as per health protocols issued by the DAHD. On the basis of the risk assessment, the DAHD classifies pests and diseases. The results of an analysis by official laboratories are a prerequisite for granting or cancelling permits, authorizations or registrations. To prevent and control diseases, the DAHD may inspect and visit premises, and may require that health measures are applied if products pose a threat to veterinary public health or animal health. India recognizes tests carried out by other national or foreign laboratories, authenticated by the official authority of the exporting nation, as a pre-import requirement into the country.[179]

3.184. With respect to imports, the DAHD carries out the necessary risk assessment to determine the health conditions that regulate the importation or transit of goods, or to demonstrate the safety of products and by-products entering, or marketed in, India. These products must be accompanied by sanitary import permits (SIPs) issued by the DAHD.[180] Permits must be obtained prior to shipping from the country of origin.[181] Permits are valid for 6 or 12 months, depending on the nature of the product, and may be used for multiple consignments. Imports of animals and animal products are only allowed through designated ports, where animal quarantine and certification services are available (Amritsar, Bangalore, Chennai, Delhi, Hyderabad, Kolkata, and Mumbai). Imports of fish products are allowed through the seaport of Vishakhapatnam (Andhra Pradesh), the seaport and airport of Kochi, and the land customs station at Petrapole (only for imports from Bangladesh).[182]

3.185. In the absence of the required import permits, the DAHD may slaughter the animals, denature the products, or return them to their place of origin. If an animal product or by-product presents a serious threat to health, and/or the sanitary measures taken do not provide a satisfactory level of control, the DAHD may suspend the movement of the product, and apply health measures or establish special conditions for the product to be able to move within India or to be returned or re-exported.

3.186. Imports of poultry and poultry products originating from a region where there was avian influenza were prohibited until 2017.[183] Since 2019, imports are allowed only from areas free of highly pathogenic avian influenza, in accordance with the World Organisation for Animal Health (OIE) Terrestrial Animal Health Code.[184]

[177] The Food Safety and Standards Act and Regulations, 2006.
[178] Information provided by the authorities.
[179] Information provided by the authorities.
[180] Section 3A, Livestock Importation Act, 1898, as incorporated by Livestock Importation (Amendment) Act, 2001 (Act No. 28 of 2001, 29 August 2001), (or as amended from time to time).
[181] For information regarding procedures to import specific animal products refer to DAHD, *Trade.* Viewed at: http://www.dahd.nic.in/trade.
[182] DAHD, *Trade.* Viewed at: http://www.dahd.nic.in/trade.
[183] Notification S.O. No. 2337(E), 8 July 2016.
[184] Notification S.O. No. 4118 (E), 14 November 2019.

3.187. The main institution involved in the development of SPS measures relating to food is the FSSAI, an autonomous body established under the Ministry of Health and Family Welfare. Enforcement primarily rests with the states and UTs. The FSSAI was established under the Food Safety and Standards Act, 2006, which is a consolidating statute related to food safety regulations

3.188. The FSSAI specifies the standards for ingredients, additives, contaminants, pesticide residues, and biological hazards. It is responsible for setting standards for food manufactured in India, and it also regulates imports of food products and recalls foodstuffs that are not safe for human consumption. According to the authorities, the standards developed by the FSSAI are based on scientific evidence and on international standards (i.e. Codex), and are duly notified to the WTO before finalization for comments and suggestions, except in case of emergency.[185] At present, there are 18 main regulations concerned with food standards and related regulatory procedures.[186]

3.189. To establish these standards, the FSSAI establishes panels of independent scientific experts.[187] The panels review the draft standards, and provide their opinions, which are then reviewed by a scientific committee, comprising the chairs of the scientific panels and other experts.[188] Once the draft standard is approved by the Minister of Health and Family Welfare, it is notified for comment to the general public, stakeholders and the WTO. Comments are considered by the scientific committees, and appropriate changes are made to the draft standard. The revised draft standard, validated by the scientific committee and approved by the FSSAI, is sent for legal vetting to the relevant department, to seek consistency with existing legislation and constitutional requirements and, thereafter, it is approved by the Minister of Health and Family Welfare, and published.

3.190. In order to ensure compliance with food safety standards, the FSSAI relies on the National Accreditation Board for Testing and Calibration Laboratories (NABL), and referral laboratories. The FSSAI also has mobile food-testing laboratories, known as Food Safety on Wheels (FSWs), to assess food safety in areas where there are no laboratories.

3.191. Imports of food are sampled and tested, based on risk profiles established on parameters set by the FSSAI.[189] FSSAI officers are present at six entry points (Delhi, Mumbai, Kolkata, Chennai, Cochin and Tuticorin); in other locations, Customs officials may be authorized to act as FSSAI officers. The FSSAI has an online system, the Food Import Clearance System (FICS), to clear bills of entry selected through the risk management system (RMS), through the SWIFT.

3.192. The manufacture, import, research and release of GMOs, and of GMO products, are regulated by the Rules for Manufacture, Use, Import, Export and Storage of Hazardous Micro-Organisms, Genetically Engineered Organisms or Cells, 1989, under the Environment (Protection) Act, 1986. In order to implement the Rules, six competent authorities were created under the Ministry of Environment, Forest and Climate Change (MoEF&CC) (Table 3.29).[190]

3.193. The Review Committee on Genetic Manipulation (RCGM), in the MoEF&CC's Department of Biotechnology, developed the Guidelines and Standard Operating Procedures (SOPs) that regulate activities involving the use of GMOs in R&D and in industrial and environmental applications, to ensure human health and environmental safety. All projects are reviewed by the RCGM to ensure compliance with the Guidelines and SOPs; subsequently, the production, sale, importation and use of hazardous microorganisms, GMOs or cells may be restricted or prohibited.

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[185] Information provided by the authorities.

[186] The regulations and standards developed by the FSSAI are available on the FSSAI website. Viewed at: fssai.gov.in.

[187] Sections 13, Food Safety and Standards Act, 2006.

[188] Section 14, Food Safety and Standards Act, 2006.

[189] Food Safety and Standards (Import) Regulations, 2017.

[190] MOEF&CC, *What's New.* Viewed at: http://envfor.nic.in; and Department of Biotechnology, *Committees.* Viewed at: https://ibkp.dbtindia.gov.in/Content/Commitee?AspxAutoDetectCookieSupport=1.

Table 3.29 Competent authorities

Authorities	Role
Advisory	
Recombinant DNA Advisory Committee (RDAC)	Recommends safety regulations related to recombinant research, use and applications
Regulatory/approval	
Genetic Engineering Appraisal Committee (GEAC)	Monitors the safety of research projects involving hazardous microorganisms, GMOs, and products thereof
Review Committee on Genetic Manipulation (RCGM)	Develops the Guidelines and Standard Operating Procedures (SOPs) to regulate the use of GMOs in R&D and in industrial and environmental applications
Institutional Biosafety Committee (IBSC)	Implements biosafety guidelines in institutions handling hazardous microorganisms and/or GMOs
Monitoring	
State Biotechnology Coordination Committee (SBCC)	Inspects, investigates and takes punitive action in the case of violations of statutory provisions. Periodically reviews the safety of measures applied at various institutions handling GMOs
District Level Committee (DLC)	Monitors the implementations of safety regulations in installations engaged in the use of GMOs/hazardous microorganisms, and their application in the environment

Source: MoEF&CC.

3.194. The RCGM issues the clearance letters/import permits for GMOs; however, these must be authorized by the Genetic Engineering Approval Committee (GEAC). The RCGM may also visit the sites where recombinant DNA projects are carried out, to ensure compliance with the Guidelines and SOPs.

3.195. During 2015-20 (June), India notified 155 new SPS measures to the Committee on SPS, most of which were related to food safety. According to the notifications, the SPS measures comply with, or are based on, relevant international standards, and they mostly apply to all Members. India took one emergency measure that applies to all trading partners.[191] During the review period, Members raised seven concerns, of which two were resolved.

3.3.4 Competition policy and price controls

3.3.4.1 Competition policy

3.196. Competition is regulated by the Competition Act, 2002, the Rules and Notifications issued by the Ministry of Corporate Affairs (MCA), and the Regulations issued by the Competition Commission of India (CCI).[192] In 2017, the Competition Act was amended; as a result, the Competition Appellate Tribunal (COMPAT) was replaced by the National Company Law Appellate Tribunal (NCLAT). However, the procedures to appeal orders remain broadly unchanged.[193]

3.197. In 2018, the Competition Law Review Committee was set up by the MCA, to review India's competition legislation and to consider international best practice.[194] The Committee's recommendations were released in 2019. They included: (i) the adoption of provisions to identify hub-and-spoke agreements (anti-competitive practices); (ii) the insertion of an express provision to cover all kinds of anti-competitive agreements that may not be classified strictly as either horizontal or vertical arrangements; (iii) the adoption of a mechanism to provide the possibility to opt for a settlement and/or commitment (anti-competitive practices)[195]; (iv) the creation of a green channel route to provide automatic approval for combinations (i.e. mergers, acquisitions, and amalgamations); and (v) the inclusion of thresholds for combinations in the digital sector. The Committee also made recommendations regarding governance in CCI and NCLAT investigation

[191] WTO Document G/SPS/N/IND/249, 26 February 2020.
[192] The legislation may be viewed at: https://www.cci.gov.in/.
[193] Section 53A of the Competition Act, 2002, amended by the Finance Act, 2017.
[194] Press Information Bureau (PIB), Press Release, *Government constitutes Competition Law Review Committee to review the Competition Act, 30 September 2018*. Viewed at: https://pib.gov.in/newsite/PrintRelease.aspx?relid=183835.
[195] Settlements apply to cartels; they require an admission of guilt from the parties. Commitments apply to all cases other than cartels, and do not require any admission of guilt.

procedures, and fines.[196] The Competition Act is being reviewed to implement these recommendations. The green channel route for combinations has already been adopted.[197]

3.198. The CCI is the competition regulatory authority; it is an autonomous entity accountable to the Central Government[198], which finances it and appoints its members.[199]

3.199. In general, the Competition Act applies to all economic operators (public and private, Indian and foreign) and to all sectors. Exceptions continue to apply for public entities that operate in sectors related to atomic energy, defence and space, and minting currency.[200] In addition, operators in the banking, maritime, and oil and gas sectors are still exempt from the application of certain provisions of the Act (Table 3.30). Sector-specific provisions, such as the guidelines for mergers and acquisitions in the telecom sector, are also issued by the regulator. However, the CCI may intervene in all sectors, even if there are specific regulations.[201]

Table 3.30 Sector-specific exemptions to the Competition Act

Operators	Sections of the Competition Act exempt of application	MCA notification number	Duration of the exemption (end-year)
Banking companies in respect of which the Central Government issued a notification under Section 45 of the Banking Regulation Act, 1949	Section 5 (combinations); Section 6 (regulation of combinations)	S.O. (E), 11.03.2020[a]	5 years (2025)
Nationalized banks	Section 5 (combinations); Section 6 (regulation of combinations)	S.O. 2828(E), 30.08.2017	10 years (2027)
Regional rural banks	Section 5 (combinations); Section 6 (regulation of combinations)	S.O. 2561(E), 10.08.2017	5 years (2022)
SOEs operating in the oil and gas sectors	Section 5 (combinations); Section 6 (regulation of combinations)	S.O. 3714(E), 22.11.2017	5 years (2022)
Vessel-sharing agreements	Section 3 (anti-competitive agreements)[b]	S.O. 3250(E), 04.07.2018[c]	3 years (2021)

a The exemption was initially introduced in 2013 (S.O. 93 (E), 08 January 2013).
b The exemption does not apply if the vessel-sharing agreements result in horizontal agreements aimed at price-fixing, limiting capacity/sales or allocating markets/customers.
c The exemption was initially introduced in 2013 (MCA Notification S.O. 3641(E), 11 December 2013).

Source: WTO Secretariat; information provided by the authorities; and CCI, *Notification*. Viewed at: https://www.cci.gov.in/notification/111.

3.200. In general, agreements that cause, or may cause, or are likely to cause an "appreciable adverse effect on competition" are prohibited. These include horizontal agreements (e.g. cartels) and vertical agreements. However, such prohibitions may not apply if: (i) they relate exclusively to exports; (ii) they impose restrictions in order to protect IPRs; or (iii) they help increase efficiency.[202]

3.201. Investigations regarding anti-competitive behaviour are initiated by the CCI on its own behalf, or if relevant information is provided to the CCI, or if suggested by the central or states' governments or by statutory authorities (e.g. sectoral regulators).[203] Horizontal agreements are aimed at, *inter alia*, fixing prices, limiting sales, and allocating markets or customers. Various criteria

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[196] PRS Legislative Research, *Report of the Competition Law Review Committee.* Viewed at: https://www.prsindia.org/policy/report-summaries/report-competition-law-review-committee.
[197] Information provided by the authorities.
[198] OECD document DAF/COMP/GF/WD(2016)62, *Independence of Competition Authorities – from Designs to Practices*, Contribution from CUTS to the Global Forum on Competition, 10 November 2016. Viewed at: https://one.oecd.org/document/DAF/COMP/GF/WD(2016)62/en/pdf.
[199] WTO document WT/TPR/S/313/Rev.1, 14 September 2015.
[200] Section 2(h), Competition Act, 2002.
[201] Information provided by the authorities.
[202] Section 3, Competition Act, 2002; and OECD document DAF/COMP/WD(2019)4, *Licensing of IP rights and competition law - Note by India, 10 May 2019*. Viewed at: https://one.oecd.org/document/DAF/COMP/WD(2019)4/en/pdf.
[203] Section 19(1), Competition Act, 2002.

are considered by the CCI to assess if there is a horizontal agreement and if it has an adverse effect on competition.[204]

3.202. Prior to 2017, only enterprises that took part in a cartel could apply for leniency to seek a penalty reduction, in exchange for disclosing "full, true, and vital" information to the CCI. In 2017, the scope of these benefits was enlarged to individuals that participate in a cartel on behalf of an enterprise. In addition, since 2017, the benefits may be granted to more than three applicants. A reduction of up to 100% in the amount of the fine may be granted to the first applicant that makes the "vital" disclosure to the CCI; 30% or 50% reductions may be granted to the second and subsequent applicants, respectively.[205]

3.203. Vertical agreements seek to, *inter alia*, establish exclusive supply and distribution arrangements. These are prohibited if they cause an adverse effect on competition in the market. In addition, certain conducts (e.g. denial of market access, predatory pricing, and imposition of unfair terms/conditions) are prohibited when effected by an operator that holds a dominant position in a relevant market. The CCI analyses several variables to determine the abuse of dominant position, including market share; however, the Competition Act does not specify any threshold to determine market share. There are thresholds only for the telecoms sector, and these are specified in the Guidelines. Once dominance is established, the conduct is assessed to see if abuse of dominant position, within the meaning of the provisions of the Act, has been established.

3.204. India's legislation refers to three types of combinations: acquisitions, mergers, and amalgamations. Certain combinations are exempt from notification; others must be notified to, and approved by, the CCI, if they exceed a certain threshold (Table 3.31). Thresholds should be revised to reflect fluctuations in the wholesale price index; they were last revised and increased in 2016.[206]

Table 3.31 Thresholds for the notification of combinations, 2016-19

Criteria	Individual enterprises		Groups of enterprises	
	In India	In India and abroad	In India	In India and abroad
Value of assets	>INR 20 billion	>USD 1 billion, including at least INR 10 billion in India	>INR 80 billion	>USD 4 billion, including at least INR 10 billion in India
OR				
Turnover	>INR 60 billion	>USD 3 billion, including at least INR 30 billion in India	>INR 240 billion	>USD 12 billion, including at least INR 30 billion in India

Source: MCA Notification S.O. 675 (E), 4 March 2016.

3.205. Since 2015, India has also maintained exemptions for small transactions (the *de minimis* exemption), which was initially introduced in 2011 for five years, and subsequently extended in 2016 for five further years.[207] As a result, notifications are not required if the asset value does not exceed INR 3.5 billion or the turnover does not exceed INR 10 billion. Prior to 2017, the thresholds were INR 2.5 billion and INR 7.5 billion, respectively. The scope of the exemption was also enlarged to include mergers and amalgamations; previously, only acquisitions were considered. In addition, groups that have less than 50% of the voting rights in other enterprises are also exempt from the notification requirement, as they are considered small transactions.[208]

3.206. In addition, currently, 10 categories of combinations are "exempt" from the notification requirement, since they are not likely to cause an "appreciable adverse effect on competition".[209]

[204] Sections 3(3) and 19(3), Competition Act, 2002.
[205] Section 46, Competition Act, 2002; CCI (Lesser Penalty) Regulations, 2009, amended by the CCI (Lesser Penalty) Amendment Regulations, 2017; CCI, *Cartel Enforcement and Competition*, *ICN Special Project*. Viewed at: https://www.cci.gov.in/sites/default/files/whats_newdocument/ICN%20SPECIAL%20PROJECT%202018.pdf; and CCI, *Booklets*. Viewed at: https://www.cci.gov.in/advocacy-booklet/78.
[206] MCA Notification S.O. 675 (E), 4 March 2016.
[207] MCA Notifications S.O. 482(E), 4 March 2011; and S.O. 988(E), 29 March 2017.
[208] MCA Notifications S.O. 481(E), 4 March 2011; and S.O. 673(E), 4 March 2016.
[209] Schedule I of the CCI (Procedure in regard to the Transaction of Business relating to Combinations) Regulations, 2011 lists the exemptions. The list was amended in 2012, 2013, 2014, 2015, and 2016.

The exemptions, which were amended several times over the review period, refer mainly to the acquisition of shares and/or voting rights.

3.207. In 2015–20, India introduced various changes regarding the procedure to file a combination. The requirement to notify a combination within 30 days of its signature was suspended in 2017, for five years, because it was considered too short to compile the necessary information required, especially when combinations included international entities.[210] Prior to the suspension of the deadline, parties were often fined for not complying with deadlines, which constituted a financial burden.[211] Since 2017, a combination may be notified to the CCI at any time, as long as the approval, if needed, is granted before the transaction is completed.[212]

3.208. In addition, filing requirements were simplified and clarified (Table 3.32). To this end, the green channel route was adopted in 2019 as an automatic approval for combinations that do not require an exhaustive assessment. To use the automatic approval process, parties request assistance from the CCI, to assess if they qualify. If the green channel is used, parties self-assess the transaction, based on specific criteria.[213] By February 2020, nine combinations had been filed through the green channel. In all other cases, the CCI has 210 days from the date of filing to approve (or reject) a combination.[214]

Table 3.32 Main changes regarding filing a combination notice, 2015-19

Amendment date	Description
CCI (Procedure in regard to Transaction of Business relating to Combinations) Regulations, 2011	
13.08.2019	The green channel route was introduced for certain types of combinations: (i) those that do not produce/provide similar, identical or substitutable products or services; and (ii) those that are not engaged in the production, supply, distribution, storage, sale, service or trade in products/services which: are at different levels of the production/supply chain or are complementary to each other
09.10.2018	Clarification was provided as to the procedures that were included in, or excluded from, the 210-day deadline to complete an investigation
	Parties may suggest and adopt voluntary remedies to take, in the case of infringement
	In the case of a significant lack of information, parties may withdraw and re-submit the notice, without facing an invalidation of the already-filed notice; fees already paid are adjusted if refiling is done within three months from the date of withdrawal
07.01.2016	Parties are given the opportunity to be heard, before the CCI invalidates a notice
01.07.2015	The requirements for filing a notice were simplified
	The timeline for reviewing notices was increased from 30 calendar days to 30 working days
	The parties are informed of invalidation of a notice filed with the Commission within seven working days of the decision
	Combinations under review are posted on the CCI website
	Procedures to request confidentiality were introduced

Source: WTO Secretariat, based on CCI, *Regulation as printed in Official Gazette*. Viewed at: https://www.cci.gov.in/regulations_as_printed_in_official_gazette; and CCI (various years), *Annual Report*. Viewed at: https://www.cci.gov.in/annual-reports.

3.209. In 2014/15–2018/19, the CCI initiated 209 investigations on alleged anti-competitive practices; 93 were initiated by the CCI itself. In 74 cases, the CCI found illegal practices, including 47 cartels (Table 3.33). Cartelization was greatest in sectors such as health and pharmaceuticals; information and broadcasting; and chemicals and fertilizers. In addition, 27 operators were found guilty of abusing their position, in sectors such as coal and real estate. The CCI approved most of the combinations that were notified, which took place in sectors such as financial markets; pharmaceuticals and healthcare; information technology; the automotive industry; power; and media and entertainment; 39 combinations were rejected, as the notice was incomplete.

[210] Information provided by the authorities.
[211] Sections 6(2) and 43A, Competition Act, 2002.
[212] Global Competition Review, *India: Merger Control*. Viewed at: https://globalcompetitionreview.com/insight/the-asia-pacific-antitrust-review-2019/1188995/india-merger-control.
[213] CCI, *Speeches* - Speech by the CCI Chairperson, 16 September 2019. Viewed at: https://www.cci.gov.in/speeches; and CCI (Procedure in regard to the Transaction of Business relating to Combinations) Amendment Regulations, 2019, 13 August 2019).
[214] Section 31(11), Competition Act, 2002.

Table 3.33 Competition data, 2014/15-2018/19

	2014/15	2015/16	2016/17	2017/18	2018/19
Anti-competitive practices					
Number of investigations initiated	41	23	100	23	22
Number of investigations completed	34	32	23	36	51
Number of anti-competitive practices deemed illegal	20	14	7	12	21
Cartels	8	9	5	7	18
Abuse of dominance	12	5	2	5	3
Number of appeals	31	34	31	37	46
Combinations					
Notified	98	125	113	64	94
Approved	82	107	104	63	78
Rejected	6	12	11	4	6

Source: Information provided by the authorities.

3.3.4.2 Price control

3.210. India continues to control the price of some crops to ensure that farmers can sell at a minimum support price (MSP) and to procure food for the public distribution system (PDS). In 2019, 24 crops were subject to MSPs (Table 3.34). MSPs are established before the two planting/sowing seasons (i.e. kharif and rabi) by the Department of Agriculture Cooperation and Farmers' Welfare (DAC&FC), following recommendations made by the Commission for Agricultural Costs and Prices (CACP). MSPs are set for the country as a whole; however, since the variables used to determine MSPs, specifically the production costs, may vary from state to state, the CACP uses an all-India weighted average cost of production when making its recommendations to establish the MSPs.[215] An extra payment (bonus) above the MSPs, may also be given to encourage farming of certain crops in certain years (e.g. oilseeds and pulses 2016/17 [216]); in 2019/20, no bonuses were paid.[217]

Table 3.34 Crops subject to minimum support prices, 2019/20

Kharif crops	Arhar; bajra; cotton; groundnuts (in shell); jowar; maize; moong; niger seed; paddy; ragi; sesame; soyabeans (yellow); sunflower seeds; and urad
Rabi crops	Barley; gram; masur (lentils); rapeseed/mustard seeds; safflower seeds; toria; and wheat
Other crops	Copra; de-husked coconut; and jute

Source: DAC&FC, *Minimum Support Prices (MSP) for Kharif Crops of 2019-20 Season*. Viewed at: http://agricoop.nic.in/sites/default/files/MSP_2019-20%20%28English%29.pdf.

3.211. Farmers may sell to central and state procurement agencies at MSPs[218], or on the open market when market prices are higher. If market prices fall below the MSPs, the states/UTs may implement three schemes: (i) the Price Support Scheme (PSS); (ii) the Price Deficiency Payment System (PDPS); and (iii) the Pilot of Private Procurement and Stockist Scheme (PPPS).

3.212. The PSS applies to some crops subject to MSPs, if they comply with "fair average quality" norms. This Scheme is in place to ensure that farmers may sell their produce at the MSPs. Under

[215] CACP, *Determinants of MSP*. Viewed at: http://cacp.dacnet.nic.in/content.aspx?pid=62.
[216] *Lok Sabha Unstarred Question No. 1589, 25 July 2017*. Viewed at: http://www.indiaenvironmentportal.org.in/files/file/growth%20of%20farm%20income.pdf.
[217] MSPs are published online CACP, *Determinants of MSP*. Viewed at: http://cacp.dacnet.nic.in/content.aspx?pid=62; Farmers' Portal, *Minimum Support Prices.* Viewed at: https://farmer.gov.in/mspstatements.aspx; DAC&FW, *Minimum Support Prices (MSPs) for Kharif Crops of 2019-20 season.* Viewed at: http://agricoop.nic.in/recentinitiatives/minimum-support-pricesmsps-kharif-crops-2019-20-season; and DAC&FW, *Minimum Support Prices of Rabi Crops of 2019-20 season to be marketed in 2019-20.* Viewed at: http://www.agricoop.nic.in/recentinitiatives/minimum-support-price-rabi-crops-2018-19-season-be-marketed-2019-20.
[218] Central procurement agencies are the Central Warehousing Corporation, the Cotton Corporation of India, the Food Corporation of India, the Jute Corporation of India, the National Agricultural Cooperative Marketing Federation of India, the National Consumer Cooperative Federation of India, and the Small Farmers Agro Consortium.

the PSS, procurement agencies purchase at the MSP.[219] The Scheme is fully financed by the Central Government.[220] During the period under review, the list of crops covered by the PSS was revised, and the maximum statutory quantity that may be procured was increased (Table 3.35).

Table 3.35 Changes to the Price Support Scheme (PSS) over the review period

	2014 Guidelines	2018 Guidelines
MSP crops covered by the PSS	Cotton, oilseeds, and pulses	Copra, oilseeds, and pulses
MSP crops not covered by the PSS	Copra, coarse grains, de-husked coconut, jute, paddy, and wheat	Cotton, coarse grains, de-husked coconut, jute, paddy, and wheat
Duration of the PSS	Maximum 90 days (term may be extended)	Maximum 90 days; 6 months for copra (terms may be extended)
Daily procurement threshold	50 kg per day and per farmer	50 kg per day and per farmer
Maximum procurement quantity	25% of the production	40% of the production
Support granted to encourage procurement	Exemption of the states' mandi tax[a] and logistic arrangements	Exemption of all states' taxes and logistic arrangements

a A fee on the sale and purchase of agricultural produce.

Source: WTO Secretariat, based on *Guidelines for Price Support Scheme (PSS) (Oilseeds, Pulses and Cotton), 2014*. Viewed at: http://agricoop.nic.in/sites/default/files/PSS%20GUIDELINES%20final.pdf; and *Amended Guidelines for Price Support Scheme (PSS) (Pulses, Oilseeds and Copra) under PM-AASHA, 2018*. Viewed at: http://fci.gov.in/app/webroot/upload/Procurement/PSS%20Guidelines.pdf.

3.213. The PDPS and the PPPS are two new schemes introduced in 2018/19. The PDPS is an alternative to the PSS. Under this System, the Government does not purchase; a cash transfer equal to the difference between the market price and the MSP is made to the farmers.[221] Under the PPPS, an alternative to the PSS and the PDPS, private procurement agencies purchase, at the MSP price, directly from farmers.[222] The private procurement agencies are compensated by a maximum of 15% of the MSP of its services; thus, the private agency bears some of the losses associated with the Scheme.

3.214. The Market Intervention Scheme (MIS) is implemented on request by the states/UTs, when there is a decrease in prices caused by a bumper crop. The MIS applies to perishable crops for which there is no MSP. It is implemented if there is a 10% decrease in market price or a 10% increase in production over the previous year. Under the MIS, perishable crops are purchased by procurement agencies at a pre-determined market intervention price that covers production costs. The MIS is implemented for a specific period or until the market prices stabilize (whichever is earlier).[223]

3.215. Sugarcane is subject to a fair and remunerative price (FRP), i.e. the minimum price that sugar mills must pay to farmers (INR 275/quintal in 2019/20). The FRP is fixed by the DAC&FC, following the CACP's recommendations. The FRP is linked to a basic recovery rate that was increased from 9.5% to 10% over the review period. A premium (of 1% of the FRP) for each 0.1% increase in the recovery rate may also be awarded. A reduction (of 1% of the FRP) may also apply for each

[219] OECD/ICRIER (2018), Trends and Evaluation of Agricultural Policies in India, *Agricultural Policies in India*, OECD Publishing. Viewed at: https://www.oecd-ilibrary.org/agriculture-and-food/agricultural-policies-in-india_9789264302334-en.

[220] Amended Guidelines for Price Support Scheme (PSS) (Pulses, Oilseeds and Copra) under PM-AASHA, 2018. Viewed at: http://fci.gov.in/app/webroot/upload/Procurement/PSS%20Guidelines.pdf.

[221] Department of Agriculture and Farmer Welfare, *Guideline for PDPS*. Viewed at: http://agricoop.nic.in/sites/default/files/Guidelines%20PDPS.pdf; and CACP (2018), *Price Policy for Kharif Crops: The Marketing Season 2018-19*. Viewed at: http://cacp.dacnet.nic.in/ViewReports.aspx?Input=2&PageId=39&KeyId=615.

[222] CACP (2019), *Price Policy for Kharif Crops: The Marketing Season 2019-20*. Viewed at: http://cacp.dacnet.nic.in/ViewReports.aspx?Input=2&PageId=39&KeyId=669.

[223] MIS. Viewed at: http://agricoop.nic.in/sites/default/files/MIS_0.pdf; and Arthapedia, *Market Intervention Scheme (MIS)*. Viewed at: http://www.arthapedia.in/index.php?title=Market_Intervention_Scheme_(MIS)).

0.1% decrease in the recovery rate.[224] The price of white/refined sugar at the mill as well as the ex-mill price of ethanol are also controlled.[225]

3.216. India continues to implement the Public Distribution System (PDS) that facilitates the supply of food grains (rice, wheat, and coarse grains), sugar, and kerosene at subsidized prices. The System is implemented by the central and state governments. The central procurement agency, the Food Corporation of India (FCI), is responsible for procurement, storage, transportation, and bulk allocation. The state governments are responsible for distributing the commodities through fair-price shops.[226]

3.217. The retail price of 14.2 kg LPG cylinders, sold by SOEs, for domestic use continues to be controlled. The price is determined by the state-owned oil marketing companies (OMCs), i.e. Indian Oil Corporation (IOC) Ltd., Bharat Petroleum Corporation (BPC) Ltd., and Hindustan Petroleum Corporation (HPC) Ltd., in line with changes in international market prices and other market conditions. LPG prices are revised every month.

3.218. The price of natural gas extracted by state-owned oil companies (IOC and Oil and Natural Gas Corporation Limited (ONGC)) from existing fields[227] is still subject to an administered pricing mechanism (APM). Power-generation plants, and industries such as: fertilizer, steel, refineries, petrochemicals, and LPG plants owned by the state-owned GAIL (Gas Authority of India Ltd.) and ONGC, are considered priority sectors regarding the use of APM natural gas. Moreover, in the North-Eastern region, the consumption of APM natural gas is subsidized.[228] The price of natural gas in North-Eastern states is 60% of the price of gas in the rest of India; the balance (40%) is paid by the national oil companies (NOCs) as a subsidy financed by the Central Government.

3.219. The price of urea continues to be controlled (Section 3.3.1).

3.220. India continues to set ceiling prices at the retail level for scheduled formulations included in the National List of Essential Medicines.[229] The maximum retail price is set based on a market-based mechanism, that considers the simple average of the prices of those brands that have more than 1% of the market share of the total turnover.[230] The retail price of non-scheduled formulations is monitored, to ensure that prices remain within 10% of the highest retail price during the preceding 12 months.[231] India also controls the retail price of new drugs.

3.3.5 State trading, state-owned enterprises, and privatization

3.3.5.1 State trading[232]

Imports

3.221. India's state-trading policy, regarding imports, did not change substantially since the previous Review in 2015. India continues to use state-trading for some agricultural products, fertilizer, and some oil products, to ensure a fair return to farmers, to ensure food security (i.e. availability of adequate food for all sections of the society at affordable prices), to manage the procurement of fertilizer for farmers, and to implement the domestic support price system for oil products. Seven STEs are still in place. However, not all of them have a monopoly on trade; other

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[224] Department of Food and Public Distribution, *General Policy – Sugarcane Pricing Policy*. Viewed at: https://dfpd.gov.in/gen_policy.htm.

[225] Sugar Price (Control) Order, 2018, and Department of Food and Public Distribution, *General Policy – Sugarcane Pricing Policy*. Viewed at: https://dfpd.gov.in/gen_policy.htm.

[226] Department of Food and Public Distribution. Viewed at: https://dfpd.gov.in/public-distribution.htm.

[227] Existing fields refer to fields awarded prior to the introduction of production-sharing contracts.

[228] Ministry of Petroleum and Natural Gas (2014), *Report of the Committee on Gas Pricing - 2014*. Viewed at: http://petroleum.nic.in/sites/default/files/committee_report_on_gas_pricing_2014.pdf; and Petroleum Planning and Analysis Cell, *Subsidy*. Viewed at: https://www.ppac.gov.in/content/150_1_Subsidy.aspx.

[229] The National List of Essential Medicines National is contained in the Schedule 1 of the Drugs (Price Control) Order, 2013. National Pharmaceutical Pricing Authority. Viewed at: http://www.nppaindia.nic.in/en/utilities/list-of-notified-prices/dpco-2013/.

[230] Section 4, Drugs (Price Control) Order, 2013.

[231] Section 20, Drugs (Price Control) Order, 2013.

[232] Based on WTO Document G/STR/N/15/IND, 8 November 2018.

companies may be authorized to import products under state trading when the STEs are not able to do so (Table 3.36). STEs may procure the products domestically and/or import them, depending on the domestic supply and demand. However, the Indian Oil Corporation (IOC) has a monopoly over imports of some oil products, and MMTC Ltd and Indian Potash on imports of urea.

Table 3.36 Imports subject to state trading, 2015–20

State-trading enterprises	Product	HS code	Import value (USD million)				
			2015-16	2016-17	2017-18	2018-19	2019-20
Food Corporation of India (FCI)	Wheat	1001.19.00	n.a.	0.00	n.a.	n.a.	n.a.
		1001.99.10	135.37	1,268.64	364.45	0.72	0.64
	Rice	1006.10.90	n.a.	n.a.	0.01	0.02	0.01
		1006.20.00	n.a.	n.a.	n.a.	0.02	0.32
		1006.30.10	n.a.	n.a.	0.19	0.27	7.74
		1006.30.20	n.a.	n.a.	n.a.	n.a.	n.a.
		1006.30.90	0.91	1.07	1.69	3.95	2.85
		1006.40.00	0.00	0.00	0.01	0.13	0.14
State Trading Corporation (STC)	Copra	1203.00.00	0.32	n.a.	6.48	11.71	10.78
	Coconut (copra) oil and its fractions	1513.11.00	2.86	n.a.	n.a.	0.00	0.00
		1513.19.00	3.50	0.06	0.99	0.48	2.02
STC, Indian Potash Ltd., Minerals and Metals Trading Corporation Ltd. (MMTC)	Urea	3102.10.00	2,393.68	1,154.40	1,452.72	1,887.82	2,886.30
Indian Oil Corporation Ltd. (IOCL), Bharat Petroleum Corporation Ltd. (BPCL), Hindustan Petroleum Corporation Ltd. (HPCL)	Motor spirit	2710.12.11	0.06	0.00	n.a.	0.00	0.05
		2710.12.12	n.a	n.a	n.a	n.a	n.a
		2710.12.13	0.07	n.a.	0.04	0.08	n.a
		2710.12.19	644.16	297.00	70.24	467.29	1,041.34
	Natural gasoline liquid	2710.12.20	76.48	10.00	0.02	22.08	395.05
		2710.12.90	1,259.65	1,075.58	645.48	645.12	422.30
	Superior kerosene oil	2710.19.10	24.66	0.01	0.03	2.24	7.70
	Aviation turbine fuel	2710.19.20	137.33	164.92	180.85	198.47	45.03
	High-speed diesel	2710.19.30	70.62	422.39	463.44	386.61	1,673.36
	Light diesel oil	2710.19.40	0.25	0.14	1.51	4.41	7.19

n.a. Not applicable.

Note: The figure 0.00 represents import values lower than USD 5,000.

Source: WTO documents G/STR/N/15/IND, 8 November 2018; and G/STR/N/16/IND and G/STR/N/17/IND, 3 October 2019; and DGFT.

3.222. The Government, through the Food Corporation of India (FCI) (set up in 1964), procures food grains and certain selected agricultural items from farmers at a minimum support price (MSP). These products are then distributed through the Public Distribution System (PDS) at subsidized prices to consumers below the poverty line. The FCI also maintains buffer stocks of grains to ensure food security. The FCI was granted the right to import cereals, such as *bajra*, buckwheat, canary seed, *jawar*, millet oats, rice, rye, sorghum, wheat, *ragi,* and other cereals. However, most of these items, except for rice and wheat, were removed from the STE list in 2014.[233]

3.223. In the case of urea, state trading is necessary to implement and manage procurement for farmers. India maintains a system of support for both imported and indigenous urea. The quantity imported is established in consultation with the Department of Fertilizers and the Department of Agriculture and Co-operation.

Exports

3.224. As with imports, India continues to grant special privileges to export certain products through STEs to, *inter alia*, allow small and tribal farmers to sell their products abroad, ensure the domestic supply of specific goods (i.e. kerosene and LPG), prevent wide domestic price fluctuations, and ensure conservation and proper utilization of natural resources (minerals).[234] Since 2014/15, a major change related to exports under STEs was the removal of onions (since 2014/15) and sugar (under

[233] Notification No. 93 (RE-2013)/2009-2014, 29 September 2014
[234] WTO document G/STR/N/15/IND, 8 November 2018.

TRQ) (since 2019) from the list of exports subject to state trading; these products were liberalized, and may be exported by any eligible exporter (Table 3.37).

Table 3.37 Exports subject to state trading, 2015/16–19/20

Enterprises	Products	HS code 2015/16 to 2018/19	HS code 2019/20	2015/16	2016/17	2017/18	2018/19	2019/20
Indian Sugar Exim Corp. Ltd.[a]	Sugar (preferential quota to the EU and the United States)	ex 1701.00.00	n.a.	..	..	..	..	..
Kudremukh Iron Ore Co. Ltd.	Iron ore concentrates prepared by beneficiation and/or concentration of low-grade ore containing 40% or less of iron produced by the Kudremukh Iron Ore Company Ltd.	ex 2601.11.50	ex 2601.11.50	..	..	..	..	..
	Iron ore pellets manufactured by the Kudremukh Iron Ore Company Ltd.	ex 2601.12.10	n.a.	..	..	..	..	..
Manganese Ore India Ltd.[b]	Manganese ores, excl. lumpy/blended manganese ore with >46% Mn	2602.00.00	n.a.	0.29	0.18	7.99	2.00	3.61
Minerals and Metals Trading Corp. Ltd.		2602.00.00	2602.00.00					
Minerals and Metals Trading Corp. Ltd.	Iron ore, other than that specified under the "free" category	ex 2601.11.00	2601.11.00	134.38	849.70	586.71	275.68	1,302.74
	Beneficiated chrome ore fines/concentrates (maximum feed grade to be less than 42% Cr203)	ex 2610.00.30	n.a.	..	..	..	..	..
	Chrome ore, friable, and concentrates fixes containing 47% Cr203 and above	2610.00.40	2610.00.40	19.44	38.41	12.21	16.78	10.43
	Chrome or lumps with Cr203 not exceeding 40%	ex 2610.00.30	ex 2610.00.30	..	..	..	..	..
	Low silica, friable/fine ore with Cr203 not exceeding 52% and silica exceeding 4%	ex 2610.00.90	ex 2610.00.90	..	..	..	..	..
	Low silica, friable/fine chromite ore with Cr203 in the range of 52%-54% and silica exceeding 4%	ex 2610.00.90	ex 2610.00.90	..	..	..	..	..
	Other chrome	n.a.	2610.00.00					
Indian Oil Corp. Ltd.	Crude oil	2709.00.00	2709.00.00	n.a.	n.a.	n.a.	n.a.	n.a.

.. Not available

n.a. Not applicable.

a Not a STE as at 7 September 2015, through DGFT Notification No. 20/2015-20, 7 September 2015.
b Not a STE as at 2019/20.

Source: WTO documents G/STR/N/15/IND, 8 November 2018; and G/STR/N/16/IND; and G/STR/N/17/IND, 3 October 2019; DGFT, *Export Import Data Bank*; and data provided by the authorities.

3.3.5.2 SOEs and privatization

3.225. The participation of SOEs, also known as central public sector enterprises (CPSEs), remains important in the economy; however, it declined from 16% in 2014/15 to 13.4% in 2018/19 of India's

GDP (at current prices).[235] Their contribution to employment is also significant, although the number of workers employed also declined over the review period, from 1.3 million in 2014/15 to 1 million in 2018/19.[236] The CPSEs generated foreign-exchange earnings of INR 1,433.8 billion in 2018/19.[237]

3.226. The CPSEs operate in all sectors of the economy; they retain a dominant position in many markets, such as coal, electricity, mining, petroleum products, steel, and transport and logistics. In 2017/18 (latest data), there were 257 operating CPSEs (235 in 2014/15).[238]

3.227. Disinvestment continued over the review period (Table A3.4). One of the objectives of disinvesting in the CPSES is to comply with the minimum threshold of shares (25%) held by the public required for all public enterprises to be listed on India's stock exchanges.[239] Disinvestment in the CPSEs operating in non-strategic sectors also continued during the period under review.[240] The revenues from the sale of shares is deposited/invested in the National Investment Fund to, *inter alia*, recapitalize public banks and finance core infrastructure projects.[241]

3.3.6 Government procurement

3.228. Government procurement is estimated at 30% of GDP.[242] India does not have consolidated data regarding government procurement, including the breakdown of the value of contracts by procurement method.[243]

3.229. Government procurement is decentralized; it may be carried out by public entities, including public enterprises, at central and state levels. However, the Central Government may designate procuring entities at the central level. India does not have any procuring agencies at the central level. Until 2017, the Directorate General of Supply and Disposals (DGS&D) was the procuring entity at the central level for commonly used goods and services; it was dissolved in 2017, when the government e-marketplace (e-GeM) was introduced.[244]

3.230. Government procurement is regulated by several pieces of legislation, in particular by the General Financial Rules (GFRs) (Table 3.38). The GFRs are issued by the Ministry of Finance. They contain general provisions, such as the methods and thresholds of procurement, that apply to all sectors. Generic guidelines to implement the GFRs are provided in procurement manuals, also issued by the Ministry of Finance; these were last revised in 2017 (goods and services) and 2019 (works).[245] In addition, the procuring entities, such as the Ministries of Defence and Railways, may issue their own internal procurement manuals which, according to the authorities, are consistent with the

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[235] In 2015/16, 13.3%; in 2016/17, 12.7%; and in 2017/18, 12.6%. India Budget, *Economic Survey 2019-20 Statistical Appendix*. Viewed at: https://www.indiabudget.gov.in/economicsurvey/doc/Statistical-Appendix-in-English.pdf; and information provided by the authorities.

[236] Department of Public Enterprises (2018), *Public Survey Enterprises 2017-18*, Volume I; and Department of Public Enterprises (2015), *Public Survey Enterprises 2014-15*, Volume I. Viewed at: https://dpe.gov.in/publication/pe-survey/pe-survey-report and information provided by the authorities.

[237] Information provided by the authorities.

[238] Department of Public Enterprises (2018), *Public Enterprises Survey 2017-18*, Volume I; and Department of Public Enterprises (2015), *Public Enterprises Survey 2014-15*, Volume I. Viewed at: https://dpe.gov.in/publication/pe-survey/pe-survey-report.

[239] Rule 19A of the Securities Contracts (Regulation) Rules, 1957, amended by the Securities Contracts (Regulation) (Second Amendment) Rules, 2014, and the Securities Contracts (Regulation) (Third Amendment) Rules, 2017.

[240] NITI Aayog (2018), *Strategy for New India @75*. Viewed at: https://niti.gov.in/writereaddata/files/Strategy_for_New_India.pdf; and Department of Investment and Public Asset Management, *Instructions on Strategic Disinvestment*. Viewed at: https://dipam.gov.in/instructions-on-strategic-disinvestment.

[241] Department of Investment and Public Asset Management, *National Investment Fund*. Viewed at: https://dipam.gov.in/national-investment-fund.

[242] CCI, *Competition Act, 2002: Provisions Relating to Public Procurement*, Advocacy Series 9. Viewed at: https://www.cci.gov.in/sites/default/files/advocacy_booklet_document/pp.pdf; and OECD (2014), *Smart Procurement – Going green: best practices for green procurement – India*. Viewed at: https://www.oecd.org/governance/procurement/toolbox/search/india-best-practices-green-public-procurement-gpp-market-capacity-cost-benefit-assessment.pdf.

[243] Information provided by the authorities.

[244] Information provided by the authorities.

[245] Department of Expenditure, *Manual for Procurement of Goods, 2017*; *Manual for Procurement of Consultancy and other Services, 2017*; and *Manual for the Procurement of Works, 2019*. Viewed at: https://doe.gov.in/procurement-policy-divisions.

GFRs.[246] States have their own procurement provisions, which should be based on the GFRs; a few states also enacted their own procurement acts. India is an observer to the WTO Government Procurement Agreement.

Table 3.38 Provisions related to government procurement at the central level, 2015-20

Legislative provisions	Other provisions
Contract Act, 1872	General Financial Rules, 2017, and corresponding procurement manuals issued by the Ministry of Finance
Sales of Goods Act, 1930	Delegation of Financial Powers Rules, 1978
Prevention of Corruption Act, 1988	Public Procurement Policy for Micro and Small Enterprises Order, 2012
Arbitration and Conciliation Act, 1996	Public Procurement (Preference to Make in India) Order, 2017
Competition Act, 2002	Pharmaceutical Purchase Policy, 2013
Central Vigilance Commission Act, 2003	National Digital Communications Policy, 2018
Right to Information Act, 2005	Manual issued by the Directorate General of Supply and Disposals (DGS&D)
	Manuals issued by ministries/departments

Source: WTO Secretariat, based on the National Institute of Public Finance and Policy (2017), *Public Procurement in India: Assessment of Institutional Mechanism, Challenges, and Reforms*. Viewed at: https://www.nipfp.org.in/media/medialibrary/2017/07/WP_2017_204.pdf.

3.231. Over the review period, the GFRs were amended several times (including in 2017, 2019 and 2020). Some of these amendments include: (i) the use of the government e-marketplace (e-GeM) for commonly used goods and services became mandatory; (ii) new methods (i.e. e-reverse auction and two-stage bidding) were introduced; (iii) e-procurement was made mandatory for all tenders; (iv) provisions to exclude participants were introduced; (v) the evaluation criteria for the procurement of consultancy services were redefined; (vi) publication of tenders in newspapers became optional; (vii) fees to obtain tender documents were removed; (viii) the participation of start-ups in procurement was facilitated, as requirements for prior turnover and prior experience were removed; (ix) environmental considerations in procurement process were included; and (x) the Code of Integrity was adopted.[247]

3.232. In 2020, on national defence and security grounds, the 2017 GFRs, were amended to allow for the imposition of restrictions (e.g. prior registration and/or screening) on bidders with specific origins.[248] Therefore, since July 2020, bidders from trading partners that share land borders with India must register with the Registration Committee, set up by the Department for Promotion of Industry and Internal Trade (DPIIT). Registration is subject to prior clearance from the Ministries of External and Home Affairs. Registration is required each time that bidders from such origin intend to participate in a public procurement process. However, up until December 2020, exemptions to the registration requirement are in place, for procurement related to COVID-19-required medical supplies.[249] In addition, trading partners that receive credit or development assistance from the Government are exempt from this registration requirement.[250]

3.233. According to the GFRs, government procurement must be transparent, competitive, and fair. Compliance with these principles is monitored by the Competition Commission of India (CCI), which carries out investigations on alleged collusive bidding; and the Central Vigilance Commission (CVC) which is responsible for ensuring transparency and probity. In addition, the Comptroller and Auditor General must audit procurement at the central level; the Comptroller's reports are presented to Parliament. Similar oversight is carried out at the state level.

3.234. In 2019, five methods were used to procure goods: (i) the advertised tender enquiry or open tender (the preferred procurement method); (ii) the limited tender enquiry; (iii) two-stage bidding;

[246] Rule 142 of the GFRs, 2017; and Department of Economic Affairs, *Annual Report 2017-18*. Viewed at: https://dea.gov.in/sites/default/files/Final%20Annual%20Report%20English.pdf.

[247] Information provided by the authorities.

[248] Office Memorandum No. 6/18/2019/-PDD, 23 July 2020. Viewed at: https://doe.gov.in/procurement-policy-divisions; and PIB, *Restrictions on Public Procurement from certain countries, 23 July 2020*. Viewed at: https://pib.gov.in/PressReleasePage.aspx?PRID=1640778.

[249] Other exemptions are: *bona fide* small procurement, *bona fide* procurement made thorugh e-GeM, and projects that receive international funding.

[250] Order (Public Procurement No.1), 23 July 2020. Viewed at: https://doe.gov.in/procurement-policy-divisions.

(iv) the single tender enquiry; and (v) the e-reverse auction (Table 3.39). The e-reverse auction was introduced in 2017 to increase transparency, facilitate procedures, and promote competition.[251] For instance, since 2018, the Indian Railway e-Procurement Systems (IPEPS) has used the e-reverse auction for all high-value procurement, i.e. procurement of goods above INR 100 million and of works and services above INR 500 million.[252] The use of the procurement method depends on the threshold or other factors, such as a single source of supply or the complexity and high-value nature of the object to be procured. Up to May 2020, overseas bidders could participate in an advertised tender enquiry, if goods were not available in India and the contract was above INR 2.5 million. In these cases, a global tender enquiry (GTE) was issued. Since May 2020, in order to promote self-reliance, Make in India, and MSMEs, global tender enquiries cannot be issued for tenders of up to INR 2 billion, or such limit as may be prescribed by the Department of Expenditure from time to time.[253]

Table 3.39 Methods for the procurement of goods, 2019

Method	Description	Threshold
Advertised tender enquiry	All national bidders may participate. Overseas bidders may participate in tenders above INR 2 billion if goods are not available in India, in which case a global tender enquiry is issued.	>INR 2.5 million
Limited tender enquiry	The procuring agency preselects at least three bidders	≤INR 2.5 million
Special limited tender enquiry	This method may be used for procurement above INR 2.5 million instead of the advertised tender enquiry, under certain circumstances, such as: (i) emergency-related procurement; (ii) public interest; (iii) suppliers are known to the procuring agency; and (iv) the nature of the goods.	>INR 2.5 million
Two-stage bidding	This method is used for the procurement of high-value, complex, and technical goods. It consists of simultaneously receiving separate technical and financial bids. The technical bids are evaluated first; only the financial bids of the technically acceptable offers are evaluated.	n.a.
Single tender enquiry	Procurement from single suppliers under certain circumstances: • suppliers are the original manufacturers or the authorized dealers; • in case of emergency-related procurement; and • standardization of the machinery or spare parts.	n.a.
E-reverse auction	Bidders may participate but may be shortlisted, based on technical/commercial requirements. Suppliers bid online in an interactive process, wherein the lowest bidder may be displaced by an even lower bid at any time during the duration of the auction. Bids are automatically evaluated by the system. This method may be used, if, *inter alia*: (i) there are enough bidders in the market; and (ii) the criteria to determine the successful bid are quantifiable. E-reverse auctions cannot be used for procuring items that are strategic or critical.	n.a.

n.a. Not applicable.

Source: Rules 158 and 161-167 of the 2017 GFRs; and Chapter 4 (Modes of Procurement and Bidding Systems) of the Manual for Procurement of Goods, 2017.

3.235. Small-value goods may be purchased directly, i.e. no tender is needed.[254] The threshold to define small-value goods was increased from a maximum value of INR 15,000 to INR 25,000 in 2017.

[251] PIB, *Indian Railways to Implement Electronic Reverse Auction for All High Value Procurements of Goods, Services and Works, 16 March 2018*. Viewed at: https://pib.gov.in/newsite/PrintRelease.aspx?relid=177570.

[252] PIB, *Indian Railways to Implement Electronic Reverse Auction for All High Value Procurements of Goods, Services and Works, 16 March 2018*. Viewed at: https://pib.gov.in/newsite/PrintRelease.aspx?relid=177570.

[253] Ministry of Finance No. F. 12/17/2019-PPD of 15 May 2020.

[254] Rule 154 of the 2017 GFRs; and Rule 145 of the 2005 GFRs.

3.236. Documents for tenders and the details of the bid awards must be published on the Central Public Procurement Portal (CPPP); publication in newspapers is optional (since 2017).[255] Bidders are also required to submit their proposals through the CPPP. Exemptions to online publishing and submissions may apply for confidentiality or security reasons.

3.237. The method used for the procurement of services depends on the type of service and the threshold (Table 3.40). The criteria to evaluate proposals for the supply of consultancy services were revised in 2017 to consider both the cost and the quality of consultancy; previously, a cost-based selection applied.[256] The thresholds for the procurement of services remained unchanged over the review period.

Table 3.40 Methods for the procurement of services, 2019

Method	Consultancy services	Non-consultancy services
A list of potential suppliers is prepared by the procuring entity, based on enquiries to other procuring entities	≤INR 2.5 million	≤INR 1 million
An enquiry (expression of interest) is published on the Central Public Procurement Portal (CPPP)	>INR 2.5 million	>INR 1 million

Source: Rules 183 and 201 of the 2017 GFRs.

3.238. Commonly used goods and services that are listed in the government e-marketplace (e-GeM) must be procured from suppliers registered therein (Table 3.41). E-GeM was launched in 2016; the rules to use it were laid down in the 2017 GFRs. The selection of e-GeM suppliers depends on thresholds; these were modified in 2019. Until 2017, commonly used goods and services were procured through rate contracts concluded by the Directorate General of Supply and Disposals (DGS&D) with one or more bidders for a specified time-period (usually one year), subject to predetermined prices, terms and conditions.[257] Commonly used goods and services not yet listed on e-GeM must be procured by local purchase committees through open bidding.[258]

Table 3.41 Procurement of commonly used goods/services on e-GeM, 2019

2017 GFRs	2017 GFRs as amended in 2019	Selection of suppliers
≤INR 50,000	≤INR 25,000	The procuring entity may select any of the registered suppliers that meet the requirements
>INR 50,000 ≤INR 3 million	>INR 25,000 ≤INR 500,000 (INR 3 million for automobiles)	The procuring entity must select the lowest bid from at least three suppliers
>INR 3 million	>INR 500,000 (INR 3 million for automobiles)	The procuring entity must select the lowest bid through e-reverse auction

Source: Rule 149 of the 2017 GFRs, as amended in 2019.

3.239. Contracts for repair works are awarded through limited tenders (<INR 500,000) or open tenders (INR 500,000 to INR 3 million).[259] Contracts for repair works of a value above INR 3 million, and all new work of any value, are awarded to any public works department or any public enterprise.[260]

3.240. The 2017 GFRs apply to all sectors, including the defence, railway, postal, and telegraph sectors. However, given the characteristics of these sectors, sector-specific provisions were created within the framework of the GFRs. Thus, procurement related to defence adheres to the Defence Procurement Procedure (DPP), 2016, and the Defence Procurement Manual, 2009. Under the DPP,

[255] Information provided by the authorities.
[256] Rules 159-160 and 192 of the 2017 GFRs.
[257] Information provided by the authorities.
[258] Rules 148, 155 (as amended in 2019), and 156(1) of the 2017 GFRs; and Chapter 4 (Modes of Procurement and Bidding Systems) of the Manual for Procurement of Goods, 2017.
[259] Rules 133(1) and 139 of the 2017 GFRs.
[260] Rules 133(2) and 133(3) of the 2017 GFRs.

a new procurement method to promote the purchase of locally designed, developed, and manufactured goods was introduced.[261]

3.241. Over the review period, India maintained reservations and preferences for MSEs and certain sectors; and it introduced preferences for locally manufactured goods under the Make in India initiative. Accordingly, hand-woven (khadi) and hand-loom textiles must be purchased exclusively from the Khadi Village Industries Commission (KVIC) and from the Association of Corporations and Apex Societies of Handlooms.[262] In addition, the Pharmaceutical Purchase Policy, 2013, introduced, for a period of five years, a reservation for the procurement of 103 medicines from certain state-owned pharmaceutical enterprises (whenever feasible).[263]

3.242. Since 2015, central procuring entities must procure at least 25% (previously 20%) of their annual value of procurement from MSEs. Out of the 25%, 3% must be procured from MSEs owned by women.[264] In addition, a 15% preference margin is granted to MSEs; and 358 items, including handicrafts, must exclusively be procured from MSEs.[265] According to the 2018 Comptroller's audit report, more than 5,500 MSEs had benefitted from the preference, but some SOEs had procured items reserved for MSEs from other sources.[266]

3.243. The Public Procurement (Preference to Make in India) Order, 2017, revised in 2018 and 2019, was issued to promote the manufacturing and production of goods and services in India, with a view to enhancing income and employment.[267] Under the Order, only local suppliers are eligible to bid for contracts (goods, services and works) that are less than INR 5 million, or a higher threshold if the contracting entity so prescribes. Moreover, if there is sufficient local supply and competition in the domestic market, no matter the value of the contract, only local suppliers are eligible to bid. For contracts above INR 5 million, a 20% preference margin is granted to local suppliers. Even if foreign suppliers provide better conditions, the Order provides for various mechanisms to award local suppliers part of the contract, or to allow them to match the offer of the foreign supplier (Box 3.2).

3.244. In addition, a local content requirement of at least 50% applies. However, procuring entities may notify a lower/different local content requirement; for instance, the minimum local content notified by the Department of Heavy Industry ranges from 40% to 95%.[268] Procurement of less than INR 500,000 is not subject to the provisions contained in the Order.

3.245. Until 2017, a 20% preference was granted to locally manufactured electronic products, which qualified technically and complied with minimum value-addition requirements.[269] In line with the Make in India initiative, under the National Digital Communications Policy, 2018, the procurement of local goods and services containing domestically owned IPRs is preferred.[270]

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[261] PIB, *Defence PSUs, 17 July 2019*. Viewed at: https://pib.gov.in/Pressreleaseshare.aspx?PRID=1579093; and PIB, *Defence procurement Policy, 24 March 2017*. Viewed at: https://pib.gov.in/newsite/PrintRelease.aspx?relid=159864.

[262] Rule 153 of the 2017 GFRs.

[263] PIB, *Pharmaceuticals Purchase Policy (PPP) for Pharmaceutical Central Public Sector Enterprises, 30 October 2013*. Viewed at: https://pib.gov.in/newsite/PrintRelease.aspx?relid=100336.

[264] Information provided by the authorities.

[265] Ministry of Micro, Small and Medium Enterprises, *Public Procurement Policy for Micro and Small Enterprises Order, 2012*. Viewed at: http://dcmsme.gov.in/notification.pdf; and viewed at: https://msme.gov.in/public-procurement-policy-micro-and-small-enterprises-mses-order-2012.

[266] Office of the Comptroller and Auditor General of India, *C&AG's Audit Report No. 18 of 2018 on General Purpose Financial Reports of CPSEs, Commercial tabled in Parliament today, 7 August 2018*. Viewed at: https://cag.gov.in/sites/default/files/press_release/Press_18_of_2018.pdf.

[267] Department for Promotion of Industry and Internal Trade, *Public Procurement*. Viewed at: https://dipp.gov.in/public-procurements.

[268] Department of Heavy Industry Notification No. 9/45/2017, 8 June 2018.

[269] Information provided by the authorities; and Ministry of Electronics and Information Technology, *Preference for Domestically Manufactured Electronic Goods (PMA)*. Viewed at: https://meity.gov.in/esdm/pma.

[270] Department of Telecommunications, *National Digital Communications Policy 2018.* Viewed at: http://dot.gov.in/sites/default/files/EnglishPolicy-NDCP.pdf.

Box 3.2 Procedures to award contracts under the Public Procurement (Preference to Make in India) Order, 2017

Procurement of goods or works that may be divided, and which are above INR 5 million or above the threshold set by the contracting entity
If the lowest bid is from a local supplier, the contract is awarded to the local supplier
If the lowest bid is not from a local supplier, 50% of the contract is awarded to the lower bidder, and the rest to local suppliers that can match the lowest bid with a margin of preference of 20%
For procurement of goods and services that cannot be divided, and of services where the bid is evaluated based on price
If the lowest price is from a local supplier, the contract is awarded to the local supplier
If the lowest bid is not from a local supplier, the contract is awarded to local suppliers that can match the lowest bid, within a margin of preference of 20%

Source: Sections 3 b) and c) of the Public Procurement (Preference to Make in India) Order, 2017.

3.3.7 Intellectual property rights

3.3.7.1 National IPR Policy 2016

3.246. In 2016, India issued its first National IPR Policy (NIPR Policy) to support the creation of a knowledge-driven economy to promote economic and social development. The Policy aims at: (i) raising general awareness on IPR; (ii) promoting R&D for IP generation; (iii) strengthening the IPR legal framework; (iv) improving IPR administration; (v) generating value through IPR commercialization; (vi) strengthening IPR enforcement; and (vii) enhancing IPR-related capacity-building. The Department for Promotion of Industry and Internal Trade (DPIIT), through the Cell for IPR Promotion and Management (CIPAM), created in 2016, is in charge of implementing the NIPR Policy (Table 3.42).

Table 3.42 Implementation of the NIPR Policy, 2016-20

Objectives	Measures implemented since 2016
IP generation	E-registration; real-time application status; electronic payment gateway for patent application fees; enhanced online search facilities
	Reduced fees for patent filing and subsequent procedures for start-ups and MSMEs; reduced fees for trademark filing for start-ups and MSMEs, and Scheme for Facilitating Start-Ups IP Protection (SIPP)
	Expedited examination for patent and trademark applications. The categories of applicants eligible to seek expedited patent examination was expanded from 2 to 10
Legal framework	Amendments to the Patent Rules, 2003
	Trade Marks Rules, 2017
	Accession to WIPO treaties
Institutional framework	Streamlining of IPR administration, and automation of procedures
	International cooperation for adoption of best practices
IPR commercialization	Income tax deduction
Awareness, capacity-building, and IPR enforcement	Awareness campaigns and programmes; establishment of Technology and Innovation Support Centres (TISC) and of IP-facilitation centres in universities
	Recruitment of new examiners for patents and trademarks
	Capacity-building programmes for IP officials
	Toolkit for police officers
	State-level IPR enforcement
	Enforcement of the Commercial Courts, Commercial Division and Commercial Appellate Divisions Act, 2015

Source: WTO Secretariat, based on IP India, *Annual Report* (various years). Viewed at: http://www.ipindia.nic.in/annual-reports-ipo.htm; and SlidePlayer, *National IPR Policy, 2016 & Its Implementation*, 8 January 2019. Viewed at: https://slideplayer.com/slide/11714454/.

3.247. The NIPR Policy considers the possibility of offering financial support and fiscal incentives to encourage IP generation and commercialization. In this regard, a reduction of 80% on patent filing fees is granted to start-ups; and, since 2016, start-ups may deduct profits and gains derived from IP activities from taxable income.[271]

3.3.7.2 Changes to the IPR institutional and legal frameworks

3.248. Under the NIPR Policy, the institutional IPR framework was restructured to improve coordination, and to better promote and protect IPR. In 2016, the DPIIT became India's single IPR nodal agency, except with regard to the administration of plant varieties (Table 3.43).

Table 3.43 Changes to the IPR institutional framework, 2015-19

IPR	Before 2016	After 2016
Copyright	Department of Higher Education	DPIIT
Geographical indications	DPIIT	DPIIT
Industrial designs	DPIIT	DPIIT
Patents	DPIIT	DPIIT
Plant varieties	Department of Agriculture, Cooperation and Farmers' Welfare	Department of Agriculture, Cooperation and Farmer's Welfare
Semi-conductor integrated circuit layout-designs	Department of Information Technology	DPIIT
Trademarks	DPIIT	DPIIT

Note: Before 2019, the DPIIT was known as the Department of Industrial Policy and Promotion (DIPP).

Source: WTO Secretariat.

3.249. In addition, in 2016, the Copyright Board merged with the Intellectual Property Appellate Board (IPAB).[272] Thus, the IPAB deals with appeals regarding the granting of patents and the registration of copyright, industrial designs, geographical indications (GIs), and plant varieties.[273]

3.250. In order to meet the objectives outlined in the NIPR, the IPR legal framework was revised over the period under review (Table 3.44). The Copyright Rules, 2013, were amended in 2016, to prevent conflicts between copyright and trademark rights, in relation to services (previously, only goods were considered); the Patent Rules, 2003, were amended in 2016, 2017, and 2019, to streamline and digitalize filing procedures; and new Trade Marks Rules were enacted in 2017, to simplify and modernize the registration process, by repealing the Trade Marks Rules, 2002. In 2020, additional draft amendments to the Copyright Rules, GI Rules, Designs Rules, and Patents Rules were under consideration.[274]

Table 3.44 Changes to the IPR legislation, 2015-19 (November 2019)

IP	Acts	Changes since 2015	Rules	Changes since 2015
Copyright	Copyright Act ,1957 (as amended by the Copyright (Amendment) Act, 2012)	Not amended	Copyright Rules, 2013	Copyright (Amendment) Rules, 2016
GIs	Geographical Indications of Goods (Registration and Protection) Act, 1999	Not amended	Geographical Indications of Goods (Registration and Protection) Rules, 2002	Not amended
Industrial designs	Designs Act, 2000	Not amended	Designs Rules, 2001 (as amended by the Designs (Amendment) Rules, 2008 and the Designs (Amendment) Rules, 2014)	Not amended

[271] Finance Act, 2016; and information provided by the authorities.
[272] PIB, *National IPR Policy, 27 December 2018*. Viewed at: http://www.pib.nic.in/Pressreleaseshare.aspx?PRID=1557418.
[273] Information provided by the authorities.
[274] Information provided by the authorities.

IP	Acts	Changes since 2015	Rules	Changes since 2015
Patents	Patents Act, 1970 (as amended by the Patents (Amendment) Act, 2005)	Not amended	Patents Rules, 2003	Patents (Amendment) Rules, 2016; Patents (Amendment) Rules, 2017; Patents (Amendment) Rules, 2019
Plant varieties	Protection of Plant Varieties and Farmers' Rights Act, 2001	Not amended	Protection of Plant Varieties and Farmers' Rights Rules, 2003	Not amended
Semi-conductor integrated circuit layout designs	Semi-conductor Integrated Circuit Layout Design Act, 2000	Not amended	Semi-conductor Integrated Circuit Layout Design Rules, 2001	Not amended
Trademarks	Trade Marks Act ,1999 (as amended by the Trade Marks (Amendment) Act, 2010)	Not amended	Trademarks Rules, 2002	Repealed by the Trademarks Rules, 2017

Source: WTO Secretariat; and information provided by the authorities.

3.251. In addition to the legislation, there are guidance documents on patents, trademarks, and GIs to assist examiners in implementing the relevant act and rules.[275] For instance, to ensure consistent and identical interpretation, the guidelines for patents help determine the patentability of biotech, pharma, traditional knowledge, and biological materials, and computer-related inventions.

3.252. There is no specific legislation to protect data-exclusivity rights in India. There was an attempt to introduce protection for data exclusivity in agro-chemicals, but the provisions were removed from the Pesticide Management Bill, 2008, which was revised in 2016.

3.253. India has no specific legislation to protect trade secrets. Over the review period, parties continued to rely on contract clauses of non-disclosure to safeguard trade secrets. India also recognizes the common law approach, which allows court proceedings against disclosure of trade secrets, based on breaches of confidence, and contractual obligations.[276] In addition, under the Information Technology Act, 2000 (Section 72A), the disclosure of unauthorized information may be punished by a fine (up to INR 500,000) and/or by a three-year imprisonment term; however, this protection is universal, not limited to the IT industry. The protection of trade secrets is identified in the NIPR Policy as a prerequisite to strengthen the IPR legal framework. A toolkit to help stakeholders protect trade secrets was developed by the CIPAM in 2019.[277]

3.254. Over the review period, India acceded to various WIPO treaties (Table 3.45). India was the first WIPO member to ratify the Marrakesh Treaty that sets mandatory obligations to make copyright works accessible to people with visual disabilities.[278] The Copyright Act, 1957, was amended in 2012 to facilitate the access to the works by people with visual disabilities.[279] India's accession to the international classification systems for designs and trademarks is expected to ease the obtention of

[275] IP India, *Resources, Guidelines.* Viewed at: http://www.ipindia.nic.in/resources.htm.

[276] Centre for WTO Studies (2015), *Trade Secret Protection in India: The Policy Debate*, Working Paper CWS/WP/200/22, September. Viewed at: http://wtocentre.iift.ac.in/workingpaper/Trade%20Secret%20Protection%20in%20India-%20The%20policy%20debate.pdf; and Nikhil Nair, P. (2017), "Are the trade secrets in India satisfactorily protected?", *The World Journal on Juristic Polity*. Viewed at: http://jurip.org/wp-content/uploads/2017/03/Nikhil-Nair.pdf.

[277] CIPAM, *A Guide to Protecting Trade Secrets*. Viewed at: http://cipam.gov.in/wp-content/uploads/2019/10/Tradesecret-Toolkit-1.pdf.

[278] PIB, 2 July 2014. Viewed at: http://pib.nic.in/newsite/PrintRelease.aspx?relid=106012.

[279] Section 52(1)(zb) of the Copyright Act, 1957, incorporated in the Copyright (Amendment) Act, 2012; and Madhu, K., S. and Gagan, K. (2015), "Copyright Fair Use and Libraries", *Transforming Dimension of IPR: Challenges for New Age Libraries*, National Law University Delhi Press. Viewed at: http://nludelhi.ac.in/download/publication/2015/Transforming%20Dimension%20of%20IPR%20-%20Challenges%20for%20New%20Age%20Libraries.pdf.

protection in India, through the harmonization of classes for goods and services.[280] India also initiated the procedure to accede to the UPOV Convention.

Table 3.45 Accession to WIPO treaties, 2015-19

Treaty	Description	Entry into force
Locarno Agreement	International classification for industrial designs	2019
Marrakesh Treaty	Access to published works for blind or visually impaired persons	2016
Nice Agreement	International classification of goods and services for trademark registration	2019
Vienna Agreement	International classification for figurative elements of marks	2019
WIPO Copyright Treaty (WCT)	Protection of works and rights of authors in the digital environment	2018
WIPO Performances and Phonographs Treaty (WPPT)	Protection of works and rights of performers and producers/phonograms in the digital environment	2018

Source: WIPO, *India*. Viewed at: https://www.wipo.int/members/en/details.jsp?country_id=80.

3.3.7.3 Main features of the IPR regime over the review period

3.255. The requirements for, and terms of, IPR protection remained broadly unchanged over the review period (Table A3.5). The term of protection for patents in India cannot exceed 20 years from the date of filing; therefore, applicants cannot claim an extension of the term to compensate for delays in filing. Foreign GIs may be registered in India.

3.256. There are exceptions and limitations to protection of IPR in India for public use of the work or when the right is not exploited. Protected IP works may be exploited through compulsory licences in the public interest. No compulsory licences were granted over the review period.

3.257. India allows parallel imports of trade-marked and patented works, as it recognizes the principle of international exhaustion of rights. Parallel imports of industrial designs and copyright are not allowed.[281]

3.258. Over the review period, streamlined and modernized processes to grant patents and register trademarks were introduced, to address the backlog in processing applications (Table 3.46). In addition, the Patent (Amendment) Rules, 2019, included new categories of applicants eligible for expedited patent examination; and fees for international applications (Patent Cooperation Treaty) were waived. New examiners were also recruited to help reduce the backlog in undertaking examination.[282] As a result, in 2018/19, 337,541 patent applications were examined, and 316,798 trademarks were registered, compared with 168,026 and 41,583, respectively, in 2014/15.[283]

Table 3.46 Highlights of the Patents (Amendment) Rules, 2016, and the Trade Marks Rules, 2017

Patents (Amendment) Rules, 2016	Common features	Trade Marks Rules, 2017
E-filing is mandatory for patent agents	Hearings through video-conferencing were introduced	The number of forms for filing was reduced from 74 to 8; one form may be used for multiple applications

[280] PIB, 13 March 2019. Viewed at: http://pib.gov.in/newsite/PrintRelease.aspx?relid=189403.

[281] Federation of Indian Chambers of Commerce and Industry (FICCI), *IP Toolkit for Customs Officials*. Viewed at: http://ficci.in/events/22219/ISP/IP-Tool-Kit-for-Custom-Officials.pdf; and Spicy IP, *De-Coding Indian Intellectual Property Law*. Viewed at: https://spicyip.com/2015/02/many-shades-of-grey-omega-v-costco-and-its-implications-on-parallel-imports.html.

[282] CIPAM (2018), *Intellectual Property Rights Regime in India – Initiatives by the Government*. Viewed at: https://spicyip.com/wp-content/uploads/2018/01/IPR-Regime-In-India-Government-Initiatives.pdf.

[283] Information provided by the authorities.

Patents (Amendment) Rules, 2016	Common features	Trade Marks Rules, 2017
Withdrawal of applications and refund of fees are permitted, before the first examination report is issued	The number of hearings in opposition proceedings is limited to 2 per party; each adjournment should not exceed 30 days	A 10% discount on filing fees is offered for e-filing
Examination may be done in any patent office, regardless of the office where the application was filed	Timeline to ensure speedy disposal was introduced	The modalities to determine well-known marks were laid down
Requests for expedited examination may be filed by start-ups and applicants who select India's Patent Office as the International Searching Authority (ISA) or the International Preliminary Examining Authority (IPEA) under the Patent Cooperation Treaty (PCT)	E-mails and digital documents are used for official communication (e.g. first exam report is e-mailed to applicants; and patent and trademarks certificates are generated electronically)	Use of digital audio format for the registration of sound marks
	New definition of small entities was laid down; definition of start-ups was introduced	Expedited processing of the applications was extended to the entire registration process
	Discount on filing fees and other fees for start-ups	Enlarged definition of opposition to trademark registrations

Source: CIPAM (2017), *Intellectual Property – The Future!* Viewed at: http://cipam.gov.in/wp-content/uploads/2017/09/bookletIPR.pdf; IP India (2017), *Annual Report 2016-17*. Viewed at: http://www.ipindia.nic.in/annual-reports-ipo.htm; and Spicy IP, *Trade Mark Rules, 2017 (Salient Features)*. Viewed at: https://spicyip.com/2017/03/trade-mark-rules-2017-salient-features.html.

3.259. Since 2016, start-ups (resident and non-resident) and Patent Cooperation Treaty applicants may request expedited patent examination. In addition, India's four patent offices[284] adopted best uniform practices; as a result, a unique numbering system for patent applications was introduced, and examination of similar patent groups is done at the same time in all patent offices. Over the review period, the number of pending applications was reduced significantly, as was the average time to grant a patent, which dropped from three to five years from filing to less than one year.[285]

3.260. The Trade Marks Rules, 2017, introduced modalities to determine well-known marks. The Trademark Registry has the authority to determine if marks are well-known. Previously, only the Indian courts could determine if a mark was well-known; therefore, only marks recognized by a court decision, as well-known marks, could be registered.[286] In 2017, expedited processes were extended to the entire trademark registration process; previously, expedited processes were limited to examination. In addition, since 2017, a sound mark may be filed using digital audio format (MP3) and digital graphic representation (digital sheet music).[287] Since the last Review, the average time for the registration of a trademark has been reduced from 14 months to 1 month.[288]

3.261. Over the review period, e-filing and online search facilities were developed, to streamline the registration of designs; as a result, the average time for registration was reduced from eight

[284] The head office is in Kolkata; there are three local branches in Chennai, Delhi, and Mumbai.
[285] WIPO (2018), *World Intellectual Property Indicators 2018*. Viewed at: https://www.wipo.int/edocs/pubdocs/en/wipo_pub_941_2018.pdf; IP India (2017), *Annual Report 2016-17*. Viewed at: http://www.ipindia.nic.in/annual-reports-ipo.htm; and IP Watch, *Is India's Expedited Examination Of Patents A Big Deal?* Viewed at: https://www.ip-watch.org/2017/09/04/indias-expedited-examination-patents-big-deal/.
[286] Section 124, Trade Marks Rules, 2017; Spicy IP, *Trade Mark Rules, 2017 (Salient Features)*. Viewed at: https://spicyip.com/2017/03/trade-mark-rules-2017-salient-features.html; Selvam & Selvam. Viewed at: https://selvams.com/kb/in/trademarks/well-known-trademarks/; and World Trademark Review, *India: Courts step up when it comes to famous marks*. Viewed at: https://www.worldtrademarkreview.com/enforcement-and-litigation/india-courts-step-when-it-comes-famous-marks.
[287] Section 26(5), Trade Marks Rules, 2017; CIPAM (2018), *Intellectual Property Rights Regime in India – Initiatives by the Government*. Viewed at: https://spicyip.com/wp-content/uploads/2018/01/IPR-Regime-In-India-Government-Initiatives.pdf; Spicy IP, *Trade Mark Rules, 2017 (Salient Features)*. Viewed at: https://spicyip.com/2017/03/trade-mark-rules-2017-salient-features.html; and Spicy IP, *Yet another Sound Mark Granted.* Viewed at: https://spicyip.com/2009/07/yet-another-sound-mark-granted.html.
[288] IP India (2017), *Annual Report 2016-17*. Viewed at: http://www.ipindia.nic.in/annual-reports-ipo.htm.

months to one. Registration of copyright was also computerized, and it is possible to check the status of the application in real-time; at present, registration of copyright takes two months.[289]

3.262. No major changes regarding the registration of plant varieties were introduced over the review period. A consolidated list of new varieties was published in 2017; the list was subsequently amended, and currently contains 158 new varieties.[290] Plant varieties that are in the public domain may also be registered, if they are "extant varieties" (e.g. farmers' varieties) and essentially derived varieties.[291]

3.263. India encourages innovation by promoting IP generation by start-ups, MSMEs, and "less visible and silent IP generators", such as farmers.[292] To enable IP generation, the Patent (Amendment) Rules, 2016, recognized start-ups as a new category of applicants; and facilitates patent-filing procedures, by offering them expedited patent examination and an 80% discount on filing fees. In addition, the definition of a start-up, as per the Rules, was revised in 2017 to be more inclusive. Under the Scheme for Facilitating Start-ups Intellectual Property Protection (SIPP), start-ups may also apply to the Central Government for financial assistance (INR 8,000 to INR 35,000) to hire IP agents.[293] The number of patent applications filed by resident start-ups grew from 160 in 2016/17 to more than 1,700 at the end of May 2019. MSMEs are also granted a 50% discount on filing fees.[294]

3.3.7.4 Trends in IPRs

3.264. Over the review period, patent applications were filed mainly by non-residents, with 69.6% of the total filings; the number of trademark applications filed by non-residents remained low, accounting for 5.4% of the total filings.[295] In November 2019, 64,686 patents were in force[296]; 2 million trademarks were registered[297]; 2 industrial designs and 2 layout designs related to semi-conductor integrated circuits were registered[298]; and so were 361 GIs. These are mainly agricultural products, handicrafts, and textiles. In 2015/16, GI protection was granted to basmati rice, which is India's main agricultural export product. In addition, 15 foreign GIs are protected in India. A GI "logo and slogan" were launched in 2018 and are being used.[299]

3.265. It is not mandatory to get copyright protection, but registration is recommended; as at November 2019, 250,739 copyrights had been registered in India. In contrast, copyright societies must register to be protected. Three societies are registered: (i) the Indian Performing Rights Society (IPRS) that safeguards musical works and literary works associated with musical works; (ii) the Indian Singers Rights Association (ISRA) that safeguards the rights of performing singers; and (iii) the Indian Reprographic Rights Organization (IRRO) that safeguards photographic works.[300]

[289] IP India, *Annual Report* (various years). Viewed at: http://www.ipindia.nic.in/annual-reports-ipo.htm.

[290] Protection of Plant Varieties and Farmers' Rights Authority. Viewed at: http://www.plantauthority.gov.in/gazette.htm and information provided by the authorities.

[291] Sections 2(j) and 24(6) of the Protection of Plant Varieties and Farmers' Rights Act, 2001; and Plant Protection of Plant Varieties and Farmers' Rights Authority. Viewed at: http://www.plantauthority.gov.in/pdf/FAQ_New.pdf.

[292] NIPR Policy, 2016.

[293] Scheme for Facilitating SIPP; Office of the Controller General of Patents, Designs, and Trade Marks (2017), *Frequently Asked Questions - Patents*. Viewed at: http://www.ipindia.nic.in/writereaddata/Portal/Images/pdf/Final_FREQUENTLY_ASKED_QUESTIONS_-PATENT.pdf; and information provided by the authorities.

[294] Patents (Amendment) Rules, 2016.

[295] IP India (2018), *Annual Report 2017-18*. Viewed at: http://www.ipindia.nic.in/annual-reports-ipo.htm; and information provided by the authorities.

[296] Mainly in the chemical, computer/electronics, electrical, mechanical, and pharma sectors (Information provided by the authorities).

[297] Of these 23% were classified under two classes, and 4.2% under multiple classes.

[298] Information provided by the authorities; and IP India (2018), *Annual Report 2017-18*. Viewed at: http://www.ipindia.nic.in/annual-reports-ipo.htm.

[299] CIPAM, *Invaluable Treasures of Incredible India*. Viewed at: https://wahgi.ncog.gov.in/logoSloganUrl; and information provided by the authorities.

[300] IP India (2018), *Annual Report 2017-18*. Viewed at: http://www.ipindia.nic.in/annual-reports-ipo.htm.

3.266. In 2019, around 480 new plant varieties and 2,960 varieties that were in the public domain (51.7% are farmers' varieties) had been registered in India.[301]

3.3.7.5 IPR enforcement

3.267. Various measures to enforce IPRs were taken over the review period. Awareness campaigns, targeting specific audiences (e.g. Customs/police/judiciary officers, academics, students, and start-ups) or regarding specific fields (e.g. GIs), were launched.[302] In addition, a wide-spread campaign against film piracy was launched on social media.[303] Capacity-building workshops were organized for state police officers and judges.[304] Since 2015, IPR cells and innovation councils have been established in universities and higher education institutions, to create a conducive environment for IP awareness, generation, and commercialization.[305] The CIPAM provides financial support to organize awareness workshops and seminars; in 2018/19, it spent INR 43.6 million on various awareness initiatives.[306] Counterfeiting and piracy are challenges for India to further develop e-commerce; therefore, customers are encouraged to act as whistle-blowers.[307] Several measures to address counterfeiting and piracy are laid down in the draft National e-Commerce Policy, which is still under consultation.

3.268. Currently, online intermediaries (e.g. Internet service providers, search engines, and e-commerce marketplaces) may claim safe-harbour protection under the Information Technology Act, 2000 (Section 79), and the Copyright Act, 1957 (Section 52(1)). Under Section 79, online intermediaries are not responsible for user-generated content, unless they have "actual knowledge" that IPR is infringed. In addition, for the safe-harbour provision to apply, online intermediaries must observe "due diligence" in the interest of right holders. To this end, they must comply with a series of requirements, stipulated in the Information Technology (Intermediaries Guidelines) Rules, 2011. For instance, if notified by the copyright owner of an infringement, online intermediaries must act within 36 hours to remove the infringing works. To further curb online piracy, in 2018, draft amendments to the 2011 Rules, which propose additional requirements (e.g. traceability and proactive filtering of content), are under consideration.[308]

3.269. The Copyright Act, 1957, protects copyright against infringement, including online infringement.[309] In addition, in 2019, the High Court of Delhi allowed the use of dynamic injunctions; thus, once an injunction order is granted against a rogue website[310], a copyright owner may request the High Court to extend this injunction to mirror rogue websites.[311] The High Court also recommended that online warning messages are sent to users consulting infringing works.[312] In order to tackle film piracy, in 2019, a bill to amend the Cinematographic Act, 1952, introduced penal

[301] Compendium of Registered Varieties, 27 October 2018. Viewed at: http://plantauthority.gov.in/.
[302] IP India (2018), *Annual Report 2017-18*. Viewed at: http://www.ipindia.nic.in/annual-reports-ipo.htm.
[303] DPITT, *CIPAM-DIPP launches anti-piracy video featuring Shri Amitabh Bachchan*. Viewed at: https://dipp.gov.in/whats-new/cipam-dipp-launches-anti-piracy-video-featuring-shri-amitabh-bachchan.
[304] CIPAM (2018), *Intellectual Property Rights Regime in India – Initiatives by the Government*. Viewed at: https://spicyip.com/wp-content/uploads/2018/01/IPR-Regime-In-India-Government-Initiatives.pdf.
[305] PIB, *National IPR Policy, 27 December 2018*. Viewed at: http://www.pib.nic.in/Pressreleaseshare.aspx?PRID=1557418.
[306] Information provided by the authorities; and CIPAM, *Scheme for IPR Awareness – Creative India; Innovative India!* Viewed at: https://dipp.gov.in/sites/default/files/Scheme%20IPR%20Awareness.pdf.
[307] UNIDO (2017), *National Report on E-commerce Development in India*. Viewed at: https://www.unido.org/sites/default/files/2017-10/WP_15_2017_.pdf.
[308] Information provided by the authorities; Ministry of Electronics & Information Technology, Information Technology (Intermediary Guidelines) Amendment Rules, 2018. Viewed at: https://meity.gov.in/comments-invited-draft-intermediary-rules; and SFLC.in (2019), *Intermediary Liability 2.0: A Shifting Paradigm*. Viewed at: https://sflc.in/sites/default/files/reports/Intermediary_Liability_2_0_-_A_Shifting_Paradigm.pdf.
[309] Information provided by the authorities.
[310] A rogue website is set up to host copyright-infringing content.
[311] Mirror websites fully reproduce the contents of the already-blocked website.
[312] Nishith Desai Associates, *Rogue or Not? – Delhi High Court Grants its First Dynamic Injunction to Curb Online Piracy*. Viewed at: http://www.nishithdesai.com/information/news-storage/news-details/article/rogue-or-not-delhi-high-court-grants-its-first-dynamic-injunction-to-curb-online-piracy.html.

provisions for unauthorized camcording and duplication of films; the bill is still under consideration.[313]

3.270. State-level measures to promote IPR enforcement over the review period included the creation of India's first anti-piracy police unit in the state of Telangana (2016) and of a Cyber Digital Crime Unit (MCDCU) in the state of Maharashtra (2017). In 2019, around 250 rogue websites were closed by the state digital crime units; and another 230 by the CIPAM in collaboration with the National Internet Exchange of India (NIXI) that manages the registration and operation of ".in" domains.[314] The CIPAM issued a toolkit to help police officers identify IP crimes.[315]

3.271. Border measures are regulated under the Intellectual Property Rights (Imported Goods) Rules, 2007, that were amended in 2018. Under the Rules, right holders may register with the Indian Customs IPR Recordation Portal (ICeR). ICeR registration empowers customs officials to seize imports and suspend clearance of (allegedly) infringing goods. Right holders have 10 days (3 days for perishable goods) from the date of notification by Customs to give evidence of genuineness; otherwise, the imports are released. An extension of the period to provide evidence may be granted, upon request of the right holder.[316] Since 2019, trademarks, copyright, designs, and GIs may be registered on the ICeR. Since 2018, right holders must update ICeR records by notifying any change regarding their status (e.g. suspension or revocation of rights). A single ICeR registration covers all ports of entry; currently, ICeR is used in 134 customs locations, which handle 98% of India's trade. ICeR registration is valid for five years; a registration fee (INR 2,000) is charged, but no annual fees.[317] If goods have not been registered in the ICeR, Customs may *ex officio* suspend clearance of goods on grounds of IPR infringement, to allow right holders to register. Right holders have five days to register on the ICeR; otherwise, the goods are released.[318]

3.272. In 2018, patents were excluded from the application of the Intellectual Property Rights (Imported Goods) Rules.[319] Thus, patented goods may no longer be registered in the ICeR. This measure was taken to implement a ruling by the High Court of Delhi, which stipulates that "the custom authority is an implementing authority which will only act … upon the orders of the court and cannot keep on interdicting with the consignments and proceed to adjudicate the infringement claims"[320]. As a result, Customs' powers to seize imported goods based on a complaint were revoked. Since 2018, a right holder requires a court injunction to allow Customs to enforce the right at the border.[321] According to the authorities, this measure has helped prevent groundless complaints against importers.

3.273. IP disputes are first filed at the district courts and, in certain instances, at the High Courts. The commercial courts/divisions hear only disputes that claim damages exceeding INR 300,000

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[313] Information provided by the authorities; Cinematographic (Amendment) Bill, 2019; and PIB Press Release, 8 January 2019. Viewed at: http://pib.nic.in/newsite/PrintRelease.aspx?relid=187340.

[314] DPIIT, *Intellectual Property Rights Regime in India: Government Policies and Practices*, *22 March 2019*. Viewed at: http://www.nja.nic.in/Concluded_Programmes/2018-19/P-1156_PPTs/1.Session%203%20IPR%20Regime%20in%20India.pdf; and International Trade Administration, *India – Commercial Guide*. Viewed at: https://www.export.gov/article?id=India-Protecting-Intellectual-Property.

[315] CIPAM, *Enforcement of Intellectual Property Rights*. Viewed at: http://cipam.gov.in/ipr-awareness-2/police/.

[316] Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007, as amended by the Intellectual Property Rights (Imported Goods) Enforcement (Amendment) Rules, 2018; and FICCI, *IP Toolkit for Customs Officials*. Viewed at: http://ficci.in/events/22219/ISP/IP-Tool-Kit-for-Custom-Officials.pdf.

[317] ICEGATE/ICeR. Viewed at: https://ipr.icegate.gov.in/IPR/homePage.

[318] Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007, as amended by Intellectual Property Rights (Imported Goods) Enforcement (Amendment) Rules, 2018; and CBIC, *Customs and Intellectual Property Rights*. Viewed at: http://www.cbic.gov.in/resources//htdocs-cbec/customs/ppt-ipr-border-measures.pdf.

[319] Intellectual Property Rights (Imported Goods) Enforcement Amendment Rules, 2018; and Notification No. 56/2008 – Customs (N.T.), 22 June 2018.

[320] DPIIT, *Intellectual Property Rights Regime in India: Government Policies and Practices, 22 March 2019*. Viewed at: http://www.nja.nic.in/Concluded_Programmes/2018-19/P-1156_PPTs/1.Session%203%20IPR%20Regime%20in%20India.pdf.

[321] Notification No. 57/2018 – Customs (N.T.), 22 June 2018; ICEGATE. Viewed at: https://ipr.icegate.gov.in/IPR/HomeDocumentViewSuccess; and Singh and Singh Law Firm, *Amendments Made to IPR (Imported Goods) Enforcement Rules*. Viewed at: http://www.singhandsingh.com/in-the-news/IPR%20Imported%20Goods%20Enforcement%20Rules%20amended.pdf.

(USD 4,290 in 2018/19).[322] In order to expedite court proceedings for commercial disputes, which include IPR infringement, there is a plan to establish commercial courts at the district level and commercial divisions in the High Courts of Chennai, Delhi, Himachal Pradesh, Kolkata, and Mumbai. In addition, guidelines were established by various High Courts for commercial disputes to be resolved in an expedited manner.[323] So far, 247 commercial courts have been established, and most IPR-related commercial cases are being brought to these courts.[324] India also promotes mediation in IPR-related commercial disputes; parties are encouraged to use mediation if urgent relief is not required.[325]

3.274. It has been estimated that in 2016, India exported 3.4% of the total global exports of counterfeit and pirated goods; the value reached some USD 17.4 billion.[326] As a result, to help customs officers identify counterfeiting and pirated goods, an IPR enforcement toolkit, designed by the Federation of Indian Chambers of Commerce and Industry (FICCI) started to be used.[327] However, India remains an important producer of counterfeit and pirated goods; the main counterfeited products manufactured in and exported from India are pharmaceuticals, foodstuffs, cosmetics and perfumes, clothing, optical, photographic, and medical equipment, electronics and electrical equipment, footwear, and toys and games.[328] In addition, India does not participate in the WCO Interface Public-Members (IPM) which allows for real-time communication between customs officers and the private sector to assist in the identification of counterfeit products.[329]

[322] Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015; Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Act, 2018; Commercial Courts. Viewed at: http://e-commcourt.gov.in/; and Grandhi Law Chambers, *Commercial Courts Act and Evidence in Digital Era,* February 2017. Viewed at: http://www.apedb.gov.in/gallery/2017/february/240217/ipr-news-session2-krishna-gandhi.pdf.

[323] Commercial Courts. Viewed at: http://e-commcourt.gov.in/.

[324] Information provided by the authorities.

[325] Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015; Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Act, 2018; Grandhi Law Chambers, *Commercial Courts Act and Evidence in Digital Era*, February 2017. Viewed at: http://www.apedb.gov.in/gallery/2017/february/240217/ipr-news-session2-krishna-gandhi.pdf; and Spicy IP, *The New Age of IP Mediation in India*. Viewed at: https://spicyip.com/2018/07/the-new-age-of-ip-mediation-in-india.html.

[326] OECD/EUIPO (2019), *Trends in Trade in Counterfeit and Pirated Goods*. Viewed at: https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/reports/trends_in_trade_in_counterfeit_and_pirated_goods/trends_in_trade_in_counterfeit_and_pirated_goods_en.pdf.

[327] FICCI, *IP Tool Kit for Customs Officials*. Viewed at: http://ficci.in/events/22219/ISP/IP-Tool-Kit-for-Custom-Officials.pdf.

[328] OECD/EUIPO (2018), *Misuse of Small Parcels for Trade in Counterfeit Goods*. Viewed at: https://www.oecd-ilibrary.org/docserver/9789264307858-en.pdf?expires=1566211624&id=id&accname=ocid195767&checksum=E89763373E38D3A95E7AAEB0226DCADB; and OECD/EUIPO (2017), *Mapping the Real Routes of Trade in Fake Goods*. Viewed at: https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/reports/Mapping_the_Real_Routes_of_Trade_in_Fake_Goods_en.pdf.

[329] WCO IPM. Viewed at: http://www.wcoipm.org/.

4 TRADE POLICIES BY SECTOR

4.1 Agriculture

4.1. The agriculture sector's share of GDP declined from 18.6% in 2013/14 to 16.0% in 2018/19, but it continues to account for around half of India's employment.[1] The sector is dominated by small-scale farmers, and around half of the area under cultivation is rainfed. Key crops include cereals (rice, wheat, and coarse cereals), pulses, and sugarcane. The share of agricultural exports in total exports is around 13%; rice, marine products, buffalo meat, and spices are the most important exports. Vegetable oils account for almost half of India's imports of agricultural products (Table 4.1).

Table 4.1 Agriculture, selected indicators, 2013-19

	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19
GDP at constant (2011/12 prices, growth rate %)[a]	5.6	-0.2	0.6	6.3	5.0	2.7
Agriculture as share of current GDP (%)	18.6	18.2	17.7	17.9	17.2	16.0
Major agricultural production (million tonnes)[b]						
Rice	106.65	105.48	104.41	109.70	112.76	116.42
Wheat	95.85	86.63	92.29	98.51	99.70	102.19
Coarse (nutri) cereals	43.29	42.86	38.52	43.17	46.99	..
Pulses	19.25	17.15	16.32	23.13	25.42	23.40
Food grains	265.04	252.03	251.54	275.11	285.01	284.95
Oilseeds	32.75	27.51	25.25	31.28	31.46	32.26
Sugarcane	352.14	362.33	348.45	306.07	379.90	400.16
Cotton (million bales of 170 kg each)	35.90	34.81	30.01	32.58	32.81	28.71
Agricultural exports (value in USD million)	**43,433.09**	**39,199.69**	**32,900.77**	**33,792.31**	**39,027.03**	**..**
% of total exports	13.79	12.64	12.55	12.26	12.86	11.90
Rice, basmati	4,841.47	4,511.79	3,470.16	3,207.43	4,168.65	..
Rice, other than basmati	2,941.26	3,343.20	2,365.01	2,524.13	3,636.00	..
Buffalo meat	4,373.05	4,789.15	4,075.89	3,900.49	4,039.04	..
Spices	2,503.45	2,428.34	2,540.17	2,849.36	3,115.93	..
Cotton, raw (incl. waste)	3,692.09	1,904.15	1,958.37	1,626.21	1,892.69	..
Marine products	5,062.20	5,509.71	4,768.63	5,903.17	7,391.75	..
Agricultural imports (value in USD million)	**14,169.35**	**19,841.65**	**21,428.51**	**24,559.69**	**23,595.69**	**..**
% of total imports	3.16	4.43	5.63	6.39	5.07	3.81
Vegetable oils	7,278.78	10,612.66	10,490.03	10,889.63	11,634.69	..
Pulses	1,824.20	2,790.63	3,913.19	4,252.62	2,908.61	..
Cashew	771.51	1,079.38	1,329.08	1,345.88	1,417.08	..
Spices	570.51	718.51	824.82	858.82	990.59	..
Cotton, raw (incl. waste)	392.68	507.32	391.98	945.09	978.42	..
Sugar	377.98	599.93	616.76	1,024.06	936.39	..

.. Not available.

a Includes agriculture, forestry and fisheries.
b 2017/18 figures are 4th advance estimates.

Source: Department of Agriculture, Cooperation and Farmers' Welfare, Directorate of Economics and Statistics, *Agricultural Statistics at a Glance 2018.*

4.2. Under the Constitution, the state governments have responsibility for agriculture, with the Central Government providing a supporting role to increase production and productivity in the sector and for international trade policy. In the central Government, the Ministry of Agriculture and

[1] The most recent Periodic Labour Force Survey (2017-18) estimates workers in the agricultural sector at 42.7%.

Farmers' Welfare is charged with the formulation of policies to improve agricultural production and trade. The Ministry is divided into the Departments of Agriculture, Cooperation and Farmers' Welfare (DAC&FW); and Agricultural Research and Education (DARE). The Ministry focuses on policies relating to production, pre-harvest, and improving the state of the agricultural community. In addition, the Ministry of Food Processing Industries focuses on policies relating to value-added activities, post-harvest losses, and generation of off-farm employment. In May 2019, the Ministry of Fisheries, Animal Husbandry and Dairying was created to include departments previously under the Ministry of Agriculture and the Ministry of Food Processing Industries. The new Ministry is responsible for policies relating to livestock production, preservation, protection from disease, and fisheries. A number of additional ministries, departments and agencies are responsible for formulating and implementing various aspects of agricultural policy (Table 4.2).

Table 4.2 Bodies responsible for formulating and implementing agricultural policy

Body	Responsibility
Ministry of Agriculture and Farmers' Welfare	Set up as the Ministry of Agriculture in 1947; renamed Ministry of Agriculture and Farmers' Welfare in August 2015, to formulate and implement policies to improve agricultural production and trade
Commission for Agricultural Costs and Prices (CACP)	To recommend annual minimum support prices (MSPs) for 22 agricultural commodities to the Government
Department of Fertilizers, Ministry of Chemicals and Fertilizers	To plan, promote and develop the fertilizer industry; plan and monitor production, import, distribution and management of subsidies
Department of Food and Public Distribution, Ministry of Consumer Affairs, Food and Public Distribution	To ensure food security through timely and efficient procurement and distribution of food grains; formulate policies for sugar; export and import food grains, sugar and edible oils
Food Corporation of India (FCI)	To provide effective price support for farmers; ensure public distribution of food grains; and maintain satisfactory operational and buffer stocks of food grains to ensure national food security
Central Warehousing Corporation (CWC)	To provide warehousing in support of the functions of the FCI
National Agricultural Cooperative Marketing Federation of India Ltd (NAFED)	To promote cooperative marketing of agricultural products
Electronic National Agriculture Market (eNAM)	Electronic trading portal to connect "mandis" and create a national unified market for agricultural products
Cotton Corporation of India	To provide marketing support to cotton growers
Jute Corporation of India	To provide marketing support to jute growers
Directorate of Plant Protection, Quarantine and Storage	To inspect imported and exported agricultural commodities; plant quarantine if required
Ministry of Fisheries, Animal Husbandry and Dairying	Established in May 2019 to include departments previously under the Ministry of Agriculture and the Ministry of Food Processing Industries. Responsible for policies relating to livestock production, preservation, protection from disease, and fisheries
Ministry of Food Processing Industries	To help develop value-added products by encouraging investment in the sector
Agricultural and Processed Food Products Export Development Authority (APEDA)	To promote the export of horticultural products
Ministry of Jal Shakti	To manage the use of water resources, including irrigation projects
Ministry of Commerce and Industry	International trade policy

Source: WTO Secretariat, based on various government websites.

4.3. Given its socio-economic importance to the economy, government policy in the agricultural sector aims to provide food security for consumers while ensuring stable prices for farmers. The Essential Commodities Act, 1955 (amended in 2006), provides "in the interest of the general public, for the control of the production, supply and distribution of, and trade and commerce, in certain commodities".[2] The agricultural products scheduled in the Act are foodstuffs, including edible oilseeds and oils, raw jute (and jute textiles), seeds of food crops, fruit and vegetables, and cattle fodder.

[2] The Essential Commodities Act of 1955, as amended in 2006. Viewed at: https://consumeraffairs.nic.in/sites/default/files/file-uploads/essential-commodities-order/EC_Act2006.pdf.

4.4. Frequent interventions are made, when necessary, including through import and export restrictions, and to ensure stability in supply and prices in the domestic market. Most recently, following a heavy monsoon, India banned exports of onions, to ensure sufficient domestic supplies and stabilize domestic prices. The Agricultural Export Policy suggested that such frequent changes "break export supply chains and affect India's image as a reliable supplier", and recommended that, apart from a few products that are essential for food security, export restrictions should not be used for processed agricultural products and organic products.[3] To ensure stable domestic production, input subsidies and price support are also provided.

4.1.1 Measures affecting imports

4.5. India regulates imports of agricultural products through various means, including tariffs, tariff rate quotas (TRQs), minimum import prices, import licensing and prohibitions, and state trading.

4.6. The average MFN applied tariff for agriculture in 2019/20 was 34.8%, a decline from 36.4% in 2014/15. It rose back up to 36.5% in 2020/21. The MFN tariff ranges up to 150% but remains well below the bound tariff which ranges up to 300%. While the statutory tariff rate is announced in the annual Budget, applied rates are changed from time to time, to ensure stable domestic supplies and prices. For example, in April 2019, the import tariff for wheat was raised from 30% to 40%.[4] Import tariffs for sugar were also gradually increased from 40% in April 2015 to 50% in July 2017 and 100% in February 2018. India's considerably higher bound tariff rates permit the adjustment of applied tariffs as and when domestic needs arise.

4.7. Similarly, for products subject to TRQs, quota quantities and in-quota rates are adjusted from time to time to meet domestic needs. India provides additional market access through MFN TRQs on imports of powdered milk and cream, maize, and edible oils (sunflower seed, safflower, rape, colza and mustard). Since 2018, the quota fill rates have been negligible, except for rape, colza and mustard oils, and fractions thereof, for which the fill rate was 100%.[5] Since 2017, India has also implemented a TRQ of 300,000 metric tonnes (MT) for raw sugar (HS1701), at an in-quota rate of 25%, as a unilateral market access trade facilitation measure. India also maintains TRQs for tea, dessicated coconut, pepper, Vanaspati, bakery shortening and margarine in its RTA with Sri Lanka, and vegetable fats in its RTA with Nepal (Table 3.4).

4.8. Certain products may be imported subject only to minimum import prices. Under the Foreign Trade Policy, at the end of 2019, such agricultural products were cashew and areca nuts, black and green pepper, and cardamom (Section 3.1.5.1).

4.9. Restrictions are also used to regulate imports, including of agricultural products. For instance, the Government recently prohibited the import of cashew nut kernels[6], after having subjected imports to minimum import prices. To protect the livelihood of farmers from cheap imports, quantitative restrictions on imports of peas of up to a 100,000 tonnes per year were imposed in April 2015, initially for three months[7], and then extended three times. On 28 March 2020, quantitative restrictions on imports of peas were announced, of up to 150,000 tonnes (for green peas and other peas) and 400,000 tonnes (for pigeon peas) for 2020/21.[8]

4.10. Imports are also regulated through state trading enterprises (STEs), which import rice and wheat for public procurement, and coconut and coconut oil and fertilizers (Section 3.3.5.1). Products subject to import licences and prohibitions are also notified from time to time under the Foreign Trade Policy (Section 3.1.5).

[3] Agricultural Export Policy, pg. 10.
[4] CBIC, *Notification No. 13/2019-Customs.* Viewed at: http://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2019/cs-tarr2019/cs13-2019.pdf;jsessionid=57715BC9DCD4FBC3E061FB70D0E237E7.
[5] WTO document G/AG/N/IND/17, 22 August 2019.
[6] DGFT Notification No. 8/2015-20, 12 June 2019. Viewed at: https://dgft.gov.in/sites/default/files/Notification%20no.08%20dated%2012.06.2019%20English.pdf.
[7] DGFT Notification No. 04/2015-20, 25 April 2018. Viewed at: https://dgft.gov.in/sites/default/files/04%20eng.pdf on 18 September 2019.
[8] DGFT, *Trade Notice No. 05/2020-21.* Viewed at: https://content.dgft.gov.in/Website/TN%205.pdf. The individual quota quantities are 75,000 MT each for HS 07131020 and HS 07131090.

4.1.2 Measures affecting exports

4.11. According to the Agriculture Export Policy (AEP), the objectives are: to increase agricultural exports to reach a value of around USD 60 billion by 2022 and USD 100 billion in the following few years; to diversify exports and destinations, and boost high-value and value-added exports, including a focus on perishable products; to promote novel, indigenous, organic, ethnic, traditional and non-traditional agriculture exports; to provide an institutional mechanism for pursuing market access, tackling barriers and dealing with SPS issues; and to strive to double India's share in world agricultural exports by integrating with global value chains and enabling farmers to benefit from export opportunities in overseas markets.[9]

4.12. Acknowledging that frequent use of export and import restrictions tends to reduce certainty in policy, the AEP aims to provide assurance that processed agricultural products and organic products will not be subject to export restrictions,[10] while imports of agricultural products will be liberalized for the purposes of value-added production and export of processed goods. The Policy also aims to identify the commodities that are essential for food security; any export restrictions on these commodities are to be based on a decision taken by a high-level committee and to be compatible with the rules of the WTO. The Committee is yet to deliberate on the issue.[11] To increase value-added exports, the AEP recommends improvements in infrastructure; greater involvement of, and cooperation between, multiple ministries dealing not just with agriculture, but also research, public distribution, and transportation; and greater involvement by state governments in agricultural exports.

4.13. Export taxes, restrictions and prohibitions, minimum export prices (MEPs), and state trading are used as needed to regulate domestic supply of key agricultural products. For example, to ensure domestic supplies and contain inflation, in January 2018, India announced an MEP for onions of USD 700 per MT until 20 February 2018[12]; the MEP was removed on 2 February 2018.[13] Following this, in September 2019, the MEP was reinstated[14]; it was replaced by an export ban until further notice.[15] On 30 November 2019, exports up to 9,000 MT were permitted through STEs. During the period under review, similar changes were made at various times to export conditions for other products, such as pulses, edible oils, rice, and potatoes. The export restriction on pulses was removed on 22 November 2017.[16] India also maintains a 40% tax on exports of hides, skins and leather, to promote domestic value-addition in this labour-intensive sector.[17]

4.14. Exports of some products are permitted only through STEs, although there have been no such exports since 2013/14.

4.15. To help sugar mills increase their earnings and pay sugarcane producers, exports are encouraged through indicative export quotas, and assistance is provided (Box 4.1). India has country-specific allocations under the MFN TRQs maintained by the United States and the European Union. Exporters are required to provide details of actual exports of sugar to the DGFT and the Agricultural and Processed Food Products Export Development Authority (APEDA). Quantitative

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[9] The AEP was approved in December 2018. Department of Commerce, *Agriculture Export Policy*. Viewed at: https://commerce.gov.in/writereaddata/uploadedfile/NTESCL636802085403925699_AGRI_EXPORT_POLICY.pdf.

[10] There is no change to the policy of export and import restrictions on primary or non-organic agricultural products.

[11] Information provided by the authorities.

[12] DGFT Notification No. 45/2015-20, 19 January 2018. Viewed at: https://dgft.gov.in/sites/default/files/Notification45.pdf.

[13] DGFT Notification No. 48/2015-20, 2 February 2019. Viewed at: https://dgft.gov.in/sites/default/files/Noti48dated02.02.2018OnionEng.pdf.

[14] DGFT Notification No. 19/2015-20, 13 September 2019. Viewed at: https://dgft.gov.in/sites/default/files/Noti%2019%20dt%2013.09.2019%20Eng.pdf.

[15] DGFT Notification No. 21/2015-20, 29 September 2019. Viewed at: https://dgft.gov.in/sites/default/files/Notification%20No%2021%20dated%2029.9_0.pdf.

[16] DGFT Notification No. 38/2015-2020, 22 November 2017. Viewed at: https://content.dgft.gov.in/Website/Notification38eng.pdf.

[17] Information provided by the authorities.

ceilings for sugar exports to the United States and the European Union are announced from time to time by the DGFT.[18]

4.16. Under the Merchandise Export from India Scheme (MEIS), the Government provides duty credit scrips to exporters, which can be used to pay import duties or excise duties on domestic goods. The scrips range from 3% to 5% of the realized f.o.b. value of exports (Section 3.2.5.1).[19] Under the Agriculture Export Promotion Scheme, the APEDA provides financial assistance to registered exporters of 14 groups of agricultural products listed in the APEDA Act.[20] Export (and production) subsidies are also provided for marine products by the Marine Products Export Development Authority (MPEDA), a statutory body in the Department of Commerce (Section 4.1.4).

4.17. On 5 March 2019, the Government announced a scheme for Transport and Marketing Assistance (TMA) for specified agricultural products. The scheme "aims to provide assistance for the international component of freight and marketing of agricultural produce which is likely to mitigate disadvantage of higher cost of transportation of export of specified agriculture products due to trans-shipment and to promote brand recognition for Indian agricultural products in the specified overseas markets". The scheme initially applied from 1 March 2019 to 31 March 2020 but was extended, and applies to all products falling under HS Chapters 1-24, as well as marine and plantation products, with certain exceptions.[21] The TMA applies only to exports to certain markets, with varying rates. Exports through special economic zones, export zones, etc. are not eligible. Around INR 171.7 million had been disbursed as at 2 March 2020 (Section 3.2.5.4).[22]

4.1.3 Measures affecting production

4.18. India's agricultural policy aims to provide stability in domestic food prices and food security. To meet these objectives, various measures are in place. India's subsidy for food accounts for almost half of the Government's total explicit subsidies (Table 3.25). An additional third of total explicit subsidies are accounted for by the subsidy for fertilizers. Electricity and water consumption are also subsidized. Recent independent research has estimated that the size of the Government's subsidies for agriculture has been rising over time, and was at around 8% of agricultural output in 2015/16, while public-sector investment in the sector has been declining.[23]

4.1.3.1 Input support

4.19. Support is provided to farmers, including for seeds, fertilizer, irrigation and electricity, and through minimum support prices for certain crops. According to the Budget, subsidies for fertilizers are around a quarter of total explicit subsidies, second only to the food subsidy.

4.20. Fertilizer production is subsidized through price controls under the Fertilizer Control Order (FCO) under the Essential Commodities Act, 1955. Changes were made over the years, following various reviews and recommendations, which removed price controls for phosphate and potash fertilizers. Urea, the main fertilizer consumed in India, remains subject to price controls. Maximum retail prices for urea are calculated by the Government under the New Pricing Scheme (NPS), introduced originally in 2003, and amended several times since then. The Government provides a

[18] The annual quota quantity for the European Union is 10,000 MT, while for the United States it was 8,424 MT in 2016/17 and 2017/18, increasing to 9,663 MT in 2018/19, and falling to 9,163 MT in 2019/20.

[19] Chapter 3, Foreign Trade Policy. The MEIS will end on 1 January 2021, and will be replaced by the Remission of Duties or Taxes on Export Products (RoDTEP), a scheme for exporters to get a reimbursement on taxes, duties and levies which are not exempted or refunded under any other existing mechanism.

[20] The products include fruit and vegetables, meat, poultry, dairy, confectionary products, honey, alcoholic and non-alcoholic drinks, cereals, and floriculture. APEDA. Viewed at: http://apeda.gov.in.

[21] The products excluded are live animals, meat and edible meat offal, and products of animal origin not specified elsewhere falling under HS 1, 2 and 5; other shrimp and prawns (HS 030617); dairy products (under HS 0401, 0402, 0403, 0404, 0405, and 0406); onions, shallots, garlic, leeks, and other alliaceous vegetables (HS 0703); wheat, meslin and rice (HS 1001 and 1006); lac, gums, resins, other vegetable saps and extracts, vegetable plaiting materials, and vegetable products not specified elsewhere (HS Chapters 13 and 14); cane or beet sugar and molasses (HS 1701 and 1703); and beverages, spirits and vinegar, and tobacco and manufactured tobacco substitutes (HS Chapters 22 and 24).

[22] Information provided by the authorities.

[23] Gulati, A., Ferroni, M. and Zhou, Y. (eds) (2018), *Supporting Indian Farms the Smart Way* Viewed at: http://icrier.org/pdf/Supporting_Indian_Farms_the_smart_way.pdf. The research finds that, as subsidies have risen, total public-sector investment in agriculture has declined from around 4.0% of agricultural GDP in 1980/81 to 2.2% in 2014/15.

subsidy to each fertilizer plant to cover the difference between production costs and the maximum retail price.[24] While India is largely self-sufficient in the production of urea, urea may be imported through STEs to cover for any shortfall in domestic production, with the difference between international and domestic prices being subsidized by the central Government. In a recent paper the NITI Aayog suggested that "canalization" (use of STEs) is not efficient in filling the gap between demand and supply, as it causes bureaucratic delays. Instead, the paper suggests it would be more efficient to "decanalize" the import of urea, and instead provide the subsidy to farmers through the direct benefit transfer scheme.[25] The central Government is considering this issue.[26]

4.21. In 2010, after taking into account aspects related to agricultural productivity, balanced fertilizer use, the exponential increase in the subsidy, and the growth of the indigenous fertilizer industry, the nutrient-based subsidy (NBS) was introduced. The NBS is provided for each grade of phosphatic and potassic fertilizer, based on its nutrient content, to encourage their use by farmers and to maintain the nutrient balance in the soil. Fertilizer companies may set the maximum retail price for these fertilizers at a "reasonable rate".[27] In 2017/18, India provided a subsidy of USD 10.7 billion.

4.22. Subsidies are also provided for seeds whose prices are controlled under the Essential Commodities Act, 1955, with the aim of encouraging farmers to use certified and high-quality seeds. Electricity is provided either free of charge or at low flat rates, depending on the state. Electricity for agricultural use is cross-subsidized, with higher rates being charged for industrial and, to some extent, commercial consumers, and also through subsidies provided by states to the electricity distribution companies. The agricultural sector consumed around 18% of electricity in 2018/19. India notified a power subsidy of USD 7.6 billion to the WTO in 2017/18.[28]

4.23. A World Bank report notes that, as a result of such cross-subsidization, electricity for agriculture was priced around 70% lower than the average cost of production in 2016/17. The report further estimates that removing the cross subsidies could increase India's net manufacturing exports by between 1% and 3%, depending on the sector.[29] Farmers also have access to water at no cost; as a result of the lower cost of water and electricity, the use of groundwater has grown rapidly.[30] The Pradhan Mantri Krishi Sinchayee Yojana (PMKSY), launched on 1 July 2015, aims to increase the use of more sustainable methods of irrigation, such as drip and sprinkler irrigation. The Government has allocated INR 500 billion for the scheme for five years. In 2017/18, India indicated that the scheme cost USD 437.45 million.[31]

4.1.3.2 Support prices

4.24. Following each growing season, the Government announces minimum support prices (MSPs) for 24 crops, most of which are based on recommendations by the Commission for Agricultural and Costs and Prices (CACP).[32] The price recommendations are based on a number of factors, including

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[24] The subsidy takes into account a fixed cost, which is specific to each plant, and a variable cost, which is based on the main feedstock (natural gas) whose prices are also regulated by the Government.

[25] NITI Aayog (2015), *Raising Agricultural Productivity and Making Farming Remunerative for Farmers*, Occasional Paper, 16 December. Viewed at: https://niti.gov.in/sites/default/files/2019-07/RAP3.pdf.

[26] Information provided by the authorities.

[27] The rate is determined to be reasonable if the net maximum retail price plus the subsidy is less than 1.12 times the cost of sales; the net maximum retail price is defined as the maximum retail price minus the discount and minus the dealer's margin.

[28] Response provided by India to questions raised in the WTO Committee on Agriculture (meeting of 25 June 2019).

[29] World Bank (2019), *In the Dark: How much do power sector distortions cost South Asia?*, Fan Zhang, South Asia Forum. Viewed at: https://openknowledge.worldbank.org/bitstream/handle/10986/30923/9781464811548.pdf?sequence=8.

[30] Ministry of Finance, *Economic Survey of India (2017-18)*, Chapter 6 notes that there has been a steady decline in the water table in recent years. In 2017, the Central Ground Water Board estimated that annual groundwater consumption in some states in north India is higher than the annual extractable groundwater. Central Ground Water Board, *National Compilation on Dynamic Ground Water Resources of India, 2017.* Viewed at: http://cgwb.gov.in/GW-Assessment/GWRA-2017-National-Compilation.pdf.

[31] WTO document G/AG/N/IND/19, 31 March 2020.

[32] The CACP recommends prices for 22 products, and fair and remunerative prices for sugarcane. The MSPs for toria and de-husked coconut are fixed by the Department of Agriculture, Cooperation and Farmers' Welfare, on the basis of MSPs for rapeseed/mustard seeds and copra, respectively. *Price Support Scheme: the*

demand and supply, cost of production, trends in prices, and the terms of trade between agricultural and non-agricultural products. Among these, the cost of production is one of the most important factors, and is determined for the country on the basis of the weighted average cost of production across all the states. The Government offers to procure these crops at the MSP but farmers may also sell their crops on the open market if the prices are higher (Table 4.3). In addition, "fair and remunerative prices" for sugarcane are announced every year (Box 4.1).

Table 4.3 Minimum support prices, 2014–20

(INR per quintal)

Commodity/variety	2014/15	2018/19	2019/20
Paddy			
- common	1,360	1,750	1,815
- grade 'A'	1,400	1,770	1,835
Jowar			
- hybrid	1,530	2,430	2,550
- Maldandi	1,550	2,450	2,570
Bajra	1,250	1,950	2,000
Maize	1,310	1,700	1,760
Ragi	1,550	2,897	3,150
Arhar (tur)	4,350	5,675	5,800
Moong	4,600	6,975	7,050
Urad	4,350	5,600	5,700
Cotton			
- medium staple	3,750	5,150	5,255
- long staple	4,050	5,450	5,550
Groundnuts in shell	4,000	4,890	5,090
Sunflower seeds	3,750	5,388	5,650
Soybeans (yellow)	2,500	3,399	3,710
Sesame	4,600	6,249	6,485
Niger seeds	3,600	5,877	5,940
Wheat	1,450	1,840	1,925
Barley	1,150	1,440	1,525
Gram	3,175	4,620	4,875
Masur (lentils)	3,075	4,475	4,800
Rapeseed (mustard)	3,100	4,200	4,425
Safflower seeds	3,050	4,945	5,215
Toria	3,020	4,190	4,425
Copra			
- milling	5,250	7,511	9,521
- ball (calendar year)	5,500	7,750	9,920
De-husked coconut	1,425	2,030	2,571
Jute	2,400	3,700	3,950
Sugarcane (fair and remunerative price)	220	275	275

Source: Ministry of Agriculture and Farmers' Welfare, Directorate of Economics and Statistics.

4.25. The Government, through its agencies such as the FCI and others[33], intervenes when the price of these products falls below the MSP, and purchases crops at the MSP.[34] In practice, however, as noted by the Taskforce of the NITI Aayog on Agricultural Development, farmers are only guaranteed MSPs in regions in which the government agencies procure, and only for commodities that are procured. In other regions, even for commodities covered, not all farmers are able to sell their produce at the MSP.[35]

Operational Guidelines. Viewed at: http://agricoop.nic.in/sites/default/files/pssguidelines.pdf on 25 August 2020).

[33] While the FCI is the largest procurement agency, it principally procures wheat, rice and coarse grains. Other procurement agencies are the Cotton Corporation of India (CCI), the Jute Corporation of India (JCI), Central Warehousing Corporation (CWI), the National Agricultural Cooperative Marketing Federation of India (NAFED), the National Consumer Cooperative Federation of India (NCCF) and the Small Farmers Agro-Consortium (SFAC).

[34] The procured grains are divided into operational stocks that are used for the targeted public distribution system, and the food security stocks that ensure grain supply in case of procurement or production shortfalls.

[35] NITI Aayog (2015), *Raising Agricultural Productivity and Making Farming Remunerative for Farmers*, Occasional Paper, November.

4.26. In September 2018, the Government launched an umbrella scheme, the Pradhan Mantri Annadata Aay Sanrakshan Abhiyan (PM-AASHA), which is aimed at protecting farmer incomes through the Price Support Scheme (PSS) for pulses, oilseeds and copra and, through either the PSS or a "price deficiency payment" (under the Price Deficiency Payment System), for all oilseeds for which MSPs are notified.[36] The price deficiency payment ensures that, if the market price falls below the MSP, the difference is paid directly to pre-registered farmers that sell their produce on the notified market. This ensures that the procurement agencies do not need to intervene when the market price falls below the MSP, thereby reducing the Government's subsidy bill as well as the cost of storage. Procurement under the PSS is for a maximum of 90 days in the implementing states or union territories (UTs). The Pilot of Private Procurement and Stockist Scheme (PPPS) under the PM-AASHA scheme, allows participation by the private sector in stocking oilseeds.[37] The selected private agency shall procure the commodity at the MSP in the notified markets during the notified period from the registered farmers, whenever prices in the market fall below the notified MSP and whenever authorized by the state or UT government to enter the market. The maximum service charge to be paid to the private agency, which is selected on the basis of criteria including its track record, corporate governance, management of agricultural products and targeted investment in the sector, is 15% of the MSP. No state is implementing the scheme at present.[38]

4.27. In June 2020, the Government issued an ordinance amending the Essential Commodities Act.[39] Under the amendment, the supply of cereals, pulses, potatoes, onions, and edible oilseeds (and oils) may only be regulated under extraordinary circumstances (which may include war, famine, extraordinary price rises, and natural calamities). In addition, limits on stocks of these commodities may only be imposed if: (i) there is a 100% increase in the retail price of horticultural products; or (ii) if there is a 50% increase in the retail price of non-perishable agricultural produce over the price prevailing in the immediately preceding 12 months or the average retail price over the previous five years, whichever is lower. The provision does not apply to any order relating to the public distribution system or the targeted public distribution system[40]; neither does it apply to the MSPs that are established every year. The ordinance was passed by both houses of Parliament in September 2020.

4.28. The Government also announces fair and remunerative prices for sugarcane, and maintains a number of schemes to assure farmer incomes (Box 4.1).

4.29. Other challenges facing agriculture include a distortion of cropping patterns in favour of commodities procured by the central Government at the MSP (principally, wheat, rice, cotton and sugar) and away from other commodities, such as pulses, coarse grains and oilseeds; and a strain on water resources, especially in the states where most procurement takes place.[41] (Section 4.1.3.3) The practice of procurement from certain states has also resulted in regional disparities in production. It is also suggested that, due to the fragmentation of agricultural markets and weak infrastructure, farmers receive only a fraction of the price paid by consumers, with the bulk going to intermediaries.[42]

[36] FCI, *Amended Guidelines for Price Support Scheme (PSS) Under PM-AASHA*. Viewed at: http://fci.gov.in/app/webroot/upload/Procurement/PSS%20Guidelines.pdf.

[37] The oilseeds covered include groundnuts in shell, soybeans, sunflower seeds, sesamum, Niger seeds, rapeseed/mustard seeds, safflower and toria. Department of Agriculture and Farmer Welfare, *Guidelines for pilot of Private Procurement & Stockist Scheme under umbrella scheme of PM-AASHA.* Viewed at: http://agricoop.gov.in/sites/default/files/Guidelines%20PPSS.pdf.

[38] Information provided by the authorities.

[39] The Gazette of India, *The Essential Commodities (Amendment) Ordinance, 2020, No. 8 of 2020.* Viewed at: https://consumeraffairs.nic.in/sites/default/files/file-uploads/essential-commodities-order/EC_Ordinance.pdf.

[40] The provision on limiting stocks does not apply to a processor or a participant in a value chain if the stock limit does not exceed their installed processing capacity, or export demand in the case of an exporter.

[41] Economic Survey 2018-19, Chapter 6. Viewed at: https://mofapp.nic.in/economicsurvey/economicsurvey/pdf/082-101_Chapter_06_ENGLISH_Vol_01_2017-18.pdf.

[42] NITI Aayog, Occasional Paper, *Raising Agricultural Productivity and Making Farming Remunerative for Farmers*, 16 December 2015.

Box 4.1 Support programmes for sugar

Sugar is subject to the Essential Commodities Act, 1955, which permits control of the production, supply and distribution of, and trade and commerce in, certain commodities in the interest of the general public. According to the Department of Food and Public Distribution, in the Ministry of Consumer Affairs, Food and Public Distribution, the current annual capacity of India's sugar mills is around 33 million MT. Sugar production is mainly structured to meet domestic needs, with the excess being exported.

Sugarcane producers are guaranteed a minimum price through the "fair and remunerative prices" (FRPs) announced each year. The prices are based on recommendations by the CACP, and are approved by the Cabinet Committee on Economic Affairs, chaired by the Prime Minister. They are calculated under the Sugarcane (Control) Order, and take into account various factors, including the cost of production, returns to growers from alternative crops, the availability of sugar to consumers at a fair price, and reasonable margins for sugarcane cultivators. No sugar mill may purchase sugarcane from farmers at prices below the FRP. The states may also have set advisory prices (SAPs) for sugarcane, which may be higher or lower than the central Government's FRP. Four states (Uttar Pradesh, Uttarakhand, Punjab, and Haryana) currently set SAPs which are generally higher than the FRP. In addition, on 7 June 2018, the Government, under the Sugar Price (Control) Order, 2018, introduced a minimum retail price (MRP) for sugar sold by sugar mills on the domestic market.[43] According to the authorities, because the average ex-mill prices fell during 2017/18, the MRP was introduced to ensure the smooth functioning of the sugar mills. The MRP was initially set at INR 29/kg, and was revised on 14 February 2019 to INR 31/kg.

The difference between the FRP and the MRP meant that the cane mills were run at a loss and were unable to meet their payments to farmers. To help the mills meet such arrears, the Government provided assistance, in the form of interest forgiveness (up to 12% of the rate charged by banks) on 5-year loans. In 2015, a "production subsidy" of INR 4.50 per quintal was provided to sugar mills. Under a new scheme, in 2017/18, the Government provided INR 5.50 per quintal of crushed cane to sugar mills, to ensure that they are able to pay sugarcane producers; the amount was increased to INR 13.88 per quintal in 2019.

In addition, the Sugar Development Fund provides loans to sugar mills at concessional rates of 2% below the prevailing bank rate, for the modernization and expansion of sugar factories; cane development; bagasse-based co-generation power projects; and production of ethanol from molasses.

Other programmes to assist sugar mills include the Ethanol Blended Petrol (EBP) Programme, which aims to use molasses in years of surplus sugarcane production and low domestic prices. The targets for blending have been increased from 5% to 10% until 2022, with a long-term target of 20% in 2030. Various incentives are provided, such as a waiving of excise duties on ethanol supplied for the EBP Programme, and a simplification of the procurement procedures. In 2018, to increase ethanol production capacity, the Government provided an interest subvention on loans to mills, to a maximum of 6% for 5 years (including a 1-year moratorium) for setting up new distilleries or upgrading existing ones, and for achieving zero liquid discharge.

The central Government also created a buffer stock of 3 million MT of sugar in July 2018, which was increased to 4 million MT on 1 August 2019. The buffer stock is maintained to ensure supplies and regulate prices in the domestic market. The Government pays the sugar mills the cost of transportation and insurance of the stock. Around INR 11.75 billion is reimbursed to sugar mills for such costs and for the mills to pay their dues to sugarcane farmers. The stock is allocated by the Government to the sugar mills, based on the fulfilment of exports under the minimum indicative export quota (MIEQ) allocated to them during the year.

The MIEQ is set by the central Government for each sugar mill. Allocations for the MIEQ are based on the average production of each mill during the previous three years. The MIEQ for 2017/18 was 2 million MT but only 619,000 MT was actually exported. The quota for 2018/19 was 5 million MT but only 3.7 million MT was exported. For 2019/20, a maximum admissible export quantity (MAEQ) of 6 million MT was allocated; the MAEQ replaced the MIEQ. The exports are carried out directly by the mills and sugar exporters. Assistance is provided for internal transport, freight, handling and other charges, to help sugar mills to export. In 2018/19, the assistance provided was INR 1,000/MT for mills located within 100 km of the ports, INR 2,500/MT for mills located more than 100 km from the ports, and INR 3,000/MT for mills located in non-coastal states, or actual expenditure, whichever was lower. The Department of Food and Public Distribution estimates that total expenditure was expected to be INR 13.75 billion in 2018/19. As a result of these measures, the arrears to farmers decreased to INR 2.55 billion (on 5 November 2019).

Source: Department of Food and Public Distribution, *Scheme for Assistance to Sugar Mills for Sugar Season 2018-19*. Viewed at: https://dfpd.gov.in/assistance_mills.htm; and information provided by the authorities.

4.30. To respond to such concerns, some states have encouraged direct sales by farmers to consumers but the scale of such markets is relatively small. The electronic National Agricultural

[43] According to the Department of Food and Public Distribution, the Order issued under the provisions of the Essential Commodities Act, 1955, was to "ensure at least the minimum cost of production" for industry "so as to enable them to clear cane price dues of farmers". *General Policy.* Viewed at: https://dfpd.gov.in/gen_policy.htm.

Market (e-NAM) was launched on 14 April 2016. It aims to unify the state markets, currently administered by the state Agricultural Produce Marketing Committee (APMC), with its own marketing regulations, including for licences and fees. The e-NAM allows farmers to auction produce either in the local market or on markets on the e-NAM platform. States may only join the portal once they have: put in place a single (unified) trading licence which is valid across the states; put in place a single point at which the market levy must be paid; and provided for e-trading or auction to determine prices. As at January 2019, 16 states and 2 UTs had implemented such measures, with around 585 wholesale APMC markets being integrated into e-NAM.[44] Some states provide incentives (mainly through rebates of market fees) to encourage transactions through e-NAM.

4.31. Further marketing reforms took place in June 2020, with the Farmers' Product Trade and Commerce (Promotion and Facilitation) Ordinance, 2020 (FPTC), and the Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Ordinance, 2020 (FAPAFS). The FPTC guarantees freedom to farmers and traders to conduct intra- or inter-state trade in the agricultural products listed, including foodstuffs, cattle fodder and raw cotton.[45] The farmer or trader is not required to pay a marketing fee, and does not need to be licensed (except for needing a permanent account number (PAN) under the Income Tax Act). The FAPAFS encourages contract farming, and its goal is to protect and empower farmers so that they can engage with agri-business firms, processors, wholesalers, exporters or large retailers for farm services at mutually agreed prices and in a transparent manner.[46] The Ordinances were passed by Parliament in September 2020.

4.32. The Government also implements a Market Intervention Scheme (MIS) for perishable agricultural/horticultural commodities for which MSPs are not announced. This is implemented in the event of prevailing market prices falling by 10% over the previous "normal" year, or production rising by 10% from the previous marketing period, and on request by the affected state. Under the Scheme, perishable crops are procured by state procurement agencies at a pre-determined market intervention price (MIP) that covers production costs. The MIS is implemented for a specific period or until the market prices stabilize (whichever is earlier). The cost of the Scheme is shared equally between the central and state governments (except for states from the north-east, which pay 25% of the cost, and the central Government the remainder). The Scheme is restricted to 25% of the total value of procurement (including the cost of the commodity procured plus permitted overhead expenses). At present, procurement is restricted to 20% of the anticipated production of the commodity for that particular year or season.[47] According to the authorities, over the review period, the MIS was not used extensively, and the procurement against the sanctioned quantity was minimal.

4.1.3.3 Procurement and public distribution

4.33. Food grains are released for public distribution by the central Government. They are procured and sold to the state governments at the Central Issue Price (CIP), which is lower than the MSP. The size of the Government's food subsidy is the difference between the MSP and the CIP plus the cost of procuring, storing and transporting the grains. Once the grain is transferred to the states, they are responsible for transporting it from the storage facilities to the "fair price shops" for distribution to the beneficiaries. The states may also reduce prices for the beneficiaries below the CIP announced by the central Government; in such cases, the price difference is subsidized by the state government.[48] According to India's notifications to the WTO, total support for buffer stock operations increased from USD 14.8 billion in 2013/14 to USD 18.0 billion in 2017/18.[49] The stock of food grains

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[44] PIB, *Integration of Mandis With e-NAM.* Viewed at: https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1558623 (2 August 2020).

[45] Foodstuffs include cereals like wheat, rice or other coarse grains, pulses, edible oilseeds, vegetables, fruit, nuts, spices, sugarcane, products of poultry, swine, goats, fish and dairy intended for human consumption in their natural or processed forms (Chapter 1 of the Ordinance).

[46] Gazette of India, *The Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Ordinance, 2020, No. 11 of 2020.* Viewed at: http://agricoop.nic.in/sites/default/files/The%20Farmers%20%28Empowerment%20and%20Protection%29%20Agreement%20on%20Price%20Assurance%20and%20Farm%20Services%20Ordinance%2C%202020.pdf.

[47] Information provided by the authorities.

[48] The states may also increase the amount of food grains distributed, and extend coverage of the food grains, e.g. by including other crops, such as pulses.

[49] WTO documents G/AG/N/IND/11,13 July 2017; and G/AG/N/IND/13, 20 July 2018.

in the Central Pool in December 2019 was 56 million MT (around 21 million MT of rice and 35 million MT of wheat).[50]

4.34. Under the National Food Security Act, 2013 (NFSA), rice, wheat and coarse grains are to be provided at subsidized prices not exceeding INR 3, INR 2 and INR 1, respectively, initially for a period of three years, and as fixed by the central Government thereafter under the targeted public distribution system (TPDS). The Government decided to extend these subsidized rates to June 2019[51] and beyond, until further notice.[52] Each person in a priority household identified by the states is entitled to receive 5 kg of food grains per month at these prices.[53] In addition, the poorest categories of households falling under the Government's *Antyodaya Anna Yojana* (AAY) are entitled to 35 kg per household per month at these prices. The central Government currently provides a fixed subsidy of INR 18.50/kg for each AAY family.[54] The NFSA aims to provide subsidized food to 75% of the rural population and up to 50% of the urban population (approximately two-thirds of the Indian population).[55] In 2020, to respond to the COVID-19 pandemic, the Government increased the provision of food for three months under the Prime Minister's *Garib Kalyan Yojana* (PMGKY); for migrants and in the urban areas, state governments were permitted to provide free food and water for two months (Box 1.1).

4.35. Additional schemes which are implemented by the state governments are targeted specifically at pregnant and lactating women, who are entitled to a free meal during pregnancy and six months after childbirth in order to meet the nutritional standards specified in the Act (Schedule II) and at least INR 6,000 in maternity benefits; and children up to the age of 14 years, who are entitled to free meals to meet the nutritional standards specified in the Act.

4.36. Sugar is procured for distribution to AAY families under the TPDS but it is purchased on the open market by designated agencies of the state governments. Around 300,000 MT of sugar is procured by the states per year. The procurement of sugar is outside the ambit of the NFSA.

4.37. The Act also defines the responsibilities of the central (Chapter VIII) and state (Chapter IX) governments in implementing the Act. The central Government is responsible for (i) procuring food grains through its agencies; (ii) allocating food grains to the states; (iii) transporting the food grains to the designated depots in each state; (iv) providing assistance to the state governments in meeting expenditures for transport within the state; and (v) creating and maintaining storage facilities. The state governments are responsible for implementing and monitoring the various schemes under the Act, including identification of the households covered by the Act, delivery of food grains through fair price shops (FPSs), issuance of licences to the FPSs, and setting up a grievance redressal mechanism as required in Chapter VII of the Act. As at 1 November 2016, all states were implementing the NFSA. As at 1 June 2019, the Act covered about 813.5 million persons, with an annual allocation of food under the NFSA and other welfare schemes of about 61 million MT during 2019/20.[56] The Government relies almost exclusively on public stocks to meet food needs under the NFSA. According to the authorities, there are no plans at present to diversify the source of overall food requirements.

4.38. In 2015, the High-Level Committee on Restructuring the FCI recommended that the FCI should hand over all procurement of wheat and rice to states that had enough experience and sufficient infrastructure. At the time, six states had been identified. The FCI handed over

[50] Lok Sabha Unstarred Question No. 1739. Viewed at: http://164.100.47.194/Loksabha/Questions/QResult15.aspx?qref=1866&lsno=17.

[51] Department of Food and Public Distribution, *Central Issue Price under NFSA*. Viewed at: https://dfpd.gov.in/pds-cipunfsa.htm.

[52] Department of Food and Public Distribution, *Gazette of India, Notification*. Viewed at: https://dfpd.gov.in/fgAvAHcAcgBpAHQAZQByAGUAYQBkAGQAYQB0AGEALwBQAG8AcgB0AGEAbAAvAE0AYQBnAGEAegBpAG4AZQAvAEQAbwBjAHUAbQBlAG4AdAAvAA==/1_483_1_nfsaa-051119.pdf.

[53] Under the TPDS, 15 kg per month of subsidized wheat, rice, coarse grains, kerosene and sugar were provided per household. For those judged to be below the poverty line, the amount was 35 kg per month.

[54] Lok Sabha Unstarred Question No. 1739. Viewed at: http://164.100.47.194/Loksabha/Questions/QResult15.aspx?qref=1866&lsno=17.

[55] In March 2020, India notified the WTO under the Peace Clause that it had breached its *de minimis* level for rice in marketing year 2018/19 (WTO document G/AG/N/IND/18, 31 March 2020).

[56] Lok Sabha Unstarred Question No. 1739. Viewed at: http://164.100.47.194/Loksabha/Questions/QResult15.aspx?qref=1866&lsno=17.

procurement operations to state governments in four of the six states.[57] With regard to the NFSA, the Committee had recommended that the central Government should defer payment of the subsidy to states that had not made the list of beneficiaries available online nor had established vigilance committees, as required by the Act. It also recommended that the target of reaching 67% of the population was too high, and could be reduced to 40%, which would still cover those below the poverty line. Moreover, pricing for products available under the NFSA should be linked to the MSPs (the Committee suggested it could be 50% of the MSPs), failing which the subsidy would continue to rise to the detriment of investment in agriculture.[58]

4.39. The NFSA 2013 provides for reforms of the TPDS, including cash transfers for purchasing food. Under the Cash Transfer of Food Subsidy Rules, 2015, a pilot project was started in two UTs in September 2015, and extended to one other UT in March 2016. The cash equivalent of the subsidy is transferred directly to the bank accounts of eligible households, to allow them to purchase food on the open market. The amount of food subsidy to be transferred is calculated by multiplying the entitled quantity of food grains by the difference between 1.25 times the applicable MSP (derived MSP for rice) and the CIP, as revised from time to time by the central Government. The amount of cash transfers made by the Government under the scheme increased from INR 593 million in 2015/16 to almost INR 1.6 billion in 2018/19.[59]

4.1.4 Other measures

4.40. Assistance is provided through a number of central and state government schemes aimed at, *inter alia,* increasing productivity in agriculture.

4.41. The National Food Security Mission (NFSM), which was launched in 2007/08 to increase the production of rice, wheat and pulses (pigeon peas, green and black gram, peas and lentils), remains in place. Its focus is to provide extension services, cluster demonstration, training for farmers, and the supply of inputs. Kits containing inputs such as gypsum, micronutrients, rhizobium culture, phosphate solubilizing bacteria, plant protection chemicals, urea for foliar spray, and weedicides, are given to all farmers, free of charge, for a maximum area of 2 hectares. The contents of the kit are kept very broad to accommodate all the crops supported under the Mission. However, the overall cost of the kits should not exceed a specified limit. The areas covered by the Mission have been extended, and new initiatives, such as the distribution of quality seeds of newer varieties of pulses free of charge, were introduced during 2016/17. Subsidies for seed are provided for a number of crops, including rice, wheat, arhar, moong, urad, gram, lentils, maize, and barley, in various states.[60] In its latest notification to the WTO, India indicated that the cost of the Mission in 2017/18 was USD 32.26 million.[61]

4.42. The *Rashtriya Krishi Vikas Yojana* (RKVY) - Remunerative Approaches for Agriculture and Allied Sector Rejuvenation (RKVY-RAFTAAR), which is in place since 2007, was extended to 2019/20, with an expenditure of INR 97.3 billion. In its latest notification to the WTO, India indicated that the cost of the programme was USD 552.35 million in 2018/19.[62] Its objective is to make farming a remunerative economic activity, through strengthening farmers' efforts through the creation of pre- and post-harvest agri-infrastructure, mitigating risk, and promoting agri-business entrepreneurship. The funds are to be used for specific activities: 70% should be used in pre- and post-harvest infrastructure, in value-addition-linked production-stream projects (agribusiness models) that provide additional income to farmers, or in any projects related to innovative activities in agriculture and related sectors (maximum 20% of the 70%); of the remaining 30%, 20% should be used for national priorities, as notified by the central Government, and 10% for encouraging innovation and

[57] The FCI also initially withdrew from procurement operations in the state of Haryana in 2015/16 but was requested to continue carrying out procurement operations by the state government. The FCI was also requested by the remaining state government to continue its procurement operations in that state.

[58] FCI, *Report of the High-Level Committee on Reorienting the Role and Restructuring of Food Corporation of India, January 2015*. Viewed at: http://fci.gov.in/app2/webroot/upload/News/Report%20of%20the%20High%20Level%20Committee%20on%20Reorienting%20the%20Role%20and%20Restructuring%20of%20FCI_English.pdf.

[59] Department of Food and Public Distribution. Viewed at: https://dfpd.gov.in/pds-dbt.htm, 2 August 2020.

[60] WTO document G/AG/W/199, 14 June 2019.

[61] WTO document G/AG/N/IND/19, 31 March 2020.

[62] WTO document G/AG/N/IND/19, 31 March 2020.

agri-entrepreneurs through skill development and financial support (including 2% of administrative costs).[63]

4.43. The *Pradhan Mantri Kisan Samman Nidhi* (PM-KISAN) (Prime Minister Farmer's Honour Fund Scheme), implemented on 1 December 2018, provides income support to small marginal farmers (SMFs). Under the Scheme, income support of INR 6,000 per year was provided initially only to SMF households that held a maximum of 2 hectares (with certain exclusions); the Scheme was broadened on 1 June 2019 to cover all eligible farmer families, irrespective of the size of the cultivable landholding (subject to certain exclusions). According to India's latest notification to the WTO, the cost of the measure in 2018/19 was USD 852.70 million.[64] For financial year 2018/19, INR 200 billion was allocated to the Scheme and for 2019/20, INR 750 billion. As at 11 March 2020, the PM-KISAN Scheme had provided financial assistance to almost 87 million beneficiaries.

4.44. Other support measures include financial assistance to increase investment, production, income and employment; priority bank-lending targets; and loans to farmers at subsidized rates of interest.

4.45. Through the NABARD, India provides grants for a portion of selected projects aimed at enhancing investment, income and employment in sectors of national importance, such as the dairy sector, livestock and other animal husbandry, and the production of organic/biological inputs. The level of the subsidy, especially in the case of the schemes under the National Livestock Mission and under the New Agricultural Marketing Infrastructure (AMI)[65], may vary according to the region where producers are located, their income level, and the type of beneficiary (e.g. women, and Scheduled Caste (SC) and Scheduled Tribe (ST) farmers) (Table 4.4).[66]

Table 4.4 Credit-related subsidies/other assistance schemes, 2019-20

Dairy Entrepreneurship Development Scheme (DEDS)
Budget allocation: INR 3.25 billion
Assistance: 25% of the project cost (33.33% for Scheduled Caste and Scheduled Tribe (SC/ST) farmers), with a maximum ceiling that varies according to the activity
Capital Investment Subsidy Scheme for Commercial Production Units for Organic/Biological Inputs
Budget allocation: INR 30 million (2018/19); no allocation for 2019/20 or 2020/21
Assistance: subsidy is 25%, 33% or 40% of the capital cost of the project, subject to a ceiling of INR 4 million to INR 6 million, depending upon the type of activity (e.g. fruit and vegetable waste compost production or soil-testing laboratory at village level)
Entrepreneurship Development and Employment Generation (EDEG) component of National Livestock Mission • Poultry Venture Capital Fund (PVCF) • Integrated Development of Small Ruminants and Rabbits (IDSRR) • Pig Development (PD) • Salvaging and Rearing of Male Buffalo Calves (SRMBC)
Budget allocation: INR 1.99 billion
Assistance: 25% of cost of project, with a ceiling that varies according to the activity
New Agricultural Marketing Infrastructure (AMI)
Budget allocation: INR 2.29 billion
Assistance: eligible subsidy is 25% or 33.33% of the capital cost investment in storage and marketing infrastructure projects, depending upon the area and category of beneficiary.

Source: NABARD, *Capital Investment Subsidy Scheme for Commercial Production Units for Organic/Biological Inputs*. Viewed at: https://www.nabard.org/content1.aspx?id=592&catid=23&mid=530.

4.46. The National Dairy Plan Phase I (NDP I) (2011/12 to 2018/19) was launched to help increase the productivity of milk animals and milk production to meet the rapidly growing demand for milk, and to help provide rural milk producers with greater access to the organized milk-processing sector.

[63] *Rashtriya Krishi Vikas Yojana - Remunerative Approaches for Agriculture and Allied Sector Rejuvenation*. Viewed at: https://rkvy.nic.in/static/download/pdf/RKVY_14th_Fin._Comm.pdf.
[64] WTO document G/AG/N/IND/19, 31 March 2020.
[65] NABARD, *New Agricultural Marketing Infrastructure (AMI) sub-scheme of Integrated Scheme for Agricultural Marketing (ISAM) – Operational Guidelines.* Viewed at: https://www.nabard.org/auth/writereaddata/tender/1412180913Cir_283_E%20.pdf.
[66] NABARD, Circular No. 205/DoR-58/2019, 27 June 2019.

Total funding for the project is INR 22.42 billion.[67] In addition, India's leading milk-producing states, Gujarat and Maharashtra, offer a subsidy of INR 50,000 per tonne of exported skim-milk products. The central Government approved an additional subsidy of 10% to increase milk-powder exports, as domestic prices have been declining.[68]

4.47. The Interest Subvention Scheme (Kisan Credit Card Scheme) for farmers aims to provide short-term credit to farmers at subsidized interest rates. The Scheme came into force in 2006/07 and is being continued in 2018/19 and 2019/20. The subvention varies according to the type of loan; there are loans for short-term crops, post-harvest loans, and relief for farmers affected by natural disasters. For short-term (up to one year) crop loans of up to INR 300,000, the interest rate of 7% may be reduced to 4% if the loan is paid within one year. Post-harvest loans for storage in accredited warehouses are also available at an interest rate of 7%, for loans of up to six months and of up to INR 3 million.[69]

4.48. The Agriculture Infrastructure Fund was established in 2020 for funding infrastructure projects. It will provide an interest subvention of 3% per year for seven years for short-term agricultural loans of up to INR 20 million for post-harvest management projects.[70] The Fund will be implemented over the period 2020/21 to 2029/30.[71]

4.49. To provide relief to farmers affected by natural calamities[72], an interest subvention of 2% is available to banks on restructured loans for the first year. An additional subvention of 2% is available to banks for three years and up to a maximum of five years, to provide relief to farmers affected by severe natural disasters. Moreover, in all such cases, if the loan is repaid when it is due, an annual incentive of 3% is also provided to the farmers.[73]

4.50. Since the last Review, changes were made the insurance scheme for the agricultural sector. In February 2016, the Government introduced the *Pradhan Mantri Fasal Bima Yojana* (PMFBY), a crop insurance scheme which replaced the National Agricultural Insurance Scheme. The Scheme aims to provide financial support for crop loss or damage due to unforeseen circumstances; stabilize farmers' incomes; encourage farmers to adopt innovative and modern agricultural practices; and ensure a flow of credit to the sector, thereby contributing to food security, crop diversification and growth, and competitiveness, and protecting farmers from production risks.[74] The Scheme divides the states into homogenous "clusters", based on their risk profile and agri-climatic zone; each cluster

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[67] The project is funded by several agencies: INR 1.8 billion from the central Government; INR 2.0 billion from the National Dairy Development Board; INR 28.2 billion from the implementing agencies; and INR 15.8 billion from the World Bank's International Development Agency (Department of Animal Husbandry and Dairying). *National Dairy Plan (Phase-1).* Viewed at: http://dadf.gov.in/sites/default/filess/National%20Dairy%20Plan%20%28Phase-I%29%20%28NDP-I%29.pdf.

[68] WTO document G/AG/W/194, 15 February 2019.

[69] NABARD, *Modified Interest Subvention Scheme for Short Term Crop Loans during 2018-19 and 2019-20*. Viewed at: https://www.nabard.org/CircularPage.aspx?cid=504&id=2922.

[70] Including supply-chain services, such as e-marketing platforms, warehouses, silos, pack-houses, assaying units, sorting and grading units, cold chains, logistics facilities, primary processing centres, ripening chambers, and other viable projects for building community farming assets, such as organic input production, bio-stimulant production units, infrastructure for smart and precision agriculture, and supply-chain infrastructure for clusters of crops, including for export. Department of Agriculture, Cooperation & Farmers Welfare, *Circular regarding FAQs on implementation of Central Sector Scheme of Financing Facility under Agriculture Infrastructure Fund*. Viewed at: http://agricoop.nic.in/sites/default/files/FAQs%20on%20AIF.pdf.

[71] The eligible entities are: primary agricultural credit societies; marketing cooperative societies; farmer-producer organizations; self-help group farmers; joint liability groups; multipurpose cooperative societies; agri-entrepreneurs; startups; and central/state agency- or local body-sponsored public private partnership projects. Department of Agriculture, Cooperation & Farmers Welfare, *Circular regarding FAQs on implementation of Central Sector Scheme of Financing Facility under Agriculture Infrastructure Fund*. Viewed at: http://agricoop.nic.in/sites/default/files/FAQs%20on%20AIF.pdf.

[72] The granting of such benefits in cases of severe natural calamities is determined by the High-Level Committee, based on the recommendations of the Inter-Ministerial Central Team and the Sub-Committee of the National Executive Committee.

[73] Modified Interest Subvention Scheme for short-term crop loans during 2018/19 and 2019/20. Circular No. 100, 14 May 2018, on "continuation of ISS for Short Term Crop Loan on interim basis during the year 2018-19". In continuation of the same, the Ministry of Agriculture and Farmers Welfare letter No. 1-7/2018-Credit-I, 11 February 2019, conveyed a continuation of the interest subvention scheme during the year 2018/19 and 2019/20 in a modified form. NABARD, *Interest Subvention Scheme.* Viewed at: https://www.nabard.org/content1.aspx?id=602&catid=23&mid=530.

[74] *Pradhan Mantri Fasal Bima Yojana*. Viewed at: http://www.agri-insurance.gov.in/PMFBY.aspx.

is then allocated to a single insurance provider, through a system of competitive bidding.[75] Insurance providers are selected on the basis of the lowest weighted premium rates. By end-March 2017, 23 states had implemented the Scheme.[76] During 2018/19, around 56 million farmers, accounting for around 30% of the gross cropped area, were covered by the Scheme, compared to around 23% under the National Agricultural Insurance Scheme in 2015/16.

4.51. The priority sector lending requirements require domestic commercial banks (excluding regional rural banks and small finance banks) to reserve 18% of their adjusted net bank credit (ANBC) for the agriculture sector. In addition, since 2013, foreign banks are also required to meet this target (Section 4.4.1.1).

4.52. In the fisheries sector, the Marine Products Export Development Authority (MPEDA), provides assistance for the production and export of fish products (Table 4.5). To increase trust in its fish products, India established a traceability system for both cultivated and captured products, through a producers' registry; it also implemented a catch certification scheme, to prevent and discourage illegal, unreported and unregulated (IUU) fishing. To facilitate export procedures, the MPEDA introduced a computerized system to issue online registration certificates, and to process applications for subsidies and for their disbursement. The pre-harvest testing of aquaculture products, and National Residue Control Plan (NRCP) laboratory-testing are also computerized.

Table 4.5 Measures to increase fish production and exports

Financial assistance
To owners of fishing vessels, to install insulated fish holds/refrigerated seawater systems/ice-making machinery, for better preservation of catch.
Technical and financial assistance for the development of new areas for shrimp and scampi culture in all the maritime states.
To set up common facilities so that small farmers may adopt sustainable practices to cultivate shrimp.
For the cost of inputs (e.g. seed, feed and fencing) to promote crab farming.
Financial/technical assistance to promote the production of species such as cobia, genetically improved farmed tilapia (GIFT), high-health tiger shrimp, and sea bass.
Up to 50% of the investment to set up modern ornamental fish breeding units, to encourage mass production of good-quality ornamental fish.
To seafood processors, for the setting-up of mini–laboratory and pre-processing centres.
For cold-chain development, by subsidizing: the distribution of insulated fish boxes; the acquisition of refrigerated trucks/containers; the construction of new large cold storage; the construction of new ice plants and the renovation of existing ones; and the establishment of facilities to process and store frozen, fresh, chilled, live and dried marine products.
For the conversion/construction of tuna long liners.
For the setting-up of state-of-the-art processing facilities for value-added marine products meant for export.
To operate a scheme of sea-freight assistance to promote exports of value-added marine products by registered seafood manufacturer-exporters.
To operate a scheme to provide group insurance to workers employed in the seafood processing and pre-processing industries.
Sanitary measures
Technical assistance to implement seafood Hazard Analysis and Critical Control Points (HACCP) in the seafood industry.
The MPEDA has four quality-control laboratories, to implement the National Residue Control Plan for aquaculture products.
The quality-control laboratories are also undertaking a project for the Monitoring of Pesticide Residues at National Level, (MPRNL) funded by the Department of Agriculture (Ministry of Agriculture).
Ensure production of quality seafood by setting up laboratories.
Operate a network of laboratories to ensure that aquaculture exports are antibiotic- and residue-free.
Extension services/R&D
Upgrade fishing harbours to international standards.
Provide extension packages to fishermen/farmers and workers engaged in various stages of processing of marine products.
R&D activities for developing new aquaculture technologies.
Extension education programmes, to promote conservation and sustainable fishing, with a special focus on small-scale fish farmers.

[75] Insurance Regulatory Authority of India (2018) *IRDAI Journal Quarterly, April-June.* Viewed at: https://www.irdai.gov.in/ADMINCMS/cms/Uploadedfiles/IRDAIJournalAprilJune2018final.pdf.

[76] Department of Financial Services, *Pradhan Mantri Fasal Bima Yojana*. Viewed at: https://financialservices.gov.in/insurance-divisions/Government-Sponsored-Socially-Oriented-Insurance-Schemes/Pradhan-Mantri-Fasal-Bima-Yojana(PMFBY).

Marketing/information
Establish the presence of Indian seafoods in major international markets, by co-branding Indian products with major buyers and organizing international marketing campaigns.
Participate in international seafood shows, to showcase resources and the potential of Indian seafood, thereby generating new trade relationships.
The MPEDA publishes weekly and monthly magazine information on trade developments and other issues related to the market, including indicative prices of seafood in different markets around the world.

Source: Department of Commerce, *Marine Products Export Development Authority*. Viewed at: https://commerce.gov.in/InnerContent.aspx?Id=219.

4.2 Energy

4.53. India is the third-largest producer and consumer of electricity in the world.[77] Since 2014/15, consumption of electricity has increased sharply, to over 1 million GWh (Table 4.6). The industrial sector remains the largest consumer; as a result, a programme for industries, such as aluminium, cement, fertilizer, iron and steel, pulp and paper, and textile, to become more energy-efficient was implemented.[78] Annual consumption per capita increased from 1,010 kWh in 2014/15 to 1,208 kWh in 2019/20.[79]

Table 4.6 Consumption of electricity, 2014/15-2018/19

Sectors	2014/15	2015/16	2016/17	2017/18	2018/19
Total (GWh)	**948,328**	**1,001,191**	**1,061,183**	**1,123,427**	**1,158,310**
	(% of the total)				
Industry	44	42	42	42	42
Domestic	23	24	24	24	24
Agriculture	18	17	18	18	18
Commercial	8	9	8	8	8
Other (including railways)	7	8	8	8	8

Source: Ministry of Statistics and Programme Implementation, *Energy Statistics* (several years). Viewed at: http://mospi.nic.in/download-reports?main_cat=NzI2&cat=All&sub_category=All; and information provided by the authorities.

4.54. Since 2019, the Electricity Act, 2003 has regulated generation, transmission, distribution, and trading in all states. Previously, the Act applied in all states except in the state of Jammu and Kashmir; that state had its own Act, which has since been annulled.[80] The Electricity Act, 2003 was not amended over the review period; a draft amendment bill is under consideration in 2020.[81]

4.55. In India, both the central and state governments supervise the electricity sector.[82] The Ministry of Power formulates the National Electricity Policy and the Tariff Policy, following the advice of the Central Electricity Authority (CEA) and the states.[83] The CEA formulates the National Electricity Plan to implement the Policy's objectives. Other central government agencies that intervene in the energy sector include the Ministry of New and Renewable Energy (MNRE); and the Department of Atomic Energy.

4.56. There are regulatory commissions at the central and state levels. These comprise the Central Electricity Regulatory Commission (CERC), the state Electricity Regulatory Commissions (SERCs) that were established in 26 states, and three Joint Electricity Regulatory Commissions (JERCs) that cover the remaining states and the UTs.[84]

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[77] India Brand Equity Foundation (IBEF), *Power*. Viewed at: https://www.ibef.org/download/Power-May-2019.pdf.

[78] PIB Press Release, 22 March 2017. Viewed at: http://pib.nic.in/newsite/PrintRelease.aspx?relid=159670.

[79] Central Electricity Authority, *Executive Summary on Power Sector*, *May 2020*. Viewed at: http://cea.nic.in/reports/monthly/executivesummary/2020/exe_summary-05.pdf.

[80] Information provided by the authorities.

[81] Information provided by the authorities.

[82] Section 246(2) and Seventh Schedule (Part III) of the Constitution.

[83] Section 3, Electricity Act, 2003.

[84] Information provided by the authorities; and CERC, *State Electricity Regulatory Commissions - Links*. Viewed at: http://www.cercind.gov.in/serc.html.

4.57. India's policy objectives regarding energy are to ensure reliable access to energy ("24x7 Power for All") at affordable rates, and transition to renewable sources (Box 4.2). During the period under review, the transition to renewable energies, especially solar and wind, accelerated to attain economic, social, and climate-related objectives.[85] As at March 2020, India had an installed renewable energy capacity of 87.91 GW.[86]

Box 4.2 Policy objectives in the electricity sector

During 2015-20, India continued to implement the National Electricity Policy, 2005 which focuses on ensuring the availability, quality, and reliability of supply; and the financial viability of the sector.

The Tariff Policy, 2016 is aimed at, *inter alia*, ensuring affordable rates; attracting investment; promoting generation from renewable sources; and improving the quality and reliability of supply.

In 2018, a new National Electricity Plan was launched to change India's energy mix by promoting the generation of renewable energy. Its target is to install 175 GW of renewable energies by 2022, and to reduce gas emissions by improving the efficiency of thermal power plants, closing end-of-life coal plants, and moving towards electric vehicles.

Source: WTO Secretariat.

4.58. FDI in India's electricity sector is allowed up to 100%. No government approval is required, except for FDI above 49% in power trading exchanges.[87] Electricity generation from nuclear sources is reserved for the State. Foreign companies must be established in India to operate in the sector.

4.59. Public and private operators are engaged in the generation, transmission, distribution and trading of electricity (Table 4.7). The public sector remains the most important stakeholder, holding 53.2% of the total installed capacity in 2019/20.[88] The State owns India's largest power-generating company (NTPC Ltd.), as well as the Power Grid Corporation of India Ltd. (PGCIL), which operates 90% of the inter-state transmission network and maintains the national grid. Distribution also remains largely dominated by the state distribution companies. India also has two power-trading exchanges (PXIL and IEX). Electricity supply is secured by load dispatch centres at the national, regional, and state levels.[89] India's electricity grid is connected to Bangladesh, Bhutan, Myanmar, and Nepal. Cross-border supply is regulated by bilateral agreements. Since 2019, power trading has been allowed across India, if both trading partners have in turn a bilateral agreement with India.[90]

Table 4.7 Composition of the electricity sector, 2019

	Public enterprises		Private enterprises
	Central Government	State governments	
Generation	21 companies	43 companies	105 companies
Inter-state transmission	2 companies	n.a.	50 companies (including 13 joint ventures with PGCIL)
Intra-state transmission	1 company	29 entities	16 companies (including 4 subsidiaries of PGCIL)
Cross-border interconnections	1 company	4 companies	2 joint ventures with PGCIL
Distribution	1 company	74 companies	29 companies (in 8 states); 8 distribution franchise agreements with states' companies
Inter-state trading	n.a.	n.a.	37 companies
Intra-state trading	..	..	..

.. Not available.

n.a. Not applicable.

Source: Information provided by the authorities.

[85] NITI Aayog/International Energy Agency/Asian Development Bank (2018), *The Indian Power Sector, Workshop Report 2018*. Viewed at: https://niti.gov.in/writereaddata/files/document_publication/Workshop-Report-2018-The-Indian-Power-Sector-Low-Carbon-Strategy-for-Renewable-Energy-Integration.pdf.

[86] Information provided by the authorities.

[87] Invest India, *FDI Policy*. Viewed at: https://www.investindia.gov.in/foreign-direct-investment.

[88] CERC (2019), *Annual Report on Short-term Power Market*. Viewed at: http://www.cercind.gov.in/report_MM.html; and information provided by the authorities.

[89] Electricity Act, 2003.

[90] CERC (Cross Border Trade of Electricity) Regulations, 2019. Viewed at: http://www.cercind.gov.in/2019/regulation/CBTE-Regulations2019.pdf.

4.60. Large consumers (demand of 1 MW and above) may purchase electricity from any supplier. However, they must pay a "cross-subsidy surcharge" (compensation) to their local distribution company, to compensate for losses incurred as they are not its clients. The compensation varies from one state to the other, but it cannot exceed 20% of the average tariff.[91]

4.61. A licence issued by the relevant regulatory commission is required to engage in transmission, distribution, and trading. However, distribution companies do not need a separate licence to engage in trading. Local and foreign operators are subject to the same licensing requirements. The licence is granted for 25 years (renewable).[92] A licence is not required to generate electricity. However, hydro-power projects, if capital expenditure exceeds a certain threshold (currently INR 10 billion), must be approved by the CEA, which assesses the long-term viability and the environmental impact of the projects.[93] Power-trading exchanges must be registered with the CERC.[94]

4.62. Competition in the sector is regulated by the Competition Act, 2002. The Electricity Act, 2003 contains provisions to enhance best practices, by ensuring that electricity is procured by distribution companies through competitive bidding processes.[95]

4.63. The CERC regulates the tariffs of inter-state transmission, and the tariffs of electricity-generating companies, if: (i) they are state-owned; or (ii) they produce and sell electricity in more than one state (i.e. companies that sell at least 10% of their production to a distribution company located in another state).[96] Otherwise, electricity tariffs are set by competitive bidding processes, subject to the guidelines issued by the Ministry of Power (conventional sources) or the MNRE (non-conventional sources). The tariffs determined through bidding must be adopted by the regulatory commissions.[97]

4.64. Retail tariffs vary from one state to another.[98] They are determined by the state regulatory commissions, based on tariff regulations and the provisions contained in the Electricity Act, 2003. Retail tariffs are generally reviewed every year.[99] Tariffs are published in orders.[100] Electricity at subsidized rates is available to consumers below the poverty line (BPL) and small households and is either subsidized or free/unmetered to the agriculture sector. This subsidy is financed by charging a higher rate to other households, and industrial and commercial (e.g. offices, shops) consumers.[101] At present, cross-subsidies to BPL consumers should be at least 50% of the average cost.[102] However, the Tariff Policy, 2016 recommends a reduction in cross-subsidies, to bring tariffs for all consumers within ±20% of the average cost.[103] In addition, although electricity may be provided free/unmetered to the agriculture sector, the Tariff Policy, 2016 states that free/unmetered supply to the agriculture sector "encourages wasteful consumption of electricity" and may "lead to rapid rise in demand of electricity putting severe strain on the distribution network thus adversely affecting the quality of supply of power".[104]

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[91] Section 42, Electricity Act, 2003; Section 8.5, Tariff Policy, 2016; and information provided by the authorities.

[92] Sections 12 and 14, Electricity Act, 2003; and information provided by the authorities.

[93] Section 8, Electricity Act, 2003; Ministry of Power Notification No. 550, 18 April 2006; and CEA, *Guidelines for accord of concurrence to Hydro Electric Schemes submitted to the Authority under Section 8 of the Electricity Act, 2003*. Viewed at: http://www.cea.nic.in/reports/others/hydro/hpa1/guidlines_accord_he.pdf.

[94] CERC (Power Market) Regulations, 2010. Viewed at: http://www.cercind.gov.in/updated_consolidated_reg1.html; and information provided by the authorities.

[95] Section 63, Electricity Act, 2003; and information provided by the authorities.

[96] Section 79, Electricity Act, 2003; and Tariff Policy, 2016.

[97] Section 63, Electricity Act, 2003.

[98] FICCI Press Release, *Government to inject competition in the distribution sector: Power Secretary*, 13 September 2018. Viewed at: http://ficci.in/pressrelease-page.asp?nid=3217.

[99] Information provided by the authorities.

[100] Asian Development Bank (2018), *Tariff Appraisal Study - Balancing Sustainability and Efficiency with Inclusive Access*, ADB South Asia Working Paper Series, No. 60. Viewed at: https://www.adb.org/sites/default/files/publication/462676/swp-060-tariff-appraisal-study.pdf.

[101] CERC (2019), *Annual Report on Short-term Power Market*. Viewed at: http://www.cercind.gov.in/report_MM.html.

[102] Section 8.3, Tariff Policy, 2016.

[103] Section 8.3, Tariff Policy, 2016.

[104] Section 8.3, Tariff Policy, 2016.

4.65. During the period under review, the electricity distribution companies continued to face financial difficulties, because their tariffs are not based on their costs. Hence, their revenues are insufficient to pay generators and cover incurred debts; this, in turn, hampers their ability to offer a reliable supply of electricity.[105] To improve the financial health of these companies, in 2015, the Central Government launched a voluntary scheme, the *Ujwal Discom Assurance Yojana* (UDAY) Scheme, which instructs state governments to assume 75% of the debt of the companies (50% in 2015/16 and 25% in 2016/17), by issuing bonds. The companies issued bonds to cover the remaining 25% of their debt. Under the Scheme, since 2017/18, the state governments are also required to cover their companies' losses in their budgets (i.e. 5% in 2017/18, 10% in 2018/19, 25% in 2019/20, and 50% in 2020/21).[106] According to the RBI, as a result of the UDAY Scheme, there was a "significant improvement" in the financial performance of the distribution companies, as the overall revenue gap declined by 54%. However, interest payments, redemptions, and the loss of funding "continue to impact state finances" and is likely to continue once the Scheme terminates.[107]

4.66. In addition, the Ministry of Power granted distribution companies financial assistance to expand and improve the distribution network in rural and urban areas (Table 4.8).[108] In November 2019, grants amounted to INR 893.8 billion.[109]

Table 4.8 Selected Central Government incentive schemes to distribution companies

Objectives	Financial assistance	Duration
Expand the distribution network in rural and urban areas (*Saubhagya* Scheme)	85% of the cost of the project in special-category states; 60% in the remaining states. If the project achieves certain objectives (e.g. timely completion or reduction in technical and commercial losses), an additional grant of 5% is given to special-category states and of 15% to the remaining states	2017-19
Rural electrification (*Deendayal Upadhyaya Gram Jyoti Yojana* Scheme)	85% of the cost of the project in the special-category states; 60% in the remaining states. If the project achieves certain objectives (e.g. timely completion or reduction in technical and commercial losses), an additional grant of 5% is given to special-category states and of 15% to the remaining states	2014/15-2021/22
Expand the distribution network in urban areas (Integrated Power Development Scheme)		

Note: Special-category states are the North Eastern states, Jammu and Kashmir, Himachal Pradesh, Uttarakhand, Lakshadweep, and Andaman and Nicobar Islands.

Source: Ministry of Power, *Deendayal Upadhyaya Gram Jyoti Yojana (DDUGJY)*. Viewed at: https://powermin.nic.in/en/content/deendayal-upadhyaya-gram-jyoti-yojana-ddugjy; CERC (2019), *Annual Report on Short-term Power Market*. Viewed at: http://www.cercind.gov.in/report_MM.html; and information provided by the authorities.

4.67. India offers other financial and fiscal incentives to assist enterprises and to promote the use of renewable energy. Industrial "units", including MSMEs, were offered assistance by the states, such as refunds on electricity bills, and exemption and reimbursement of local electricity taxes.[110] Goods imported for electricity-generation projects are exempt from customs duties, or are subject to concessional rates of duty of 2.5% and 5%.[111] In addition, profits from thermal electricity projects,

[105] FICCI (2019), *Project Report - Facilitating Transparent Retail Tariff Design for the Electricity Sector*. Viewed at: http://ficci.in/spdocument/23088/Retail-Tariff-Reforms.pdf; and International Institute for Sustainable Development (2019), *India's Energy Transition: Stranded coal power assets, workers and energy subsidies*, *Issue Brief*. Viewed at: https://www.iisd.org/sites/default/files/publications/india-energy-transition-stranded-coal-power-assets_0.pdf.

[106] UDAY. Viewed at: https://www.uday.gov.in/home.php; PIB Press Release, 5 November2015. Viewed at: https://pib.gov.in/newsite/printrelease.aspx?relid=130261; and RBI (2019), *State Finances – A Study of Budgets of 2019-20*. Viewed at: https://rbidocs.rbi.org.in/rdocs/Publications/PDFs/STATEFINANCE201920E15C4A9A916D4F4B8BF01608933FF0BB.PDF.

[107] RBI (2019), *State Finances – A Study of Budgets of 2019-20*. Viewed at: https://rbidocs.rbi.org.in/rdocs/Publications/PDFs/STATEFINANCE201920E15C4A9A916D4F4B8BF01608933FF0BB.PDF.

[108] CERC (2019), *Annual Report on Short-term Power Market*. Viewed at: http://www.cercind.gov.in/report_MM.html; and FICCI (2019), *Project Report - Facilitating Transparent Retail Tariff Design for the Electricity Sector*. Viewed at: http://ficci.in/spdocument/23088/Retail-Tariff-Reforms.pdf.

[109] Information provided by the authorities.

[110] WTO documents G/SCM/N/284/IND/Suppl.3; and G/SCM/N/315/IND/Suppl.1, 7 March 2019.

[111] Information provided by the authorities.

established before 2017, may be deducted from taxable income, for 10 consecutive years during the first 15 years of operations.[112] According to the authorities, no other fiscal incentives were granted during 2015-20.

4.68. In addition, state-owned non-banking financial companies (NBFCs), such as the PFC, the REC, and the IREDA, exclusively finance electricity projects (Table 4.9). The state-owned India Infrastructure Finance Company Ltd. (IIFCL) also finances electricity projects (Section 2.4.3). Between April 2015 and March 2019, it granted financing of INR 173.6 billion to 79 projects; the terms and condition of IIFCL financing may vary from one project to another.[113] Commercial banks grant preferential loans only for renewable energies, under the priority-sector lending requirement.[114]

Table 4.9 Financing of electricity projects by non-banking financial companies

	Number of projects and financing	Broad terms and conditions
PFC	2,390 projects (2015-December 2019); INR 4,166 billion (total value of authorized financing)	Debt-to-equity ratio not exceeding 90:10 for transmission projects and 80:20 for generation projects; Interest rates based on the rating/grading of the project/borrower; Repayment period up to 80% of the initial economic life of the project, moratorium of up to 1 year.
REC	3,431 projects (2015-March 2019); INR 3,728 billion (total value of authorized financing)	Loans to finance working capital given for a maximum period of 3 years; Interest rates based on the grading of the borrower and the type of project (interest rates may be adjusted); Repayment period from 3 to 20 years, moratorium of up to 6 months.

Source: Information provided by the authorities.

4.69. GST on transmission and distribution is 0%.[115] Coal, which remains India's main source of power generation, is subject to a 5% GST rate.

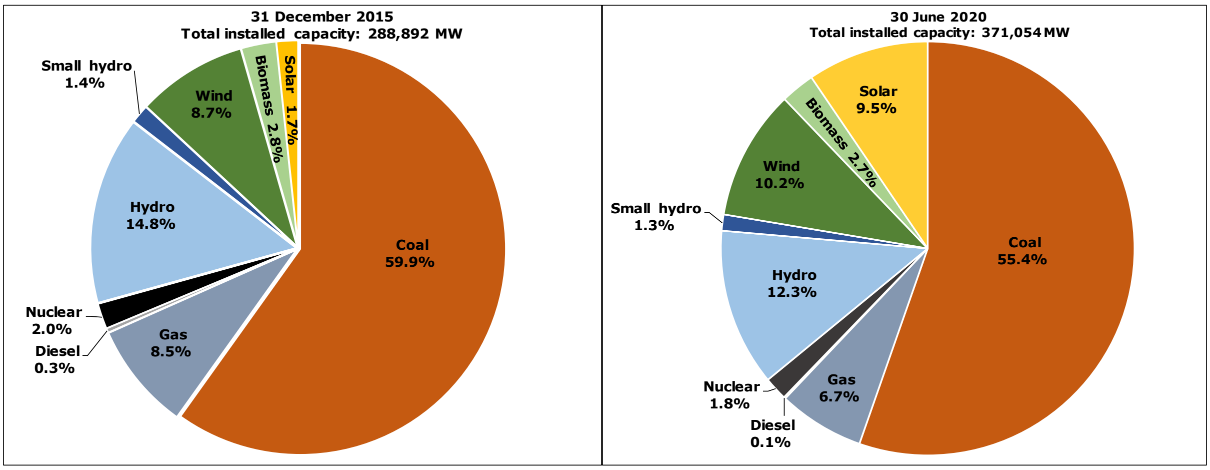
4.70. In 2018, India achieved 100% village electrification and 100% household electrification in 25 states.[116] As at December 2019, the electricity system had an installed capacity of 367,280 MW. Since 2015, capacity in generation and transmission has gradually been upgraded to ensure electricity supply, as demand increased rapidly. As a result, electricity shortages were reduced from 3.6% in 2014/15 to 0.7% in 2017/18; similarly, shortages during peak demand fell from 4.7% to 2%.[117] However, aggregate technical and commercial losses in distribution and transmission, and variations in the efficiency of the plants, still hamper supply.[118] Measures to reduce technical losses were implemented over the review period, such as a more optimized use of distribution feeders through a better management system or the bifurcation of overloaded feeders. In addition, measures to reduce commercial losses included more facilities for consumers to pay, and prevention against theft.[119] As at November 2019, 22% of the electricity produced was lost along the way.[120]

4.71. Electricity generation relies on conventional and non-conventional sources. Thermal energy (mainly coal) remains the main source, but the share of renewable energies from various sources

[112] Make in India, *Thermal Power*. Viewed at: http://www.makeinindia.com/sector/thermal-power.
[113] Information provided by the authorities
[114] Information provided by the authorities.
[115] Information provided by the authorities; and *Rate of GST on Services*. Viewed at: http://gstcouncil.gov.in/sites/default/files/NOTIFICATION%20PDF/services-booklet-03July2017.pdf.
[116] PIB Press Releases, 5 June 2018 (viewed at: https://pib.gov.in/PressReleasePage.aspx?PRID=1534383); 31 December 2018 (viewed at: https://pib.gov.in/PressReleasePage.aspx?PRID=1557979); and 25 January 2019 (viewed at: https://pib.gov.in/newsite/PrintRelease.aspx?relid=187778)
[117] Ministry of Power (2018), *Annual Report 2017-18*. Viewed at: https://powermin.nic.in/en/content/annual-reports-year-wise-ministry; and CERC (2019), *Annual Report on Short-term Power Market*. Viewed at: http://www.cercind.gov.in/report_MM.html.
[118] CERC (2019), *Annual Report on Short-term Power Market*. Viewed at: http://www.cercind.gov.in/report_MM.html; Raikar, S. and Jagtap, K. (2018), *Role of Deregulation in Power Sector and Its Status in India*, 2018 National Power Engineering Conference. Viewed at: https://ieeexplore.ieee.org/stamp/stamp.jsp?arnumber=8476714.
[119] PowerPoint Presentation, 19 September 2017. Viewed at: https://www.uday.gov.in/images/at_loss_workshop_sept2017/Mr_Subir_Saha_from_PFC_on_IT_Interventions.pdf.
[120] Information provided by the authorities.

(solar, wind, biomass, and small hydro) in the total installed capacity grew steadily, from 14.6% in December 2015 to 23.7% in June 2020 (Chart 4.1).

Chart 4.1 Installed capacity, by energy source, 31 December 2015 and 30 June 2020



Source: National Power Portal. Viewed at: https://npp.gov.in/publishedReports#; and information provided by the authorities.

4.72. Under the Electricity Act, 2003, a Renewable Purchase Obligation (RPO) was established to further promote the use of renewable energies. In 2018, the Ministry of Power stipulated that, under the RPO, 21% of the total electricity supplied by 2021/22 must be from renewable sources of energy.[121] In addition, financial assistance is provided by the Central Government to increase small-hydro, biomass, and solar electricity generation (Table 4.10). Financial support is also granted to small-scale off-grid renewable energy projects, such as the installation of solar panel roof-top systems, to meet the demand of isolated households.[122]

Table 4.10 Selected incentive schemes provided by the Ministry of Natural and Renewable Energies

Objectives	Eligible entities	Financial assistance	Duration
Small hydro-power projects (<25 MW)	Private sector	INR 10 million/MW or INR 15 million/MW, depending on the location, subject to a maximum grant of INR 50 million	2014-17[a]
Biomass-based co-generation projects	Sugar mills and other industries	INR 2.5 million/MW to INR 5 million/MW	2018-20
Installation of solar water pumps	Farmers	50% of the project cost in the special-category states; 30% in the remaining states[b]	2019-22

a In 2020, a new/modified scheme was being finalized.
b The state governments also provide financial assistance of 30% of the project cost.

Note: Special-category states are the North Eastern states, Jammu and Kashmir, Himachal Pradesh, Uttarakhand, Lakshadweep, and Andaman and Nicobar Islands.

Source: MNRE. Viewed at: https://mnre.gov.in/; and information provided by the authorities.

4.3 Manufacturing

4.73. The manufacturing sector's share in gross value-added (current prices) grew from 16.3% in 2014/15 to 17.1% in 2015/16, but has been declining since (Table 1.2). Growth in manufacturing has also been decelerating since 2015/16. India also runs a deficit in its balance of trade in manufactured goods, with growth in imports outstripping that of exports during the review period.

4.74. The National Manufacturing Policy (NMP), announced in 2011, continues to apply; however, India expects to issue a new Industrial Policy shortly. Under the NMP, India aims to increase the share of manufacturing in GDP to 25% by 2022. The NMP aims to increase growth in the sector to

[121] Information provided by the authorities.
[122] MNRE. Viewed at: https://mnre.gov.in/grid-power.

between 12% and 14% over the medium term, increase job creation by up to 100 million by 2022, create appropriate skills among rural migrants and the urban poor to make growth inclusive, increase domestic value-added and technological "depth" in manufacturing, enhance the global competitiveness of the sector through appropriate policy support, and ensure sustainable growth.

4.75. The NMP aims to rationalize and simplify business regulations; simplify policies to close unviable units and pay suitable compensation to unemployed workers; and facilitate the redeployment of company assets. It also established the Technology Acquisition and Development Fund for the acquisition of appropriate technologies, the creation of a patent pool, and the development of domestic manufacturing of pollution-control and reduced-energy-consumption equipment, including through incentives.[123] Other provisions in the NMP include programmes for skills development, facilitation of access to finance for SMEs, the development of special focus sectors, increasing demand for manufacturing and infrastructure through government procurement, and the creation of national investment and manufacturing zones (NIMZs). NIMZs are large integrated townships with state-of-the-art infrastructure, land use on the basis of zoning, clean and energy-efficient technology, social infrastructure, skills, development facilities, etc.[124] At present, 17 such NIMZs are established. The Government also launched the Make in India programme in September 2014, which aims to attract investment in order to achieve the 25%-of-GDP target by 2022. The Budget for 2020/21 announced the establishment of five new "smart cities", in collaboration with states, based on PPPs.

4.76. Sectors that play an important role in merchandise trade include textiles and clothing, which accounts for 2.0% of GDP, and 11.4% of merchandise exports, and employs around 45 million people, mainly in the informal sector; and automobiles, with around 7.0% of GDP, and 8.0% of merchandise exports. The Make in India programme aims to encourage growth in a number of other sectors, notably electronics systems design and manufacturing; pharmaceuticals; and food processing.

4.77. In the textiles and clothing sector, the average tariff for textiles has increased from 10.0% in 2014/15 to 12.4% (18.3% including AVEs for the tariff lines subject to alternate rates) in 2020/21; and, for clothing, from 10.0% to 19.7% (27.1% including AVEs). The central Government provides assistance through various schemes, including the Amended Technology Upgradation Fund Scheme (which replaced the Technology Upgradation Fund Scheme, 2016, and will last until 31 March 2022), which provides a subsidy of 15% of capital for textiles and clothing (up to USD 4.6 million) and 10% for weaving and handlooms (up to USD 3.0 million); the Integrated Skills Development Scheme; and the Scheme for Capacity Building in the Textiles Sector (SAMARTH Scheme) which provided assistance for the period 2017/18 to 2019/20 for training and skills development for up to 1 million people. The Scheme for Integrated Textile Parks (SITP) provides subsidies for setting up infrastructure for use by textile manufacturers. There are currently 59 SITPs which have been approved, with 23 already completed; around INR 47.5 million was provided to the SITPs during the last three years.[125] The Merchandise Exports from India Scheme (MEIS) provides duty rebates of 2% and 5% for selected textile and clothing exports to certain markets. An interest subvention of 3% from 1 April 2015 to 31 March 2020; and the Market Access Initiative Scheme (MAI) are also available for textile and clothing exports (Section 3.2.5.4). The hank yarn obligation under the Essential Commodities Act, 1955, requiring a share of yarn produced to be reserved for the domestic handloom sector, was reduced from 40% to 30% on 1 January 2019.[126]

4.78. India has the third-largest automobile market in Asia. The Automotive Mission Plan, 2026 aims to make the sector a driver of the Make in India programme, become a significant contributor to the Skills India programme, and increase exports. By 2026, the sector expects to contribute around 12% of GDP (from around 7% in 2019) and generate an additional 65 million jobs, directly and indirectly. The sector has been relatively shielded through high tariffs. The average MFN tariff in 2020/21 for motor vehicles (HS 8703) was 51.25%, with considerable variation between rates for

[123] The incentives included 5% reimbursement of the nominal interest charged by the lending agency, and 10% capital subsidy. Department of Industrial Policy and Promotion, *National Manufacturing Policy.* Viewed at: https://dipp.gov.in/sites/default/files/po-ann4.pdf.

[124] DPIIT, *National Manufacturing Policy - Guidelines for establishment of National Investment and Manufacturing Zones*. Viewed at: https://dipp.gov.in/sites/default/files/po-ann3.pdf.

[125] PIB, *Scheme for Integrated Textile Park.* Viewed at: https://pib.gov.in/Pressreleaseshare.aspx?PRID=1579541.

[126] PIB, *Hank Yarn Packing Provisions Amended.* Viewed at: https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1568058.

automotive parts and completely built up units: 15% for completely knocked down (CKD) kits, 30% for engines and transmission mechanisms, and between 60% and 100% for completely built up units (CBUs) (based on c.i.f. value, fuel type and engine capacity). The central Government provides income tax incentives for R&D activities (deduction of 100% for funding expenditure on R&D by a company). The state governments also provide investment incentives, in the form of rebates on the cost of land, stamp duty, power tariffs, concessional interest on loans, and subsidies on capital. The sector also qualifies for incentives under the MEIS, although this Scheme is scheduled to be discontinued on 1 January 2021. Following weak performance, especially in the passenger motor vehicle sector towards the end of 2019/20, new incentives were provided, including a 15% depreciation benefit for all cars bought before March 2020, and the deferral of a proposed increase in the fee for vehicle registrations. The Government is also planning to introduce a vehicle scrappage policy.

4.4 Services

4.79. In 2018/19, services accounted for around 54% of India's GDP (Table 1.2), their share growing from almost 52% in 2014/15. The sector contributes almost 70% to India's GDP growth.[127] Although decelerating since 2014/15, growth in services during the period under review was higher than average GDP growth. Services are also the largest recipient of FDI (Table 1.5).

4.80. With regard to the external balance, for most of the period under review, India ran a surplus in its services trade of around 3% of GDP. Exports of services grew from USD 158 billion in 2014/15 to USD 208 billion in 2019/20. Imports grew from USD 82 billion to USD 126 billion. The largest exports are computer, information technology and telecommunications services, followed by other business services, travel, transportation and financial services. Other business services, travel and transportation are the main imports.

4.4.1 Financial services

4.4.1.1 Banking

4.81. The banking sector consists of 12 public sector banks (PSBs)[128], 22 private sector banks, 46 foreign banks, 45 regional rural banks (RRBs), and 1,541 urban banks and 397 rural cooperative banks.[129] There is also a large number of non-banking financial institutions (NBFCs). The PSBs continue to dominate the sector, although their share of total assets declined slightly from 72.7% at the time of the last Review to 70% in 2019.

4.82. During the review period, there was a steady increase in bank assets, although the returns on assets have declined since 2017 (Table 4.11). The sector's non-performing assets (NPAs) increased steadily until 2018, and declined in 2019 to 9.3%, in part due to capitalization by the central Government. The Reserve Bank of India (RBI) estimated that they fell further to 8.5% by the end of March 2020.[130]

Table 4.11 Trends in the banking sector's gross loans and deposits, and prudential indicators, 2015-20 (as at 31 March)

(INR billion and %)

	2015	2016	2017	2018	2019	2020[a]
Assets	108,913	118,088	130,760	142,189	156,246	161,484
Return on assets (%)	0.78	0.29	0.37	-0.19	-0.13	0.2
Capital to risk-weighted assets ratio (CRAR) (%)	12.94	13.32	13.66	13.83	14.31	14.91
Gross non-performing assets (NPAs) to gross advances (%)	4.62	7.79	9.59	11.46	9.24	9.1
Net NPAs to net advances (%)	3.40	4.63	5.49	6.10	3.75	3.5
Total loans (gross advances)	66,911	72,733	75,981	83,992	95,196	97,639
Loans by economic sector (% of total loans)						
Agriculture	12.31	13.13	14.63	14.21	13.93	12.66

[127] RBI (2019), *Annual Report 2019*.
[128] The Government is required to hold at least 51% of the shares of these banks. On 1 April 2020, 10 PSBs were merged into 4.
[129] In addition, there are 3 local area banks, 10 small finance banks, (SFBs) and 7 payment banks.
[130] RBI (2020), *Annual Report 2020.*

	2015	2016	2017	2018	2019	2020[a]
Real estate	18.03	20.03	20.67	21.28	22.40	23.88
Total deposits	**88,351**	**95,073**	**105,688**	**113,081**	**124,480**	**131,064**

a Up to 31 March 2020.

Source: WTO Secretariat, based on information provided by the authorities (off-site returns as reported by banks, and domestic operations).

4.83. There were no changes to foreign investment policy in the sector since the last Review, which is restricted to 74% of the paid-up share capital of the bank (up to 49% through the automatic route and up to 74% with prior government approval). For investment in the PSBs, the limit is up to 20% with prior government approval.

4.84. Regulatory responsibility for the sector lies with the RBI under the Reserve Bank of India Act, 1934, and the Banking Regulation Act, 1949. The RBI regulates commercial banks, urban cooperative banks, financial institutions (such as the Exim Bank, the National Bank for Agriculture and Rural Development (NABARD), the National Housing Bank (NHB), and the Small Industries Development Bank of India (SIDBI)) and NBFCs, under the guidance of the Board for Financial Supervision (BFS). The NABARD supervises RRBs, state cooperative banks and district central cooperative banks, while the NHB supervises housing finance companies. The RBI also fully owns two subsidiaries: the Deposit Insurance and Credit Guarantee Corporation of India (DICGC)[131] and the Bharatiya Reserve Bank Note Mudran Private Limited (BRBNMPL).[132]

4.85. To operate in India, domestic and foreign banks must be granted a licence by the RBI. Until 2016, the RBI issued new private bank licences on a periodic basis. Since then, private banks may apply for licences at any time ("on tap" licences). Under the Guidelines issued by the RBI in February 2013 and August 2016, private-sector entities or groups that are "owned and controlled by residents" and public-sector entities may apply for a banking licence only through a wholly owned non-operative finance holding company (NOFHC).[133] New private banks must have a minimum paid-up capital of INR 5 billion and, thereafter, maintain a net worth of at least INR 5 billion at all times. Other requirements include that the majority of directors of the bank be independent; and that prior approval is granted by the RBI for any acquisition of shares of 5% or more by an individual, entity or group. No single entity, or group of related entities, other than the NOFHCs, may have direct or indirect shareholdings of more than 10% of the paid-up capital of the bank. As with existing banks, new banks must comply with the priority-sector lending targets and sub-targets (see below), and open at least 25% of their branches in unbanked rural centres.[134]

4.86. With regard to branches, under the Banking Regulation Act, 1949, banks need the approval of the RBI to open new branches or change the location of existing branches. However, domestic scheduled commercial banks (other than RRBs) may open banking outlets (in Tier 1-Tier 6 centres) without permission. Under new guidelines, issued on 18 May 2017, the term "branch" was replaced with the term "banking outlet" (defined as a fixed point service delivery unit, manned either by bank staff or a business correspondent, providing services such as acceptance of deposits, encashment of cheques/cash withdrawal or money-lending, for a minimum of four hours per day for at least five days a week), allowing banks to expand their network further into rural areas.

4.87. To promote financial inclusion, the Pradhan Mantri Jan Dhan Yojana (PMJDY) Scheme was launched in August 2014 to allow people who did not have a bank account to open one so they can receive salaries, subsidies, remittances and other payments directly into their bank accounts. The accounts, which do not require a minimum balance to stay open, have been increasing and, as at 30 October 2019, almost 374 million such accounts had been opened. Furthermore, the priority sector lending requirements for commercial banks were continued. All commercial banks are

[131] Insurance for banks, which is provided by the DICGC, was raised from INR 100,000 per depositor, per bank, to INR 500,000, on 4 February 2020.

[132] In April 2019, the RBI divested its shares in the NABARD and the NHB, both of which are fully state-owned.

[133] The NOFHC holds a minimum of 40% of the paid-up capital of the bank, which is locked-in for five years from the date of establishment. Shareholding by the NOFHC of above 40% is to be brought down to 40% within three years, 20% within 10 years, and 15% within 15 years. RBI, *Guidelines for Licensing of New Banks in the Private Sector*, 22 February, 2013; and RBI *Guidelines for "on tap" Licensing of Universal Banks in the Private Sector*, 1 August 2016.

[134] Rural centres are defined as having a population of under 10,000.

required to lend a certain share of their adjusted net bank credit (ANBC) or credit equivalent of off-balance sheet exposure, whichever is higher, to sectors identified as a priority (Table 4.12). Foreign banks, with 20 branches and over, established as of 2013, were also required to achieve this target over five years between 2013 and 2018, while foreign banks with fewer than 20 branches were to have achieved the target by March 2020. The sub-targets for these banks, to be made applicable post-2020, will be decided in due course.

Table 4.12 Priority sector lending requirement

Sector/category	Domestic banks	Foreign banks with 20 or more branches	Foreign banks with fewer than 20 branches
Agriculture (farm credit, agricultural infrastructure and ancillary activities)	18% of adjusted net bank credit (ANBC) or credit equivalent amount of off-balance sheet exposure (COEBSE), whichever is higher	18% of ANBC or COEBSE, whichever is higher	n.a.
- small and marginal farmers	8% of ANBC or COEBSE, whichever is higher	8% of ANBC or COEBSE, whichever is higher	n.a.
Micro-enterprises	7.5% of ANBC or COEBSE, whichever is higher	7.5% of ANBC or COEBSE, whichever is higher	n.a.
Weaker sections[a]	10% of ANBC or COEBSE, whichever is higher	10% of ANBC or COEBSE, whichever is higher	n.a.
Export	Incremental export credit over corresponding date of the preceding year of up to 2% of ANBC or COEBSE, whichever is higher, from 1 April 2015, subject to an authorized limit of up to INR 400 million per borrower	Incremental export credit over corresponding date of the preceding year of up to 2% of ANBC or COEBSE, whichever is higher, from 1 April 2017	Up to 32% of ANBC or COEBSE, whichever is higher
Total	**40%**	**40% by March 2018**	**40% by March 2020**

n.a. Not applicable.

a Small and marginal farmers; artisans, village and cottage industries with individual credit limits up to INR 100,000; beneficiaries of government-sponsored schemes, such as the National Rural Livelihood Mission (NRLM), the National Urban Livelihood Mission (NULM) and the Self Employment Scheme for Rehabilitation of Manual Scavengers (SRMS); Scheduled Castes and Scheduled Tribes; beneficiaries of Differential Rate of Interest (DRI) Schemes; self-help groups; distressed farmers indebted to non-institutional lenders; distressed persons other than farmers with loans up to INR 100,000 per borrower to pre-pay their debt to non-institutional lenders; individual women beneficiaries with loans of up to INR 100,000; persons with disabilities; overdraft limit to PMJDY account holders between the ages of 18 and 65, of up to INR 10,000; and minority communities as may be notified by the Government from time to time.

Source: RBI, *Master Direction-Priority Sector Lending-Targets and Classification, updated as on 5 December 2019*. Viewed at: https://rbidocs.rbi.org.in/rdocs/notification/PDFs/33MD08B3F0CC0F8C4CE6B844B87F7F990FB6.PDF.

4.88. The target for small finance banks, which have limited functions, principally accepting deposits and making loans, is higher, at 75% of their ANBC. On 10 May 2018, the RBI issued revised guidelines on lending to the priority sectors for urban cooperative banks, which added medium-sized enterprises, social infrastructure and renewable energy to the priority sectors, with a 7.5% target for micro-enterprises; in addition, the distinction between direct and indirect agriculture, and loans for education in India and abroad, were removed. The total target for urban cooperative banks was raised from 40% to 75%, to be achieved by 31 March 2023[135], with sub-targets for micro-enterprises at 7.5% and for weaker sections at 10%. In March 2020, the RBI issued a notification to gradually

[135] The targets are to be achieved gradually, to reach 50% of the ANBC or the CEOBSE by 31 March 2021, 60% by 31 March 2022, and 75% by 31 March 2023. RBI, *Limits on exposure to single and group borrowers/parties and large exposures and Revision in the target for priority sector lending - UCBs*. Viewed at: https://rbidocs.rbi.org.in/rdocs/Content/PDFs/USB30122019F76187404A2B45FB8436D72C1E949CB2.PDF.

raise the target for urban cooperative banks to 75% by 31 March 2024.[136] In August 2019, the RBI allowed bank credit to registered NBFCs for on-lending to agriculture and MSEs to be treated as priority-sector lending, subject to certain restrictions.

4.89. Since 2015, if banks are unable to meet these targets, they may buy priority sector lending certificates (PSLCs), thereby transferring funds to banks that are able to lend to the priority sector. The PSLCs may only be used during the current year and cannot be transferred to the following year.[137] They may also continue, as before, to invest the amount of the shortfall in the Rural Infrastructure Development Fund, (RIDF) run by the NABARD. The rates of return on this investment range from the bank rate minus 2 percentage points to the bank rate minus 4 percentage points, depending on the shortfall.[138]

4.90. Supervision of banks, cooperative banks and NBFCs is carried out by the RBI's Board for Financial Supervision through on-site inspections, off-site surveillance, and periodic meetings with the management of the banks. The RBI is currently moving away from the transaction-based CAMELS[139] framework to a risk-based framework whose aim would be to focus on the most critical risks facing each bank and assess the bank's management of these risks. The Prompt Corrective Action (PCA) Framework allows the Board to monitor and suggest corrective actions to banks if their capital to risk-weighted assets ratio (CRAR), asset quality or profitability fall below certain thresholds.[140] The RBI also established agreements for supervisory cooperation with 48 supervisory jurisdictions, to improve cross-border cooperation. In addition, the regulation of housing banks (previously supervised by the NHB under the National Housing Bank Act, 1987) was also entrusted to the RBI in 2019.

4.91. The RBI adopted the Basel III capital adequacy framework in 2013, and banks were to implement the framework by 31 March 2019. Under capital adequacy norms applicable to all commercial banks (except local area banks and RRBs), the CRAR should be 9% on an ongoing basis. It may be raised by the RBI, depending on its assessment of the risk profile of the bank. For instance, for payment banks and small finance banks, the CRAR is 15% on a continuous basis (or a higher percentage prescribed by the RBI), while for new banks established under the new "on tap" licencing guidelines, it is 13% (or higher if prescribed by the RBI) for at least three years after the commencement of operations. Tier I CRAR for commercial banks must be at least 7%. All commercial banks are required to maintain a 4% cash reserve ratio, and a statutory liquidity ratio of 18.25%.

4.92. During the period under review, commercial banks remained well-capitalized, with the CRAR rising from almost 13% in 2015 to around 15% in 2020, considerably higher than the statutory requirement of 9%. However, banks' NPAs have been rising, particularly among the PSBs.[141] The level of gross NPAs rose from 4.6% in 2015, peaking at 11.5% in March 2018, before declining to 9.1% by December 2019. The RBI set up the Central Repository of Information on Large Credits in 2014, and reviewed asset quality in 2015. The review of the loan portfolios of the 36 largest banks, holding 93% of total assets in the sector, revealed significant quantities of NPAs, and banks were advised to increase provisioning for these assets. This was accompanied by a decision to issue "on tap" licences, to increase competition in the sector.

4.93. On 12 February 2018, the RBI published the Revised Framework for the Resolution of Stressed Assets, which is a harmonized and simplified generic framework. It requires banks to identify defaults on loan accounts immediately, by classifying the stressed assets as "special mention accounts", and put in place board-approved policies for the resolution of such stressed assets under the Framework. For large accounts with aggregate exposure of INR 20 billion and over, on or after 1 March 2018 (reference date), the resolution plan had to be implemented within 180 days from that date, failing which, insolvency proceedings had to be mandatorily initiated against the borrower. Following a

[136] RBI, *Limits on exposure to single and group borrowers/parties and large exposures and Revision in the target for priority sector lending – UCBs.* Viewed at: https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11819&Mode=0.

[137] RBI, *Priority Sector Lending Certificates*. Viewed online at: https://www.rbi.org.in/scripts/PublicationReportDetails.aspx?UrlPage=&ID=810#A5.

[138] RBI, *RIDF and other funds*. Viewed at: https://www.rbi.org.in/scripts/FS_Notification.aspx?Id=9397&fn=2754&Mode=0 on 5 August 2020.

[139] CAMELS stands for capital adequacy, asset classification, management, earnings appraisal, liquidity and sensitivity.

[140] The PCA framework does not extend to NBFCs or cooperative banks.

[141] Non-performing loans are defined by the RBI as loans that are unpaid for 90 days.

decision by the Supreme Court that the circular was *ultra vires* Section 35AA of the Banking Regulation Act 1949, the Framework was revised on 7 June 2019. The main change includes the requirement that the lenders review the defaulting borrower's account within 30 days of the default (review period), during which period the lenders may decide on the resolution strategy, including a resolution plan which would require an inter-creditor agreement to be executed by the lenders that are exposed to such borrower. For accounts with aggregate exposure above INR 15 billion, if a viable resolution plan is not implemented within the prescribed timelines, the lenders are required to make additional provisions against the loan account. The conditions for large accounts of INR 20 billion and above remain unchanged. To address additional stress in the financial system due to the COVID-19 pandemic, the RBI put in place certain flexibilities under certain conditions under the Framework for exposures other than for personal loans.[142]

4.94. To specifically address the problem of rising NPAs in PSBs, in October 2017, the central Government launched the *Indradhanush* Plan to recapitalize PSBs. The Plan raised INR 2.1 billion during 2017/18, of which INR 881.39 million was provided through the central government Budget and the rest in the form of bonds and capital raised by the PSBs. The 2019/20 Budget announced a further INR 700 billion for recapitalization of the PSBs, and the intention to consolidate 10 PSBs into 4. As a result, the number of banks monitored by the RBI under its PCA Framework declined to 4 PSBs (and two private banks) as at December 2019.[143] The infusion of funds under the Plan made it possible for the PSBs to absorb losses and reduce the level of NPAs.[144] In addition, following recommendations by the Committee to Review Boards of Governance of Banks in India in May 2014, the central Government also disinvested in the IDBI Bank Ltd. to below 50%. In the 2020/2021 Budget, it was announced that the central government shareholding would be brought down further.

4.95. In addition, the Banking Regulation (Amendment) Act was enacted on 25 August 2017, which permits the central Government to empower the RBI to initiate insolvency proceedings in the case of default by banks, under the provisions of the Insolvency and Bankruptcy Code, which was enacted on 28 May 2016. The Act also permits the RBI to issue directions from time to time to any bank for the resolution of stressed assets.[145] Based on the Internal Advisory Committee set up by the RBI in 2017, the RBI issued directions to certain banks to initiate the corporate insolvency resolution process for 12 stressed accounts under the Code.

4.96. NPAs have also been rising in NBFCs, with gross NPAs at 6.6% in March 2019. The RBI stepped up its supervision of these companies, including through on-site examination, off-site surveillance, market intelligence, and annual audit reports. Following the default by a large NBFC in 2018, the RBI issued guidelines to improve supervision of these companies. As at November 2019, all non-deposit taking NBFCs with assets of INR 1 billion and above, systemically important core investment companies, and deposit-taking NBFCs, irrespective of the size of their assets, must adhere to liquidity risk management guidelines, in a phased manner, by 2022.[146] The RBI Act, 1934, was amended in 2019, to empower the RBI to remove the directors, supersede the board and appoint administrators for all NBFCs, except public-sector NBFCs.[147]

4.97. As a result, the RBI has limited powers to address difficulties in public-sector NBFCs, PSBs and urban cooperative banks, whose management and governance structures continue to be influenced by the central Government, including through government-appointed senior management. The *Indradhanush* Plan, in addition to providing funds to help PSBs, also aims to address governance issues, through the appointment of chairmen and managing directors, the establishment of the Bank Board Bureau (BBB) to replace the Appointments Board for the

[142] RBI, *Statement on Developmental and Regulatory Policies*, 6 August 2020.
[143] RBI *Trend and Progress of Banking in India 2018-19.* Viewed at: https://www.rbi.org.in/scripts/PublicationsView.aspx?Id=19364.
[144] Information provided by the authorities.
[145] Articles 35AA and 35AB, respectively, of the Banking Regulation (Amendment) Act, 2017.
[146] Systemically important NBFCs are defined as those whose asset size is INR 5 billion or more as per the last audited balance sheet, as their activities have a bearing on the financial stability of the overall economy.
[147] There are 42 state-owned NBFCs registered with the RBI (16 owned by the central Government and 26 by state governments). RBI, *Annual Report 2017-18*. Viewed at: https://rbidocs.rbi.org.in/rdocs/AnnualReport/PDFs/6VIREGULATIONA7CFBEF5F1BA4B90A78BD206EEFA8807.PDF.

appointment of directors and other senior officials, and a new framework of accountability for PSBs.[148]

4.98. In this regard, the Banking Regulation (Amendment) Bill, 2020 was introduced in Parliament. It proposes to bring the cooperative banks to the same level as other banks, through better management and proper regulation, and to ensure that the affairs of the cooperative banks are conducted in a manner that protects the interests of the depositors. It further proposes to strengthen such banks by increasing professionalism, enabling access to capital, improving governance, and ensuring sound banking.

4.99. In light of the deteriorating economic environment due to the COVID-19 pandemic, a number of steps were taken in 2020 to provide temporary relief to borrowers, and enhance liquidity support for financial markets and other stakeholders. They include: a special refinance facility of INR 650 billion for the NABARD, the Small Industries Development Bank of India (SIDBI), the NHB, and the EXIM Bank, to enable them to continue their funding activities as required.[149]

4.4.1.2 Insurance

4.100. Insurance activities in India may only be performed by Indian companies, i.e. companies registered in India under the Companies Act, 2013. In 2019, the sector consisted of 70 insurance (and re-insurance) companies (compared to 53 in March 2014), of which 24 are life insurance companies and 27 are involved in general insurance activities. Of the 70, 8 are in the public sector, of which 2 are specialized insurers[150], 1 life insurance company, 4 general insurance companies, and 1 reinsurer (Table 4.13).[151]

Table 4.13 Insurance and reinsurance market, October 2019

(INR billion and %)

Insurer	Private		Public		Total		FDI	% of FDI to total equity
	No.	Equity	No.	Equity	No.	Equity		
Life	23	275,150	1	1,000	24	276,150	97,460	35.36
General	21	95,700	6	12,740	27	10,840	28,950	27.2
Health	7	34,720	0	0	7	34,720	11,490	31.7
Re-insurer	11	2,680	1	8,770	12	11,460	0	0
Total	**62**	**408,250**	**8**	**22,510**	**70**	**430,760**	**n.a.**	**n.a.**

n.a. Not applicable.

Source: Information provided by the authorities.

4.101. In life insurance, the market is dominated by one public-sector company, the Life Insurance Corporation of India (LIC), although its share continues to fall (66% in January 2019, compared to 75.4% in 2013/14). In the general insurance sector, private insurers had a market share of 55%.

4.102. Insurance penetration (premiums as a share of GDP) fluctuated over recent years but remains low (below 3.7% in 2018). To make insurance more accessible to the population, a number of schemes were launched during the review period. These are: the *PM Jan Suraksha Bima Yojana*, to provide insurance in rural areas; *PM Jeevan Jyoti Bima Yojana*, for the informal sector; *Atal Pension Yojana*, for people in the informal sector who join the national pension system; and *Ayushman Bharat Yojana*, which provides medical insurance cover of up to INR 500,000. In addition, agricultural insurance under the *PM Fasal Bima Yojana* was expanded during this period (Section 4.1).

[148] Department of Financial Services, *Indradhanush: Plan for Revamp of Public Sector Banks, 14 August 2015*. Viewed at: https://financialservices.gov.in/sites/default/files/PressnoteIndardhanush_1.pdf.
[149] RBI, *Statement on Developmental and Regulatory Policies* Viewed at: https://rbidocs.rbi.org.in/rdocs/PressRelease/PDFs/PR150332B938A0C7E4C64AE20D15EA85F8DB1.PDF.
[150] The specialized insurers are the Export Credit Guarantee Corporation of India Ltd. (ECGC) and the Agricultural Insurance Company of India Ltd (AIC).
[151] IRDAI, *Annual Report 2017-18*. Viewed at: https://www.irdai.gov.in/ADMINCMS/cms/Uploadedfiles/english_hindi_annual%20report%202018%20webcopy.pdf.

4.103. The sector is regulated by the Insurance Regulatory and Development Authority of India (IRDAI), which is responsible, *inter alia*, for issuing certificates of registration and regulating insurance providers, protecting the interests of policy holders, and promoting efficiency in the conduct of insurance business. Regulation is subject to the Insurance Act, 1938, the Insurance Regulatory and Development Authority Act, 1999, the Life Insurance Corporation Act, 1956, and the General Insurance Business Act, 1972. The Insurance Laws (Amendment) Act, 2015 entered into force on 23 March 2015. It amended the Insurance Act, the General Insurance Business Act, and the Insurance Regulatory and Development Authority Act.

4.104. The key changes brought in by the Insurance Laws (Amendment) Act, 2015 include raising the FDI limit in the sector, from 26% to 49% automatically (rather than requiring government approval), with control remaining with Indian shareholders; permitting foreign re-insurers to open branches for re-insurance business in India (up to the 49% FDI limit); and allowing insurance companies to raise capital through capital instruments other than equity. Furthermore, since 2 September 2019, up to 100% foreign equity is permitted in insurance intermediation services, subject to verification by the IRDAI and registration and licensing requirements and conditions.

4.105. Tariffs in the sector are not regulated (except third-party motor insurance, whose premium rates continue to be regulated by the IRDAI). However, insurers are required to file their tariffs with the IRDAI, and charge premiums on the basis of their filed tariffs. Insurers may file new schedules of tariffs with the IRDAI as and when required. The IRDAI accepts the schedules as provided by the insurer but retains the right to query or require changes.

4.106. Under the Insurance Regulatory and Development Authority (Obligations of Insurers to Rural and Social Sectors) Regulations, 2015, insurers must meet annual targets in certain sectors. The requirements in the rural sector are: an increase in the annual number of policies written, by 7% in the first year to 20% by the tenth year and each year after for life insurance; for general insurance, the requirement is 2% of gross premiums in the first year to 7% by the ninth year and each year after. Health insurers must only meet 50% of the requirement for general insurance. In the social sector, the requirement for all types of insurance is 0.5% of newly insured persons ("social sector lives") in the first year to 5% in the tenth year and each year after.[152]

4.107. Appeals against insurance companies are resolved by the Insurance Ombudsman in the IRDAI. Orders issued by the IRDAI may be appealed to the Securities Appellate Tribunal. The IRDAI issued regulations in 2017 to protect policyholders, which include requirements for policies, products, and other matters to be stated in general and life insurance policies, as well as requiring each insurer to have a grievance-redressal officer.

4.4.2 Telecommunications

4.108. India is the world's second-largest telecom and Internet market; and it became the world's largest consumer of mobile data in 2018, supported by affordable mobile tariff packages and increased 4G availability.[153] Total telecom subscriptions increased, to reach over 1 billion in 2016, and continued to grow. Internet subscriptions also increased substantially (Table 4.14). In addition, according to the International Telecommunications Union's (ITU) Information and Communications Technology (ICT) Development Index (IDI), since 2015, ICT access, use, and digital literacy in India have improved. In 2017, India was ranked 134th (out of 175), four positions above its 2016

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[152] Social sector includes the informal sector, the unorganized sector, economically vulnerable or backward classes, and other categories of persons in rural and urban areas (IRDA (Obligations of Insurers to Rural and Social Sectors) Regulations, 2015. Taxmann, *IRDA's new norms sets targets for insurers while insuring policies in rural sectors.* Viewed at: https://www.taxmann.com/topstories/104010000000045867/irdas-new-norms-sets-targets-for-insurers-while-insuring-policies-in-rural-sectors.aspx.

[153] Telecom Regulatory Authority of India (2018), *Annual Report 2017-18*. Viewed at: https://main.trai.gov.in/sites/default/files/Annual_Report_21022019.pdf; Ministry of Finance (2018), *Economic Survey 2017-18*, Volume II. Viewed at: https://www.indiabudget.gov.in/economicsurvey/; and IBEF, *Telecommunications*. Viewed at: https://www.ibef.org/download/telecommunications-feb-2019.pdf.

ranking.[154] However, there is still a major gap in teledensity between rural and urban areas. The ITU estimated that only 29.5% of the Indian population was using the Internet in 2017.[155]

Table 4.14 Selected telecom indicators, 2015-19

		2015	2016	2017	2018	2019 (August)
Telecom subscribers	**Total (million)**	**996.1**	**1,059.3**	**1,195.0**	**1,211.8**	**1,191.8**
	Wireline (%)	2.7	2.4	2.0	1.9	1.8
	Wireless (%)	97.3	97.6	98.0	98.1	98.3
	Rural (%)	41.8	42.3	42.0	43.4	42.8
	Urban (%)	58.2	57.7	58.0	56.6	57.1
	Public (%)	10.1	10.3	10.2	10.9	11.2
	Private (%)	89.9	89.7	89.8	89.1	88.8
Telecom teledensity (%)	**Overall**	**79.4**	**83.4**	**93.0**	**93.3**	**90.3**
	Wireline	2.1	2.0	1.9	1.8	1.6
	Wireless	77.2	81.4	91.1	91.5	88.8
	Rural	48.0	51.3	57.0	59.2	57.0
	Urban	149.0	154.2	171.5	166.6	161.3
Internet subscribers	**Total (million)**	**302.4**	**342.7**	**422.2**	**493.9**	**665.4**
	Wireline (%)	6.3	6.0	5.1	4.3	3.3
	Wireless (%)	93.7	94.0	94.9	95.7	96.8
	Narrowband (%)	67.2	56.3	34.5	16.5	10.6
	Broadband (%)	32.8	43.7	65.5	83.5	89.4
	Rural (%)	37.0	32.7	32.3	29.5	35.8
	Urban (%)	63.0	67.3	67.7	70.5	64.2
Internet teledensity (%)	**Overall**	**24.1**	**27.0**	**32.9**	**38.0**	**50.4**
	Rural	12.9	12.8	15.5	16.4	26.6
	Urban	49.1	58.3	70.8	84.7	101.2

Source: Information provided by the authorities.

4.109. To expand ICT penetration, in 2015, India launched the Digital India Initiative; as a result, all government services are available online, and connectivity and digital literacy have improved.[156] To this end, common service centres (CSCs) were established in rural and remote areas to connect the unconnected to public and private services, such as banks, insurance companies, and health and education centres.[157] CSCs are run by village-level entrepreneurs (VLEs); tariffs charged by the VLEs to use computers and access the Internet are regulated to ensure affordability.[158] It is also expected that the Digital India Initiative will help increase e-commerce.[159] In addition, public and private training initiatives, to promote the adoption of digital technology, were implemented to encourage MSMEs to diversify their business model through the use of Business-to-Business (B2B) and Business-to-Consumer (B2C) services.[160] Despite these efforts, according to the business community, issues such as lack of digital literacy, poor connectivity (including high equipment and connection costs), and cyber security are a challenge to digitalization.[161] A 2017 study revealed that

[154] IDI, *India*. Viewed at: https://www.itu.int/net4/ITU-D/idi/2017/index.html#idi2017economycard-tab&IND.

[155] IDI, *IDI 2017 Rank*. Viewed at: https://www.itu.int/net4/ITU-D/idi/2017/index.html#idi2017rank-tab.

[156] Digital India, *About Digital India*. Viewed at: https://www.digitalindia.gov.in/#.

[157] Common Service Centres Scheme, *CSC e-Governance Services India Limited*. Viewed at: https://csc.gov.in/aboutus.

[158] Information provided by the authorities.

[159] DPIIT, *Draft National e-Commerce Policy 2019*. Viewed at: https://dipp.gov.in/sites/default/files/DraftNational_e-commerce_Policy_23February2019.pdf.

[160] KPMG and Google (2017), *Impact of internet and digitisation on SMBs in India*. Viewed at: https://assets.kpmg/content/dam/kpmg/in/pdf/2017/01/Impact-of-internet-and-digitisation.pdf; and UNIDO (2017), *National Report on E-commerce Development in India*. Viewed at: https://www.unido.org/sites/default/files/2017-10/WP_15_2017_.pdf.

[161] UNIDO (2017), *National Report on E-commerce Development in India*. Viewed at: https://www.unido.org/sites/default/files/2017-10/WP_15_2017_.pdf; and KPMG and Google (2017), *Impact of internet and digitisation on SMBs in India*. Viewed at: https://assets.kpmg/content/dam/kpmg/in/pdf/2017/01/Impact-of-internet-and-digitisation.pdf.

68% of MSMEs had no access to the Internet; 30% were using it for online marketing and communication; and only 2% were engaged in e-commerce.[162]

4.110. On the other hand, in some sectors of the economy (e.g. agriculture, banking, healthcare, and learning services), the use of digital technologies is widespread. For instance, mobile apps were developed to disseminate information to farmers and to purchase inputs and sell products. In addition, to support efforts to demonetize, digital payment apps were put in place, and the use of other types of digital payments, such as e-banking and e-wallets, increased.

4.111. Telecom services are regulated mainly by the Indian Telegraph Act, 1885; the Indian Wireless Telegraphy Act, 1933; the Indian Telegraph Rules, 1951; and the Telecom Regulatory Authority of India Act, 1997. No substantial changes were introduced to these pieces of legislation over the review period. The Personal Data Protection Bill, 2018 is under consideration to address online privacy.[163]

4.112. The Department of Telecommunications (DOT), at the Ministry of Communications[164], formulates and implements the national telecom policy (Box 4.3). It also regulates the provision of services; issues licences to telecom service providers; and manages the use of the spectrum. The Telecom Regulatory Authority of India (TRAI) regulates tariffs and interconnection agreements and establishes mandatory quality standards for providers; it also makes recommendations to the DOT on policy and regulatory issues. The Telecom Disputes Settlement and Appellate Tribunal (TDSAT) resolves disputes between the authorities, the providers, and the consumers. Orders by the TRAI, including tariff orders, may be appealed by telecom service providers to the TDSAT. High courts have the power to deal with telecom-related cases. TDSAT decisions may be appealed to the Supreme Court.[165]

Box 4.3 National Digital Communications Policy (NDCP 2018)

In 2018, the NDCP 2018 was launched to promote India's integration into the global digital economy, and thus to contribute to sustainable social and economic development.

The NDCP 2018 is aimed to: (i) providing universal access and ensure high-quality access to broadband services; (ii) attracting investment to stimulate innovation in digital technologies (i.e. 5G) and manufacturing (e.g. semi-conductors); (iii) promoting local manufacturing and IPRs through the procurement of domestic goods and services with domestically owned IPRs; and (iv) creating capacity building to improve digital knowledge and an effective data protection regime.

Source: DOT, *NDCP 2018*. Viewed at: http://dot.gov.in/relatedlinks/national-digital-communications-policy-2018; and TRAI (2015), *Inputs for Formulation National Telecom Policy 2018*. Viewed at: https://main.trai.gov.in/sites/default/files/Recommendation_NTP_2018_02022018.pdf.

4.113. FDI in the telecommunication sector is allowed up to 100%; however, approval is required for FDI above 49%.[166] Foreign telecom service providers must be established in India to operate.[167]

4.114. Local and foreign telecom service providers, including virtual mobile network operators (VMNOs), require a unified licence (UL) to supply telecom services. ULs are subject to minimum equity and net worth requirements, which are the same for local and foreign providers. They are valid for 20 years (10 years for VMNOs), subject to an annual fee of 8% of the provider's adjusted gross revenue, out of which 5% goes to the Universal Service Obligation Fund (USOF). ULs may be renewed every 10 years.[168] A UL allows a provider to supply different types of services (Table 4.15). However, providers also require authorization to provide each different type of service per service

[162] KPMG and Google (2017), *Impact of internet and digitisation on SMBs in India*. Viewed at: https://assets.kpmg/content/dam/kpmg/in/pdf/2017/01/Impact-of-internet-and-digitisation.pdf.

[163] PRS Legislative Research, *Draft Personal Data Protection Bill, 2018*. Viewed at: http://www.prsindia.org/billtrack/draft-personal-data-protection-bill-2018.

[164] The Ministry of Communications was created in 2016. If was formerly known as the Ministry of Communication and Information Technology.

[165] Information provided by the authorities.

[166] Invest India, *FDI Policy*. Viewed at: https://www.investindia.gov.in/foreign-direct-investment.

[167] DOT, *Amended Unified Licence Guidelines, 28 March 2016*; and *Guidelines for grant of unified license (Virtual Network Operators), 31 May 2016*. Viewed at: http://dot.gov.in/unified-licnse.

[168] Amended Unified Licence Guidelines, 28 March 2016; and Guidelines for grant of unified license (Virtual Network Operators), 31 May 2016. Viewed at: http://dot.gov.in/unified-licnse; Amended Unified Licence Guidelines, 28 March 2016. Viewed at: http://dot.gov.in/unified-licnse.

area. Authorizations are subject to an entry fee, which varies according to the service. If multiple authorizations are issued, the entry fee is capped at INR 150 million.[169]

Table 4.15 Services covered by the unified licence (per service area)

National area	22 service areas (major cities/states)	322 secondary switching areas
National long-distance	Access services (fixed and mobile services)	Internet service providers (category C)
International long-distance	Public mobile radio trunk services (PMRTS)	
Internet service providers (category A)	Internet service providers (category B)	
Very small aperture terminal (VSAT)		
Global mobile personal communication by satellite (GMPCS)		
INSAT Mobile Satellite System Reporting (MSS-R)		
Resale of international private leased circuits (IPLC)		

Source: Amended Unified Licence Guidelines, 28 March 2016. Viewed at: http://dot.gov.in/unified-licnse.

4.115. Since India's last Review in 2015, measures to ensure a more efficient use of the spectrum have been adopted. Consequently, in 2015 and 2016, new frequencies were auctioned to expand the possibility of offering more services. Since 2016, operators have been allowed to share and trade frequencies[170]; and, in 2016, frequencies across states were harmonized. As a result, the quality of voice and data services improved.[171] Licences to use the spectrum are granted for 20 years, subject to an annual Spectrum Usage Charge (SUC) of 3%-4% of the provider's adjusted gross revenue (excluding revenues from wireline services); the SUC rate for providers that share the spectrum was increased by 0.5%.[172]

4.116. Telecom services are supplied by public and private providers. The State owns two providers, Bharat Sanchar Nigam Ltd. (BSNL) and Mahanagar Telephone Nigam Ltd. (MTNL), and the telecom infrastructure provider (BBNL) that installs, operates, and maintains the national optical fibre network.[173] BSNL and MNTL remain the main providers of fixed telecom services, but their combined market share declined from 75.1% in 2015 to 64.6% in 2019 (Chart 4.2). In contrast, mobile telecom services continue to be dominated by private providers. A new private provider, Reliance JIO, entered the market in 2016, which increased competition.[174] VMNOs were authorized to operate in 2016[175]; in 2020, 112 VMNOs were licenced, but they were not operational.[176] In August 2019, four Internet service providers (Reliance JIO, Bharti, Vodafone-Idea, and BSNL) held 98.4% of the Internet market.[177]

169 Amended Unified Licence Guidelines, 28 March 2016.

170 Department of Telecommunications, *Guidelines for Sharing of Access Spectrum by Access Service Providers.* Viewed at: http://dot.gov.in/sites/default/files/2015_10_13%20Sharing-WPC_1.pdf?download=1; and DOT, *Guidelines on Spectrum Trading*. Viewed at: http://dot.gov.in/accessservices/guidelines-spectrum-trading.

171 DOT, *Annual Report 2016-2017*. Viewed at: http://dot.gov.in/reports-statistic/2471; and GSMA (2016), *Best practice in mobile spectrum licensing*. Viewed at: https://www.gsma.com/spectrum/wp-content/uploads/2016/11/spec_best_practice_ENG.pdf.

172 TRAI Consultation Paper No. 09/2014, 31 July 2014. Viewed at: https://main.trai.gov.in/sites/default/files/CPonAGR_31Jul2014.pdf; Guidelines on Spectrum Sharing; and information provided by the authorities.

173 DOT, *Annual Report 2017-18*. Viewed at: http://dot.gov.in/reports-statistic/2471.

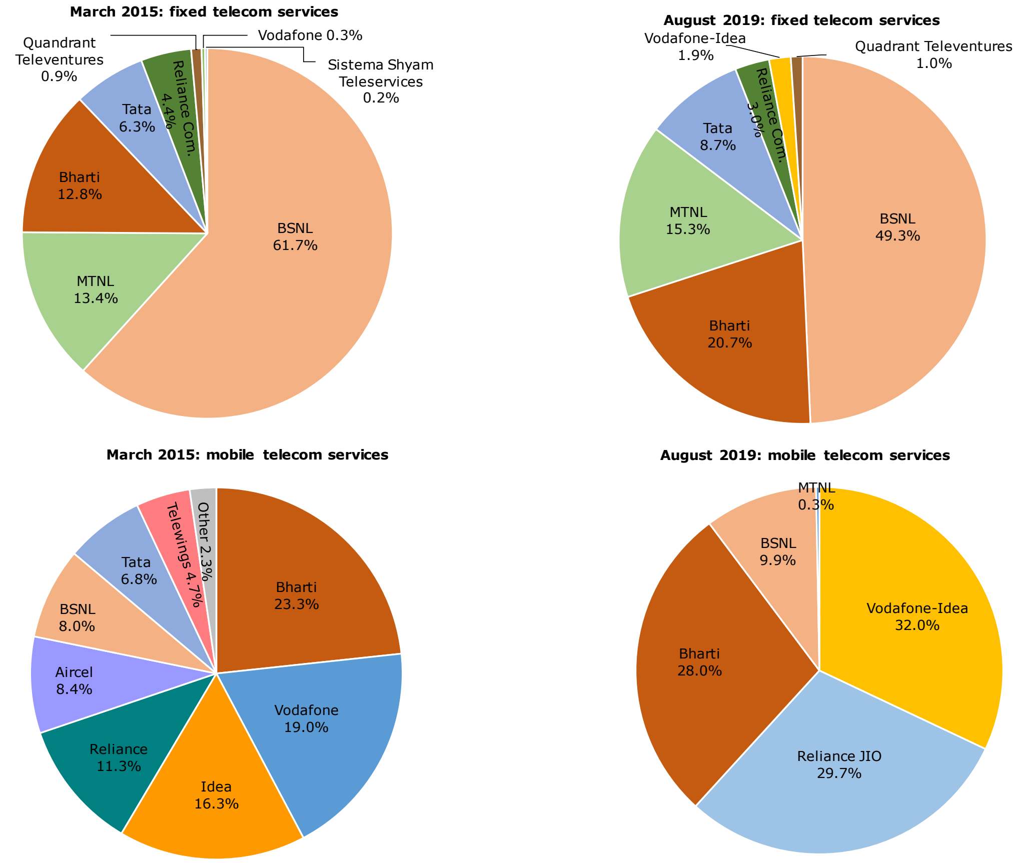
174 Ministry of Finance, *Economic Survey 2016-17*. Viewed at: https://www.indiabudget.gov.in/economicsurvey/; Sardana, M. M. K. (2017), *Intensifying Competition in Telecom Sector in India*, ISID Discussion Note 2017/09. Viewed at: http://isid.org.in/pdf/DN1709.pdf; and OpenSignal, *India – Mobile Network Experience Report, April 2019*. Viewed at: https://www.opensignal.com/reports/2019/04/india/mobile-network-experience.

175 Guidelines for grant of unified license (Virtual Network Operators), 31 May 2016. Viewed at: http://dot.gov.in/unified-licnse.

176 Information provided by the authorities.

177 Information provided by the authorities.

Chart 4.2 Shares in the telecom market, March 2015 and August 2019



Source: TRAI (2015), *Annual Report 2014-15*. Viewed at: https://main.trai.gov.in/about-us/annual-reports; and information provided by the authorities.

4.117. Competition in the telecom sector is regulated by the Competition Act, 2002; the Guidelines for Mergers and Acquisitions, 2014 issued by the DOT, as amended in 2018[178]; and the Telecommunication Tariff Order, 1999 (as amended), issued by the TRAI, which provide a definition of significant market power. This definition was revised in 2018; as a result, the criteria related to traffic volume and switching capacity were removed as determinants of market power. Under the new definition, a telecom provider has significant market power if it has 30% of the total (fixed and mobile) subscribers or gross revenue.[179]

4.118. The CCI is in charge of determining if anti-competitive practices take place, and if mergers are allowed. The TRAI monitors the market to determine if operators are complying with their obligations.

4.119. Since 2015, some providers have consolidated their operations (Table 4.16).[180] Vodafone and Idea merged in 2017 to create India's biggest telecom company (Vodafone Idea Ltd.); however,

[178] Department of Telecommunications, Guidelines for Merger & Acquisitions – 2014. Viewed at: http://dot.gov.in/relatedlinks/guidelines-merger-acquisitions-2014; and Amendments in the Guidelines for Transfer/Merger of various categories of Telecommunication service licenses/authorisation under Unified License (UL) on compromises, arrangements and amalgamation of the companies dated 20.02.2014. Viewed at: https://dot.gov.in/sites/default/files/Amendment%20dated%2030.05.2018%20%20in%20Merger%20and%20Acquisition%20guideline%20dated%2020.02.2014.pdf?download=1.

[179] Telecommunication Tariff (63rd Amendment) Order, 2018.

[180] Sardana, M. M. K. (2017), *Intensifying Competition in Telecom Sector in India*, ISID Discussion Note 2017/09. Viewed at: http://isid.org.in/pdf/DN1709.pdf.

in 2019, they still operated using their original brand names.[181] Mergers and acquisitions in the sector are authorized if: (i) the combined market share does not exceed 50%; and (ii) the combined spectrum does not exceed 35% of the assigned total spectrum (25% prior to 2018), and 50% of the spectrum assigned in frequencies lower than 1 GHz, in the serviced area.[182] To promote competition, cross-equity participation among telecom service providers that operate in the same service area is not permitted.[183]

Table 4.16 Selected mergers and acquisitions in the telecom sector, 2015-19

Telecom service providers	Combination	Status
Vodafone and Idea	Merger	Approved by the CCI
Bharti and Telenor	Acquisition	Approved by the CCI
Bharti and Tikona Digital Network[a]	Acquisition	Approved by the CCI
Reliance Communications and Aircel	Merger	Approved by the CCI, but withdrawn by the parties

a Tikona Digital Network is a Mumbai-based Internet service provider.

Source: WTO Secretariat; and information provided by the authorities.

4.120. The TRAI only regulates the tariffs of fixed services in rural areas, national roaming services, Unstructured Supplementary Service Data (USSD)[184], and leased-line services (private-line services). The tariffs for fixed services in urban areas, and mobile, Internet, and long-distance services, are fixed by the telecom services providers. These tariffs must be notified to the TRAI to ensure compliance with the Telecommunication Tariff Order, 1999 (as amended). The Order was amended in 2018 to ensure transparency and non-discrimination when service providers fix their tariffs; and to prevent providers with significant market power from using predatory pricing and to allow for the possibility to fine this practice.[185]

4.121. Since 2015, India has also taken measures to expand the coverage of services. For instance, in 2016, the procedure to apply for right-of-way permits, to deploy optical fibre cables, and install mobile towers on public land and buildings, was harmonized across the states; and a maximum period of 60 days to process applications was also introduced.[186] However, as at June 2020, none of these provisions had been fully implemented.[187] In addition, telecom services providers have been allowed to share passive infrastructure (e.g. towers) and, since 2016, active infrastructure (e.g. mobile roaming).[188] New provisions regarding interconnection agreements between operators were adopted in 2018, such as a maximum term (30 days) to finalize an agreement; flexibility to use interconnection ports to improve traffic; and the provision of a bank guarantee to secure the agreement.[189] Since 2015, the Interconnection Usage Charges fixed by the TRAI have gradually declined.[190]

4.122. During the period under review, measures to safeguard consumers' interests were also adopted. In 2016, the TRAI prohibited telecom and Internet service providers from offering data plans based on content, to ensure that all Internet communications are treated equally, and that there is no discrimination by charging differently.[191] The portability charge paid by customers was

[181] OpenSignal, *India – Mobile Network Experience Report – April 2019*. Viewed at: https://www.opensignal.com/reports/2019/04/india/mobile-network-experience; and Idea. Viewed at: https://www.ideacellular.com/content/ideadigital/in/en/faqs/idea-vodafone-merger.html.
[182] Guidelines for Mergers and Acquisitions, 2014, as amended in 2018.
[183] Amended Unified Licence Guidelines, 28 March 2016.
[184] USSD is a communication mode used to deliver mobile financial services. TRAI (2017), *A Twenty Year Odyssey 1997-2017*. Viewed at: https://main.trai.gov.in/sites/default/files/A_TwentyYear_Odyssey_1997_2017.pdf.
[185] Telecommunication Tariff (63rd Amendment) Order, 2018. Viewed at: https://main.trai.gov.in/telecom/telecom-tariff.
[186] Indian Telegraph Right of Way Rules, 2016.
[187] Information provided by the authorities.
[188] DOT (2018), *Annual Report 2017-18*. Viewed at: http://dot.gov.in/reports-statistic/2471; and ITU News. Viewed at: https://news.itu.int/indias-experience-in-passive-network-infrastructure-sharing/.
[189] Telecommunication Interconnection Regulations, 2018, and document AUSPI/12/2016/035, 13 December 2016. Viewed at: https://main.trai.gov.in/sites/default/files/AUSPI_5.pdf.
[190] Telecommunication Connection Usage Charges Regulations, 2003, as amended in 2015 (11th and 12th amendments), 2017 (13rd amendment), and 2018 (14th amendment). Viewed at: https://main.trai.gov.in/telecom/interconnection.
[191] Prohibition of Discriminatory Tariffs for Data Services Regulations, 2016. Viewed at: https://main.trai.gov.in/telecom/telecom-tariff.

reduced from INR 19 to INR 6.46 in 2019.[192] A single telecom service provider may provide a maximum of 25 tariff plans per service area.[193]

4.123. The state-owned India Infrastructure Finance Company Ltd. (IIFCL) finances telecom projects (Section 2.4.3). Since India's last Review, the IIFCL has financed one telecom project valued at INR 2.5 billion; the terms and condition of IIFCL financing may vary from one project to another.[194]

4.124. All telecom service providers, except value-added service providers (e.g. Internet service providers), must contribute to the Universal Service Obligation Fund (USOF). The contribution amounts to 5% of the adjusted gross revenue and is included as part of the UL fee. As at June 2020, projects under the USOF included the deployment of Wi-Fi hotspots and submarine optical fibre cables, and the implementation of India's largest rural broadband connectivity project (BharatNet). The funds collected by the USOF may also be used to compensate losses incurred in providing non-economically viable services. In 2018/19, the USOF financed the state-owned BBNL and BSNL, and four private providers.[195]

4.4.3 Transport

4.125. India's transportation network includes road, rail, airports, ports, and inland waterways.

4.126. Roads are one of the main modes of transportation; 69% of India's freight is transported by road. As a result, there is high road density. However, roads are poorly maintained and are congested, thus increasing the transportation time and, hence, costs. The national highway network accounts for 2.2% of total roads. The development of roads has been a challenge due to the lack of resources, lengthy procedures to acquire land, delays in construction, and environmental issues. In addition, several institutions are in charge of the road systems, including the Ministry of Road Transport and Highways and various other agencies[196], which renders the decision-making process complex, and impedes coherent implementation of policies.[197] In 2017, the Central Government launched the Bharatmala Pariyojana programme to promote efficiency in the transportation of freight by road, by developing road corridors, expressways, and port connectivity.[198] In addition, to further develop road infrastructure through the use of PPPs, a new model (the hybrid annuity model) for PPP contracts to build highways was adopted, which aims to reduce the risks associated with financing for private investors.[199]

4.127. The Ministry of Railways is in charge of formulating and implementing policies related to rail transportation. In 2020, the Ministry was preparing the National Rail Plan 2030; the Plan is aimed at expanding the network and promoting multi-modal transportation. The railway network is managed and operated by the state-owned Indian Railways, the largest employer in India (1.23 million employees as at March 2019). Daily traffic amounts to 23.1 million passengers and 3.3 million tonnes of freight. The importance of railways in freight transportation has declined over the years, mainly due to high cost (as freight subsidizes passenger traffic) and capacity constraints. Since 2016, measures such as tariff rationalization, containerization, and expanded capacity have been implemented to revitalize rail freight. In addition, the construction of the western (Delhi-Mumbai) and eastern rail freight corridors is expected to reduce costs and increase capacity, as well as enhance port connectivity, as India's largest container port (Jawaharlal Nehru Port Mumbai) will

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[192] Telecommunication Mobile Number Portability Regulations, 2009; and Telecommunication Mobile Number Portability Per Port Transaction Charge and Dipping Charge (Second Amendment) Regulations, 2019.

[193] Telecommunications Tariff (21st Amendment) Order, 2002.

[194] Information provided by the authorities.

[195] USOF, *What we do*. Viewed at: http://www.usof.gov.in/usof-cms/home.jsp.

[196] The National Highways Authority of India, state/UT public works departments, the National Highway and Infrastructure Development Corporation Ltd., the Border Roads Organization, and the Indian Academy of Highway Engineers.

[197] NITI Aayog (2018), *Transforming India's Mobility – A perspective*, Global Mobility Summit 7-8 September. Viewed at: https://niti.gov.in/content/transforming-indias-mobility-perspective.

[198] Ministry of Finance (2018), *Economic Survey 2017-18*, Volume II. Viewed at: https://www.indiabudget.gov.in/economicsurvey/index.php ; Ministry of Finance (2019), *Economic Survey 2018-19*, Volume II. Viewed at: https://www.indiabudget.gov.in/economicsurvey/index.php ; and NITI Aayog (2018), *Transforming India's Mobility – A perspective*, Global Mobility Summit 7-8 September. Viewed at: https://niti.gov.in/content/transforming-indias-mobility-perspective.

[199] FICCI/CRISIL (2019), *Rekindling private investment in roads and highways*. Viewed at: https://www.crisil.com/content/dam/crisil/our-analysis/reports/Infratstructure-Advisory/documents/rekindling-private-investment-in-roads-and-highways.PDF.

be connected to Delhi through the western corridor. In addition, a high-speed passenger train corridor (Mumbai-Ahmedabad) is under construction.

4.128. Private investment, including FDI, is permitted in some railway operations (Section 2.4). In this context, Indian Railways announced that some passenger routes will be run by private train operators that will use their own rolling stock.[200]

4.129. In 2019, the cost of logistics was estimated at some 13%-14% of India's GDP; India aims to reduce these costs by 5% percentage points.[201] Multi-modal transportation and adequate freight facilities (e.g. warehouses and rail interchange facilities) are critical to attain this goal. To this end, under the Logistics Efficiency Enhancement Programme, which was introduced by the Ministry of Road Transport and Highways in 2015, 35 multi-modal logistics parks are being established to provide, in a single location: multi-modal freight transfers, shipment aggregation, value-added services (e.g. packaging/labelling), and storage facilities.[202] In addition, the draft National Logistics Policy, 2019, which also seeks to reduce costs by promoting multi-modal transportation, is under consultation.[203]

4.130. Incentives are provided to promote the development of transport-related infrastructure. For instance, until 2017, investors in projects related to roads, highways, ports, airports, and inland waterways were granted a 100% tax holiday for 10 consecutive years during the first 20 years of the project's operation.[204]

4.131. In addition, projects may be financed by the state-owned India Infrastructure Finance Company Ltd. (IIFCL) (Section 2.4.3). Between April 2015 and March 2019, the IIFCL financed 71 projects, including projects to build 60 roads.[205]

4.132. The Central Government continues to finance the cost of transporting goods and raw materials from remote areas via air, inland waterways, and rail, through several schemes. One of these, the Freight Subsidy Scheme (FSS), which applied to the transportation of raw materials and finished goods, was discontinued in 2016; however, those registered under the Scheme may continue benefitting from the assistance up to 2021.[206] Other incentive schemes were introduced in 2017 and 2018 to support the transportation of finished and or perishable goods (Table 4.17).[207] In general, the support granted under the different schemes is for a period of five years.

Table 4.17 Support for cost of transportation of goods, 2015-19

Scheme	Beneficiaries	Percentage of assistance	Duration of the Scheme
Freight Subsidy Scheme (FSS), 2013	New and existing industrial units in the North-Eastern region	50%, 75%, or 90%, depending on the type of goods (raw materials or finished goods), transportation mode, and destination	Discontinued in 2016
	New and existing industrial units in Sikkim and Jammu and Kashmir	50% or 90%, depending on the type of goods (raw materials or finished goods), transportation mode, and destination	

[200] Ministry of Finance (2020), *Economic Survey 2019-20*, Volume II; Ministry of Finance (2019), *Economic Survey 2018-19*, Volume II; Ministry of Finance (2018), *Economic Survey 2017-18*, Volume II. Viewed at: https://www.indiabudget.gov.in/economicsurvey/; Make in India, *Railways*. Viewed at: http://www.makeinindia.com/sector/railways; and information provided by the authorities.

[201] Draft National Logistics Policy, 2019. Viewed at: https://commerce.gov.in/writereaddata/uploadedfile/MOC_636850448855371480_Notification-Draft-05022019.pdf; and information provided by the authorities.

[202] PIB Press Release, 15 March 2017. Viewed at: http://pib.nic.in/newsite/PrintRelease.aspx?relid=159271; and Make in India, *Roads and Highways*. Viewed at: http://www.makeinindia.com/sector/roads-and-highways.

[203] Draft National Logistics Policy, 2019.

[204] Information provided by the authorities; and Section 80-IA, Income Tax Act.

[205] Information provided by the authorities.

[206] WTO documents G/SCM/N/343/IND/Suppl.1; G/SCM/N/315/IND/Suppl.3; G/SCM/N/284/IND/Suppl.5; and G/SCM/N/253/IND/Suppl.4, 18 October 2019.

[207] PIB Press Release, *Transport Subsidy Scheme, 7 January 2019*. Viewed at: http://www.pib.nic.in/Pressreleaseshare.aspx?PRID=1558868.

Scheme	Beneficiaries	Percentage of assistance	Duration of the Scheme
	New and existing industrial units in Andaman and Nicobar Islands and Lakshadweep	90% depending, on the type of goods (raw materials or finished goods), transportation mode, and destination	
	New and existing industrial units in Himachal Pradesh, Uttarakhand, and Darjeeling (West Bengal)	75% or 90% depending, on the type of goods (raw materials or finished goods), transportation mode, and destination	
North East Industrial Development Scheme (NEIDS), 2017	New industrial units[a]	20% or 33%, depending on the type of goods (finished or perishable goods) and transportation mode	2017-22
Industrial Development Scheme for Jammu and Kashmir, 2017	New industrial units[a]	20% or 33%, depending on the type of goods (finished or perishable goods) and transportation mode	2017-22
Lakshadweep and Andaman and Nicobar Islands Industrial Development Scheme (LANIDS), 2018	New and existing industrial units[a]	20% or 33%, depending on the type of goods (finished or perishable goods) and transportation mode	2018-20

a Excluding certain industrial units (Annex I of the Scheme).

Source: WTO documents G/SCM/N/343/IND/Suppl.1; G/SCM/N/315/IND/Suppl.3; G/SCM/N/284/IND/Suppl.5; and G/SCM/N/253/IND/Suppl.4, 18 October 2019; DPIIT, *Transport Subsidy Scheme*. Viewed at: https://dipp.gov.in/programmes-and-schemes/himalayan-north-eastern/transport-subsidy-scheme; Ministry of Commerce and Industry Notification F. No. 10(6)/2016-DBA-II/NER on NEIDS. Viewed at: https://dipp.gov.in/sites/default/files/NEIDS_2017_16April2018.pdf; Ministry of Commerce and Industry Notification F. No. 2(2)/2017-SPS on Industrial Development Scheme for Jammu and Kashmir, 2017. Viewed at: http://industrieskashmir.nic.in/Central%20Industrial%20Development%20Policy%202018.pdf; and Ministry of Commerce and Industry Notification F. No. 16(35)/2018-NER on LANIDS, 2018. Viewed at: https://dipp.gov.in/sites/default/files/LANIDS_notification_11012019.pdf.

4.4.3.1 Air transport

4.133. Air transport services are regulated by the Aircraft Act, 1934 and the Aircraft Rules, 1937, which have not been substantially amended since the last Review in 2015. The Civil Aviation Requirements (CARs), issued by the Directorate General of Civil Aviation (DGCA), set the requirements for, *inter alia*, airworthiness, licensing, operations, standards, and air safety.[208]

4.134. India is a member of the International Civil Aviation Organization (ICAO), and is a party to various multilateral conventions/protocols on civil aviation.[209] In addition, India has signed 116 bilateral air services agreements, 14 of which since 2015.[210] However, in none of them does India grant seventh air freedom rights.[211]

4.135. The institutions involved in air transport remained unchanged during the review period. The Ministry of Civil Aviation supervises the formulation of policies for air transport. The DGCA regulates air transport services to/from and within India. The Airports Economic Regulatory Authority (AERA) regulates the tariffs of aeronautical services and the fees charged for passengers; it is also responsible for measuring airport performance. The Airports Authority of India (AAI) controls India's airspace, and operates and manages public airports. The State owns Air India Ltd. and Pawan Hans, a helicopter company that provides services within India to tourists and offshore platforms; disinvestment plans in both enterprises are underway.[212]

[208] DGCA. Viewed at: http://www.dgca.nic.in/rules/rule-ind.htm.
[209] ICAO. Viewed at: https://www.icao.int/secretariat/legal/Status%20of%20individual%20States/India_EN.pdf.
[210] Barbados (2015), Fiji (2017), Georgia (2017), Greece (2017), Lao PDR (2019), Mongolia (2015), New Zealand (2016), Malaysia (2017), Morocco (2018), Mozambique (2017), Nigeria (2019), Rwanda (2017), Serbia (2018), and Seychelles (2015).
[211] Information provided by the authorities.
[212] FICCI/KPMG (2018), *Vision 2040 for the Civil Aviation Industry in India*, *Global Aviation Summit 2019*. Viewed at: https://www.globalaviationsummit.in/documents/VISION-2040-FOR-THE-CIVIL-AVIATION-INDUSTRY-IN-INDIA.pdf; and information provided by the authorities.

4.136. In 2016, India started implementing the National Civil Aviation Policy 2016 (NCAP 2016) to enhance air transport to/from and within India. Under the Policy, India plans to sign open skies agreements, on a reciprocal basis, with destinations located more than 5,000 km from New Delhi. However, cabotage will remain prohibited.

4.137. Another objective of the NCAP 2016 is to reconnect unserved/underserved domestic airports by ensuring affordable ticket prices. To this end, the Regional Connectivity Scheme (RCS) was launched in 2016, for a period of three years. Under the Scheme, which is administered by the AAI, a regional cess (INR 5,000) is levied on aircraft servicing international routes from major airports, to finance seats on RCS routes. Passengers flying RCS routes may obtain a refund from the airline for a specific portion of the air ticket price. RCS routes are awarded by the AAI to the airlines through a bidding process.[213]

4.138. In addition to the NCAP 2016, India implemented the National Air Cargo Policy Outline, 2019, which is aimed at increasing the efficiency of air cargo clearance systems (Section 3.1.1).[214] As a result, the air cargo-handling infrastructure facilities in major airports was expanded. In terms of value, some 30% of India's trade is carried via air transport.[215]

4.139. Since 2015, the air transport sector has been further opened to FDI (Table 4.18). Accordingly, 100% FDI is allowed in all air transport activities, but government approval is still required for investments above 49% of the paid-up capital of Indian scheduled air carriers, except for non-resident Indians (NRIs).

Table 4.18 Changes to FDI policy in air transport services, 2015 and 2020

	2015			2020		
	FDI cap	Up to Automatic route[a]	Above Gov't route[b]	FDI cap	Up to Automatic route[a]	Above Gov't route[b]
Scheduled air transport services/domestic scheduled passenger airlines Regional air transport services	49%	49%	n.a.	100%	49%	49%
	100% NRIs	100% NRIs	n.a.	100% NRIs	100% NRIs	n.a.
Non-scheduled air transport services	74%	49%	49%	100%	100%	n.a.
	100% NRIs	100% NRIs	n.a.	100% NRIs	100% NRIs	n.a.
Airports: existing airports	100%	74%	74%	100%	100%	n.a.
Other services, including ground handling	74%	49%	49%	100%	100%	n.a.
	100% NRIs	100% NRIs	n.a.	100% NRIs	100% NRIs	n.a.

n.a. Not applicable.

a No government approval is required.
b Government approval is required.

Source: WTO document WT/TPR/S/313/Rev.1, 14 September 2015; and Invest India. Viewed at: https://www.investindia.gov.in/foreign-direct-investment.

4.140. Total international passenger traffic in 2019/20 was estimated at 47.8 million. Foreign airlines continued to carry most international passenger and cargo traffic (Table 4.19). Five international airports (Delhi, Mumbai, Chennai, Kochi, and Bengaluru) accounted for 70% of the international passenger traffic in the first quarter of 2019.[216]

[213] Information provided by the authorities.
[214] Ministry of Civil Aviation, *National Air Cargo Policy Outline, 2019*. Viewed at: https://www.globalaviationsummit.in/documents/NATIONAL-AIR-CARGO-POLICY-OUTLINE-2019.pdf.
[215] Ministry of Civil Aviation (2018), *Annual Report 2017-18*. Viewed at: http://www.civilaviation.gov.in/sites/default/files/annual_report-2017_18_en.pdf; and ASSOCHAM/Yes Bank Ltd (2014), *Civil Aviation - Developing Remote and Regional Connectivity*. Viewed at: https://www.yesbank.in/pdf/civil_aviation_developing_remote_and_regional_connectivity.pdf.
[216] DGCA. Viewed at: http://dgca.gov.in/reports/rep-ind.htm.

Table 4.19 Selected international air traffic indicators, 2014/15-2019/20

	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20[a]
Total international passengers (million)	45.7	49.8	54.7	60.6	63.9	47.8
Foreign carriers (% of total)	63.0	63.4	62.3	61.1	59.9	63.2
Total freight ('000 tonnes)	1,368	1,404	1,513	1,734	1,799	1,201
Foreign carriers (% of total)	82.2	83.1	81.2	79.5	79.6	86.4

a Provisional.

Source: DGCA, *Statistics*. Viewed at: http://www.dgca.nic.in/reports/hand-ind.htm; and information provided by the authorities.

4.141. India recognizes air operator certificates issued by ICAO members.[217] The DGCA is responsible for issuing certificates (permits) to Indian air carriers.[218] To operate international routes, Indian air carriers are subject to specific requirements. For instance, they must use 20 aircraft or 20% of their entire fleet (whichever is higher) on domestic routes; and, until 2016, they were required to fly domestic routes for five years.[219] As at November 2019, India had air connectivity with 58 countries, through 346 routes; and it was serviced by 93 scheduled international air carriers, 7 domestic and 86 foreign.[220]

4.142. National and international passengers departing India must pay an Aviation Security Fee[221] and a User Development Fee.[222] These fees are fixed, in consultation with airport operators, by the AERA (User Development Fee) and by the Ministry of Civil Aviation (Aviation Security Fee).[223] Fees vary according to the airport and to the type of passenger (domestic or international). The revenue collected is used to finance security-related services, and infrastructure and amenities for passengers.[224]

4.143. Airlines may also charge their own fees, such as fuel surcharges.[225] In 2018, the Competition Commission of India (CCI) fined three airlines for concerted action in fixing fuel surcharges levied on domestic air cargo flights.[226]

4.144. Economy and business class tickets are subject to GST at 5% and 12%, respectively.[227] At present, aviation turbine fuel (ATF) is not subject to the GST[228]; it is still subject to the Central Sales Tax and the states' VAT.[229]

4.145. India has 17 international airports, of which 11 are operated and managed by the AAI, and 6 are operated and managed by private airport operators through PPPs, including Delhi's international airport, which is India's main port of entry for tourists.[230] PPP projects currently being

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217 DGCA. Viewed at: http://dgca.nic.in/operator/main_ops.htm.

218 CAR Section 3 – Air Transport.

219 AAI, *NCAP 2016*. Viewed at: https://www.aai.aero/sites/default/files/basic_page_files/Final_NCAP_2016_15-06-2016-3%20%281%29.pdf.

220 Information provided by the authorities.

221 Formerly known as the Passenger Service Fee. DGCA Aeronautical Information Circular 15 of 2019. Viewed at: http://dgca.nic.in/rules/aero-ind.htm.

222 Also known as Development Fee in Delhi and Mumbai international airports. AAI, *Amount of UDF/Development Fee (Rs.) Inclusive of all taxes*. Viewed at: https://www.aai.aero/en/node/4011.

223 Information provided by the authorities.

224 Rules 88 and 89, Aircraft Rules, 1937; Section 22A, Airports Authority of India, 1994; Section 13(4), Airports Economic Regulatory Authority of India Act, 2008; AERA. Viewed at: http://aera.gov.in/content/innerpage/faqs.php; PIB Press Release. Viewed at: http://pib.nic.in/newsite/PrintRelease.aspx?relid=132772; and information provided by the authorities.

225 Air India, *Explanation of Taxes, Fees & Charges*. Viewed at: http://www.airindia.in/explanation-of-taxes-fees-charges.htm.

226 CCI, *CCI imposes penalties upon Airlines for concerted action in fixing fuel surcharge (FSC) on cargo transport*. Viewed at: https://www.cci.gov.in/node/3743; and PIB Press Release, 7 March 2018. Viewed at: http://pib.nic.in/newsite/PrintRelease.aspx?relid=177106.

227 CBIC, *Rate of GST on services*. Viewed at: https://cbic-gst.gov.in/pdf/services-booklet-03July2017.pdf.

228 Section 9(2), Goods and Services Tax Act, 2017; PIB Press Release, 25 April 2017. Viewed at: http://pib.nic.in/newsite/PrintRelease.aspx?relid=161273; and PIB Press Release, 2 January 2019. Viewed at: http://164.100.158.168/PressReleseDetail.aspx?PRID=1558103.

229 Information provided by the authorities.

230 AAI, *AAI Managed Airports*. Viewed at: https://www.aai.aero/en/content/how-many-international-airports-are-india-and-which-are-they.

implemented include the construction of Mumbai's second international airport.[231] In 2018, the NextGen Airport for Bharat Nirman (NABH) was implemented to further encourage private participation in airport operations and management. This introduced a new model for concessions and prolonged the period during which concessions are in force.[232]

4.146. Aeronautical tariffs are set by the AERA (major airports) and the AAI (non-major airports).[233] In major airports, they are fixed every five years, subject to annual adjustments, in consultation with the airport operators.[234]

4.147. A permit is required to provide ground-handling services. The number of service providers per airport depends upon the volume of traffic. A maximum of three providers may operate in airports with annual traffic of less than 10 million passengers; and there must be at least three suppliers in the remaining airports.[235] Airlines may also provide ground-handling services for their own flight operations; however, security services cannot be handled by foreign airlines. Currently, ground-handling services are provided by the AAI, Air India's subsidiaries (AIATSL and AISATS), and private suppliers.[236]

4.148. Since 2016, foreign aircrafts may remain in India for up to 180 days, without permission from the DGCA, to undergo maintenance, repairs, and overhaul (MRO); previously, a permit was required for stays of over 15 days. Imports of parts used by MRO suppliers are exempt from customs duties; and parts imported duty-free must be used within three years (one year, before 2016).[237]

4.4.3.2 Maritime transport

4.149. About 90% of India's trade in volume terms and 68% in value terms is transported by sea.[238] In 2018, India had 1,400 vessels, with a total gross tonnage of 12.7 million.[239] The flag-carrier, the Shipping Corporation of India Ltd., which carries 25.5% of the total gross tonnage, is owned by the State. Indian-flag vessels carried only 7.1% of India's total merchandise trade in 2017/19.[240] To increase their participation in transportation, a series of measures were implemented over the review period. These included: a reduction in the GST rate for bunker fuel, from 18% to 5% in 2017[241]; and the introduction of the right of first refusal for vessels built in India in bids for chartering vessels.[242]

4.150. Maritime services are regulated by the Merchant Shipping Act, 1958, which was not amended over the review period. The Ministry of Shipping formulates and implements the policies and

[231] IBEF, *Aviation*. Viewed at: https://www.ibef.org/download/aviation-april-2019.pdf.

[232] Ministry of Civil Aviation, *Proposed transaction structure for Greenfield airports*. Viewed at: http://www.civilaviation.gov.in/sites/default/files/proposed%20transaction%20structure%20for%20greenfield%20airport%20.pdf.

[233] Major airports have annual traffic exceeding 1.5 million passengers. AERA. Viewed at: http://aera.gov.in/content/innerpage/faqs.php; Ministry of Civil Aviation (2018), *Annual Report 2017-18*. Viewed at: http://www.civilaviation.gov.in/sites/default/files/annual_report-2017_18_en.pdf; and DGCA Aeronautical Information Circulars. Viewed at: http://dgca.nic.in/rules/gen-ind.htm.

[234] Section 13(4), Airports Economic Regulatory Authority of India Act, 2008; and AERA. Viewed at: http://aera.gov.in/content/innerpage/faqs.php.

[235] DGAC Aeronautical Information Circular 18/2019, 28 October 2019. Viewed at: http://dgca.nic.in/rules/aero-ind.htm.

[236] FICCI/KPMG (2018), *Vision 2040 for the Civil Aviation Industry in India*, *Global Aviation Summit 2019*. Viewed at: https://www.globalaviationsummit.in/documents/VISION-2040-FOR-THE-CIVIL-AVIATION-INDUSTRY-IN-INDIA.pdf.

[237] NCAP 2016.

[238] Ministry of Finance (2020), Economic Survey 2019-20, Volume II. Viewed at: https://www.indiabudget.gov.in/economicsurvey/.

[239] Ministry of Shipping (2019), *Indian Shipping Statistics 2018*. Viewed at: http://shipmin.gov.in/showfile.php?lid=2845.

[240] Information provided by the authorities.

[241] PIB Press Release, 11 October 2017. Viewed at: http://pib.nic.in/newsite/PrintRelease.aspx?relid=171586.

[242] DGS, *Development Circular No. 02 of 2019, 22 March 2019*. Viewed at: http://www.dgshipping.gov.in/Content/DGSCirculars.aspx?branchid=10; and PIB Press Release, *Ships built in India to get priority in chartering under revised guidelines of Shipping Ministry, 18 February 2019*. Viewed at: http://www.pib.nic.in/Pressreleaseshare.aspx?PRID=1564970.

programmes to develop the sector. The Directorate General of Shipping (DGS) is the regulatory authority.

4.151. FDI in ports and shipping is allowed up to 100% without approval.[243]

4.152. Foreign vessels cannot register in India.[244] In general, cabotage, regarding transportation of cargo and passengers, is reserved for Indian vessels[245]; however, foreign vessels may provide the service if no Indian vessels are available. This requires a licence issued by the DGS.[246] Moreover, in 2015-18, cabotage was relaxed for specialized vessels and certain types of commodities and containers, to encourage a shift from road/rail to coastal shipping (Table 4.20).[247] In 2018/19, 23.9% of India's cabotage trade was handled by foreign vessels.[248] Since 2009, passenger cabotage has been liberalized for foreign cruise vessels; hence, they are able to carry passengers along the Indian coast, without requiring a licence from the DGS (Table 4.20).

Table 4.20 Cabotage relaxation

Type of foreign vessels or cargo	Starting year	End-year
Cruise vessels (Department of Shipping Letter No. SR-11021/1/2009-MG, 06.02.2009 and Ministry of Shipping Letter No. SW-17011/2/2016-CT, 08.08.16)	2009	2024[a]
Specialized vessels (e.g. Ro-Ro) (Ministry of Shipping, General Order No. SR-14020/5/2009-MG/CS-Vol-VII, 02.09.15)	2015	2020
Container vessels for transhipment ports[b] (Ministry of Shipping, General Order No. SW-15011/8/2015-CS, 07.03.16; and General Order No. 01 of 2018, 21.05.18)	2016	2018
EXIM transhipment containers (Ministry of Shipping, General Order No. 01 of 2018, 21.05.18)	2018	n.a.
Empty containers (Ministry of Shipping, General Order No. 01 of 2018, 21.05.18)	2018	n.a.
Agriculture, horticulture, fisheries, and animal husbandry commodities (Ministry of Shipping, General Order No. 02 of 2018, 22.05.18)[b]	2018	n.a.
Fertilizers (Ministry of Shipping, General Order No. 03 of 2018, 22.06.18)	2018	n.a.

n.a. Not applicable.

a Initially for 10 years; extended for a further 5 years in 2016.
b Transhipment ports were ports that transhipped at least 50% of the containers they handled.

Source: WTO Secretariat; and information provided by the authorities.

4.153. Maritime services are covered by the Competition Act, 2002. However, vessel-sharing agreements, which allow shipping companies to share space in each other's vessels, are exempt from the application of Section 3 (anti-competitive agreements) of the Act.[249] The exemption applies only if the vessel-sharing agreements do not result in price-fixing, limited capacity/sales, or allocation of markets/customers. Otherwise, they are covered by the Act. Vessel-sharing agreements must be notified to the DGS, which monitors them.[250] Agreements that are likely to affect competition are reported to the CCI.

4.154. The Central Government has a programme in place to grant financial support to vessel builders. The programme, which is aimed at promoting competitiveness in the sector, has been in place since 2016, and is expected to end in 2026. The support amounts to a specific percentage of

[243] Invest India, *FDI Policy*. Viewed at: https://www.investindia.gov.in/foreign-direct-investment.
[244] Merchant Shipping Act, 1958.
[245] Indian vessels are: (i) vessels owned by nationals/local shipping companies and registered in India; (ii) foreign-flag vessels charted by nationals/local shipping companies; and (iii) foreign-flag vessels registered abroad and owned by nationals/local shipping companies (i.e. "Indian-controlled tonnage" vessels). Sections 21 and 406, Merchant Shipping Act, 1958; and DGS Order No. 10 of 2014, 23 July 2014.
[246] Section 407, Merchant Shipping Act, 1958.
[247] DGS, *e-newsletter of the DGS, July 2016.* Viewed at: http://www.dgshipping.gov.in/WriteReadData/UserFiles/file/1st%20english%20editon_eng.pdf.
[248] Information provided by the authorities.
[249] The Ministry of Corporate Affairs periodically extended the exemption, which was initially introduced in 2013; in 2018, the exemption was extended to 2021.
[250] Notification of the Ministry of Corporate Affairs, 4 July 2018. Viewed at: http://www.mca.gov.in/Ministry/pdf/VSAExemption_16072019.pdf.

the contract price or "fair price"[251], whichever is lower. This percentage will be gradually reduced by 3% on an annual basis, from 20% (in 2016/17) to 11% in 2025/26.[252] In 2018/19, INR 290.2 million were provided to shipyards under this programme.[253] To further support the industry, inputs used in shipbuilding and repair are exempt from customs duties and the GST.[254]

4.155. Ports are classified by major and non-major ports. All ports are owned by the State, and are regulated by the Indian Ports Act, 1908. Major ports are also regulated by the Major Port Trust Act, 1963, which was not revised during the period under review. The Major Port Trust Authorities Bill, 2019 is under consideration; this would repeal the 1963 Act.[255]

4.156. Ports are under the responsibility of central and state governments.[256] India has 12 major ports administered by the Ministry of Shipping. Each major port is run by a port trust (port authority), except Kamarajar port (formerly Ennore port) (Chennai), that is run by a company incorporated under the Companies Act, 1956 (Kamaraja Port Ltd.). Sixty-eight (out of 200) non-major ports are also operational. Non-major ports are administered and run by the state maritime boards/port departments.[257] Terminals, berths, and port services in all ports may be operated/provided by private operators.

4.157. According to the SagarMala Programme, launched in 2016 to reduce the cost of exports and imports through the development of port infrastructure in India, more than 600 projects should be developed, including building six new major ports, establishing 14 coastal economic zones (CEZs), and increasing road and rail connectivity.[258] At end-September 2018, 522 projects were being implemented. Some of these projects may be eligible for financial assistance granted by the Central Government (Table 4.21).

Table 4.21 Central Government financial assistance under the SagarMala Programme

Projects	Maximum amount of financial assistance	Total outlay (Nov. 2019)
Building/upgrading berths in all ports	50% of the total cost of the project, or INR 250 million	INR 1.2 billion
Construction of breakwaters in all ports	50% of the total cost of the project, or INR 500 million	
Combatting oil pollution in all ports	50% of the total cost of equipment	
Mechanization of berths in major ports	50% of the total cost of the project, or INR 150 million	
Capital dredging works in non-major ports	50% of the total cost of the project, or INR 500 million	INR 40 million

Source: SagarMala, *Schemes*. Viewed at: http://sagarmala.gov.in/notification/schemes.

4.158. Services in major ports are subject to tariff ceilings. Tariffs are determined based on a cost-plus-return formula, as stipulated by the 2018 Tariff Policy, issued by the Tariff Authority for Major Ports (TAMP). The TAMP approves the tariffs.[259] Tariffs at Kamaraja (Chennai) are fixed by the

[251] The DGS (standard vessels) or one of three approved international valuers (specialized vessels) determine if the price is fair and reasonable, considering international prices. The approved international valuers are listed in Schedule III of the Guidelines for Implementation of Shipbuilding Financial Assistance Policy.

[252] DGS, *Guidelines for Implementation of Shipbuilding Financial Assistance Policy*. Viewed at: https://www.dgshipping.gov.in/Content/DGSCirculars.aspx?branchid=69.

[253] WTO documents G/SCM/N/343/IND/Suppl.1; G/SCM/N/315/IND/Suppl.3; G/SCM/N/284/IND/Suppl.5; and G/SCM/N/253/IND/Suppl.4, 18 October 2019.

[254] PIB Press Release, 2 December 2015. Viewed at: http://pib.nic.in/newsite/PrintRelease.aspx?relid=132200.

[255] Information provided by the authorities.

[256] Section 246(2) and Seventh Schedule (Part III), Constitution.

[257] IBEF, *Ports*. Viewed at: https://www.ibef.org/download/Ports-August-2019.pdf.

[258] CEZs would house industrial clusters in energy, materials (steel and cement), and discrete manufacturing (e.g. electronics, apparel, and food-processing). SagarMala Programme. Viewed at: http://sagarmala.gov.in/.

[259] Ministry of Shipping, *Tariff Policy for Major Port Trusts, 2018*, 16 January 2019; and *Working Guidelines to operationalize the Tariff Policy for Major Port Trusts, 2018 for determination of tariff for Major Port Trusts,* 30 January 2019. Viewed at: http://tariffauthority.gov.in/ViewData/Multiple?mid=1209.

Kamaraja Port Ltd., which follows the tariff guidelines issued by the TAMP.[260] Tariffs in non-major ports can be fixed by operators in consultation with the state maritime boards/port departments.[261]

4.159. The Competition Act, 2002 and the Policy for Preventing Private Monopolies in Terminal Operations in Major Ports, issued by the Ministry of Shipping in 2010, regulate competition policy in India's ports. The Policy relates only to cargo handling. It states that a private operator that handles a specific traffic in a berth cannot bid to handle the same traffic in another berth at the same terminal.[262] The CCI is responsible for determining anti-competitive practices and approving combinations regarding ports.

4.160. Over the review period, cargo-handling capacity in major ports increased significantly, as various expansion projects were completed, such as the new terminal for containerized cargo at Jawaharlal Nehru Port (Nhava Sheva) (Mumbai).[263] In addition, various trade-facilitation measures were implemented to reduce the time and handling costs. As a result, the total tonnage handled increased (Table 4.22).

Table 4.22 Selected indicators of ports, 2014/15-2018/19

	2014/15	2015/16	2016/17	2017/18	2018/19
Total cargo-handling capacity (million tonnes)	**1,560.5**	**1,703.1**	**2,147.6**	**2,307.4**	**2,424.4**
Major ports	871.5	965.4	1,359.0	1,451.2	1,514.1
Non-major ports	689.0	737.7	788.6	856.2	910.3
Total cargo handled (million tonnes)	**1,052.2**	**1,071.8**	**1,133.7**	**1,208.6**	**1,280.3**
	(% of total cargo handled)				
Major ports	55.2	56.5	57.2	56.2	54.6
Non-major ports	44.8	43.5	42.8	**43.8**	45.4
	(% of total cargo handled)				
Containers	15.5	16.2	16.1	17.2	18.0
Dry bulk cargo	41.7	38.5	39.7	39.5	41.4
Liquid bulk cargo	36.1	38.3	38.0	37.5	36.2
Break bulk	6.6	7.0	6.1	5.7	4.5

Source: Information provided by the authorities.

4.4.4 Tourism

4.161. In 2020, India had the world's eighth-largest tourism sector.[264] According to the latest Tourism Satellite Account (released in 2018), in 2015/16, the sector accounted for 5.1% of GDP and 12.7% of employment.[265] It is India's third-largest source of foreign exchange; it generated a total of USD 30.1 billion in 2019.[266] In 2019, 10.9 million foreign tourists visited India, up from 8 million in 2015 (Table 4.23).

[260] Information provided by the authorities.
[261] Ministry of Shipping, *Tariff Policy for Major Port Trusts, 2018*, 16 January 2019; and IBEF, *Ports*. Viewed at: https://www.ibef.org/download/Ports-September-2019.pdf.
[262] Policy for preventing private-sector monopolies in major ports, 2010.
[263] JOC.com, *PSA's JNPT terminal preps for faster growth*. Viewed at: https://www.joc.com/port-news/asian-ports/port-jawaharlal-nehru/psa%E2%80%99s-jnpt-terminal-poised-accelerated-growth_20190502.html.
[264] Invest India, *Incredible India*. Viewed at: https://www.investindia.gov.in/sector/tourism-hospitality.
[265] Information provided by the authorities.
[266] Ministry of Tourism (2019), *India Tourism Statistics at a Glance 2019*. Viewed at: http://tourism.gov.in/market-research-and-statistics; and IBEF, *Indian Tourism and Hospitality Industry Analysis*. Viewed at: https://www.ibef.org/industry/indian-tourism-and-hospitality-industry-analysis-presentation.

Table 4.23 Selected tourism indicators, 2015-19

	2015	2016	2017	2018	2019
Total foreign tourist arrivals[a] (million)	8.0	8.8	10.0	10.6	10.9
Estimated foreign exchange earnings (USD billion)	21.0	22.9	27.3	28.6	30.1
Share of India in international tourist arrivals (%)	1.2	1.2	1.3	1.2	1.2
Share of India in international tourism receipts (%)	1.7	1.8	2.0	2.0	..

.. Not available.

a Excluding non-resident Indians (NRIs).

Source: Ministry of Tourism, *India Tourism Statistics* (several years). Viewed at: http://tourism.gov.in/market-research-and-statistics; and information provided by the authorities.

4.162. The Ministry of Tourism (MOT) formulates and implements the national tourism policy. During 2015-20, India continued to implement the National Tourism Policy (NTP) 2002, which is aimed at making tourism a sustainable tool for economic and social growth.[267] The Policy's main objectives were to: enhance India's competitiveness, expand tourism-related products and destinations, and create a world-class tourism-related infrastructure. In 2020, a new, draft NTP 2015, that focuses on a sustainable and inclusive tourism model, was being reviewed.[268]

4.163. India also planned to increase its share in the world's total tourist arrivals.[269] In this context, several initiatives were implemented over the review period. To this end, the development of niche tourism products was identified as a priority to overcome seasonality and make India a "365-day destination".[270] Initiatives to advertise niche products in potential markets include the global media campaign "Incredible India!". In addition, to support these initiatives, the e-visa facility was improved in 2015. As at 2019, nationals of 171 countries could apply for e-visas in 28 international airports and 5 cruise terminals.[271]

4.164. Foreign tourism providers may operate in India, if they are based in India. They may provide all types of tourism-related services, except tourist guide services.[272]

4.165. Tourism is not regulated by the Central Government; and India has no legislation to regulate tourism at the central level.[273] Nevertheless, the MOT continues to issue voluntary certificates of approval to tour operators, travel agencies, online travel aggregators[274] (since 2018), tourist transport operators, hotels and other types of accommodation, and restaurants. Local and foreign providers are subject to the same eligibility criteria for obtaining certificates of approval. These requirements are outlined in guidelines issued by the MOT[275]; requirements related to sustainability may apply.[276]

4.166. Public and private (local and foreign) tourism providers operate in India. Private suppliers operate mainly in the hotel industry, which is dominated by local chains. The State owns the India Tourism Development Corporation Ltd. (ITDC) that runs hotels, restaurants, and duty-free shops. E-travel activities are mainly carried out by local private suppliers.[277]

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[267] National Tourism Policy, 2002. Viewed at: http://tourism.gov.in/tourism-policy.

[268] Information provided by the authorities; Draft National Tourism Policy, 2015. Viewed at: http://tourism.gov.in/tourism-policy-archive; and Make in India, *Tourism and Hospitality*. Viewed at: http://www.makeinindia.com/sector/tourism-and-hospitality.

[269] IBEF, *Indian Tourism and Hospitality Industry Analysis*. Viewed at: https://www.ibef.org/industry/indian-tourism-and-hospitality-industry-analysis-presentation.

[270] The niche tourism products are: adventure; cruise; eco; film; medical and wellness; meetings, conferences, and exhibitions; and sport (golf and polo) tourism.

[271] MOT (2019), *Annual Report 2018-19*. Viewed at: http://tourism.gov.in/annual-report-2018-19; and information provided by the authorities.

[272] Information provided by the authorities.

[273] Information provided by the authorities.

[274] Online travel aggregators are intermediaries that set up online platforms to sell tourism products and services on behalf of tourism services providers.

[275] MOT. Viewed at: http://tourism.gov.in/guidelines-schemes.

[276] Information provided by the authorities.

[277] Invest India, *Tourism and Hospitality*. Viewed at: https://www.investindia.gov.in/sector/tourism-hospitality; IBEF, *Tourism and Hospitality*. Viewed at: https://www.ibef.org/download/tourism-and-hospitality-jan-2019.pdf; MOT (2019), *Annual Report 2018-19*. Viewed at: http://tourism.gov.in/annual-report-2018-19.

4.167. Tourism service providers require an authorization to import certain restricted goods essential to their activities; the import value must not exceed 10% or 25% of the foreign exchange earned during the preceding year.[278]

4.168. Tourism is subject to the GST. The rate depends on the type of service provided.[279] To enhance the competitiveness of the hotel industry, in 2019, the GST rate levied on hotel tariffs was reduced from 28% to 18% for tariffs above INR 7,501; and from 18% to 12% for tariffs ranging from INR 1,001 to INR 7,500.[280]

4.169. To further develop the sector, India provides assistance, mainly regarding building infrastructure and participating in overseas travel fairs (Table 4.24). To obtain assistance to participate in travel fairs, providers must hold a certificate of approval.[281] In 2018/19, the total support provided by the MOT was INR 18.3 million.[282] Assistance is also granted at the state level.[283]

Table 4.24 Selected Central Government incentive schemes in tourism, 2019

Objectives	Schemes description
Promote PPPs in tourism infrastructure projects	Viability Gap Scheme for Revenue Generating Tourism Projects[a]: 20% of the total cost of the project; eligible projects include facilities used by tourists that generate revenue through user fees (e.g. tourist trains)
	Swadesh Darshan Scheme: 100% of the total cost of the project; eligible projects include 15 types of thematic circuits (e.g. coastal, eco, rural, and wildlife circuits)
	Pilgrimage Rejuvenation and Spiritual, Heritage Augmentation Drive (PRASHAD) Scheme: 100% of the total cost of the project; eligible projects include 52 pilgrimage sites
Participation in overseas travel fairs	Marketing Development Assistance (MDA):
	• Medical/wellness tourism: 90% of the total cost of the project, or INR 250,000
	• Other tourism products: 90% of the travel cost, 90% of the cost of furnished stalls and participation fees, and hotel cost up to INR 8,000/night (maximum 5 nights), subject to a maximum of INR 250,000

a This Scheme was introduced in January 2018. It replaced the Scheme for Assistance to Large Revenue Generating Projects and the Scheme for Support to PPPs in Infrastructure Development.

Source: Information provided by the authorities; and MOT. Viewed at: http://tourism.gov.in/guidelines-schemes.

4.170. The state-owned Tourism Financial Corporation of India (TFCI) exclusively finances projects in the sector. It offers a range of financial products, such as loans and guarantees. Loans are directed to large-scale projects (i.e. minimum capital cost of INR 200 million), but smaller-scale projects may be considered as well. The TFCI finances up to 75% of the project cost.[284] Additional financing is provided, as in other sectors, by the state-owned IIFCL (Section 2.4.3), which mainly finances projects in 3-star or higher hotels in cities with a population of less than 1 million. However, according to the authorities, to date, the IIFCL has not financed any tourism projects.[285] In addition, new investment in hotels (2-stars and above) may be fully deducted from taxable income.[286]

[278] DGFT, Paragraph 2.52, Chapter 2, *Hand Book of Procedures*. Viewed at: https://dgft.gov.in/.
[279] CBIC, *Rate of GST on Services*. Viewed at: https://cbic-gst.gov.in/pdf/services-booklet-03July2017.pdf; and Invest India, *Tourism and Hospitality*. Viewed at: https://www.investindia.gov.in/sector/tourism-hospitality.
[280] Information provided by the authorities.
[281] MOT. Viewed at: http://tourism.gov.in/guidelines-schemes; and Make in India, *Tourism and Hospitality*. Viewed at: http://www.makeinindia.com/sector/tourism-and-hospitality.
[282] MOT (2019), *India Tourism Statistics 2019*. Viewed at: http://tourism.gov.in/market-research-and-statistics; and information provided by the authorities.
[283] FICCI (2019), *Indian Tourism Infrastructure – Investment Opportunities & Challenges*. Viewed at: http://ficci.in/spdocument/23099/FICCI-report-TIM-2019.pdf.
[284] TFCI, *About*. Viewed at: http://www.tfciltd.com/Tourism_Project_financing.aspx.
[285] Information provided by the authorities.
[286] Section 35 AD, Income Tax Act, 1961; and Make in India, *Tourism and Hospitality*. Viewed at: http://www.makeinindia.com/sector/tourism-and-hospitality.

5 APPENDIX TABLES

Table A1.1 Merchandise exports, by HS sections and major HS chapters/subheadings, 2014-20

(USD billion)

HS section/chapter/subheading	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
Total exports	**310.3**	**262.3**	**275.9**	**303.5**	**330.1**	**313.2**
	(% of total exports)					
01 Live animals and products	3.4	3.5	3.6	3.8	**3.2**	3.2
03 Fish and crustaceans, molluscs, etc.	1.7	1.7	2.0	2.3	1.9	2.0
02 Vegetable products	6.4	5.7	5.5	5.8	5.3	5.0
10 Cereals	3.1	2.4	2.2	2.7	2.5	2.1
1006 Rice	2.5	2.2	2.1	2.6	2.3	2.0
03 Fats and oils	0.3	0.3	0.3	0.4	0.3	0.4
04 Prepared food, beverages and tobacco	1.9	2.2	2.2	2.0	2.2	2.3
05 Mineral products	19.5	12.9	13.1	14.0	15.7	15.3
27 Mineral fuels and oils, products thereof	18.6	11.9	11.8	12.7	14.5	13.6
2710 Petroleum oils, other than crude	18.0	11.5	11.3	12.1	13.9	13.0
06 Chemicals and products thereof	10.8	12.8	12.4	13.0	14.0	15.1
29 Organic chemicals	3.9	4.4	4.2	4.9	5.5	5.6
30 Pharmaceuticals	3.7	4.9	4.7	4.4	4.5	5.2
07 Plastics and rubber	2.5	2.9	2.8	3.1	3.4	3.2
39 Plastics	1.6	2.0	1.9	2.1	2.4	2.2
08 Raw hides and skins; leather, furskins and articles thereof	1.2	1.3	1.2	1.1	1.0	0.9
09 Wood, cork, straw	0.1	0.2	0.2	0.1	0.2	0.2
10 Pulp of wood; paper and paperboard	0.5	0.6	0.5	0.6	0.7	0.7
11 Textiles and textile articles	12.1	14.0	13.2	12.1	11.4	10.9
52 Cotton	2.5	2.8	2.4	2.3	2.4	1.8
61 Clothing, knitted or crocheted	2.5	2.9	3.0	2.6	2.4	2.4
62 Clothing, not knitted or crocheted	3.0	3.6	3.3	2.9	2.5	2.6
12 Footwear, headgear, etc.	1.1	1.2	1.1	1.0	1.0	0.9
13 Articles of stone, plaster, cement	0.9	1.1	1.1	1.1	1.2	1.4
14 Precious stones and metals	13.4	15.1	15.8	13.8	12.3	11.5
7102 Diamonds, not mounted or set	7.8	8.3	8.8	8.3	7.6	6.3
15 Base metals and articles thereof	8.3	7.4	8.2	9.6	8.0	7.9
72 Iron and steel	2.8	2.1	3.1	3.7	3.0	3.0
73 Articles of iron and steel	2.4	2.3	2.1	2.2	2.2	2.2
16 Machinery, electrical equipment	7.3	8.2	8.1	9.0	10.2	11.5
84 Machinery and mechanical appliances	4.4	5.2	5.1	5.9	6.4	6.7
85 Electrical machinery	2.8	3.1	3.0	3.1	3.9	4.8
17 Transport equipment	8.4	8.5	8.4	7.6	7.9	7.3
87 Motor vehicles and parts thereof	4.7	5.5	5.4	5.7	5.5	5.3
18 Precision equipment	0.8	1.0	1.0	1.0	1.0	1.1
19 Arms and ammunition	0.02	0.05	0.04	0.03	0.03	0.05
20 Miscellaneous manufactured articles	0.6	0.8	0.8	0.8	0.8	0.9
21 Works of art, etc.	0.1	0.1	0.1	0.0	0.0	0.0
Other	0.3	0.2	0.2	0.0	0.1	0.1

Source: WTO calculations, based on data from the Department of Commerce. Viewed at: https://commerce-app.gov.in/eidb/default.asp.

Table A1.2 Merchandise imports by HS section and major HS chapter/subheading, 2014-20

(USD billion)

HS section/chapter/subheading	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
Total imports	**448.0**	**381.0**	**384.4**	**465.6**	**514.1**	**474.0**
	(% of total imports)					
01 Live animals and products	0.04	0.04	0.04	0.04	0.04	0.05
02 Vegetable products	1.5	2.3	2.6	1.8	1.3	1.5
03 Animal/vegetable fats and oils	2.4	2.8	2.8	2.5	1.9	2.1
04 Prepared food, beverages and tobacco	0.5	0.6	0.7	0.6	0.5	0.6
05 Mineral products	37.2	27.5	28.5	30.3	34.0	33.5
27 Mineral fuels and oils	34.9	25.4	26.8	28.4	32.7	32.4
2701 Coal; solid fuels manufactured from coal	3.8	3.5	3.9	4.6	4.8	4.6
2709 Petroleum oils, crude	26.0	17.3	18.4	18.8	22.2	21.7
2711 Petroleum gases and other gaseous hydrocarbons	3.6	3.0	2.8	3.0	3.7	3.7
06 Chemicals and products thereof	8.6	9.7	8.9	8.9	9.7	9.6
29 Organic chemicals	4.0	4.1	4.0	4.1	4.4	4.2
07 Plastics and rubber	3.3	3.8	3.8	3.7	3.7	3.7
39 Plastics	2.6	3.0	3.0	3.0	3.0	3.0
08 Raw hides and skins; leather, furskins and articles thereof	0.2	0.3	0.2	0.2	0.2	0.2
09 Wood, cork, straw	0.6	0.6	0.5	0.5	0.4	0.4
10 Pulp of wood; paper and paperboard	1.0	1.2	1.2	1.2	1.2	1.1
11 Textiles and textile articles	1.3	1.5	1.6	1.5	1.4	1.7
12 Footwear, headgear, etc.	0.1	0.1	0.2	0.2	0.2	0.2
13 Articles of stone, plaster, cement	0.5	0.6	0.6	0.6	0.6	0.6
14 Precious stones and metals, pearls	13.9	14.8	14.0	16.0	12.6	11.5
7102 Diamonds, not mounted or set	4.6	4.4	5.0	6.3	5.0	4.4
7108 Gold, unwrought or in semi-manufactured form	7.7	8.3	7.1	7.2	6.4	6.0
15 Base metals and articles thereof	6.3	6.7	5.8	6.1	6.5	6.3
72 Iron and steel	2.8	3.0	2.1	2.2	2.4	2.3
16 Machinery, electrical equipment	14.5	18.1	18.4	18.5	18.7	19.5
84 Machinery and mechanical appliances, parts thereof	7.1	8.6	8.3	8.1	8.5	9.1
85 Electrical machineries and parts thereof	7.4	9.4	10.0	10.4	10.1	10.4
17 Transport equipment	3.3	3.9	5.0	4.0	3.9	4.4
18 Precision instruments	1.7	2.0	2.0	2.0	2.0	2.0
19 Arms and ammunition	0.00	0.01	0.01	0.01	0.01	0.01
20 Miscellaneous manufactured articles	0.5	0.6	0.6	0.7	0.6	0.6
21 Works of art, collectors' pieces and antiques	0.0	0.0	0.0	0.1	0.0	0.0
Other	2.5	2.7	2.4	0.5	0.5	0.4

Source: WTO calculations, based on data from the Department of Commerce. Viewed at: https://commerce-app.gov.in/eidb/default.asp.

Table A1.3 Merchandise exports by destination, 2014-20

(USD billion)

	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
Total exports	**310.3**	**262.3**	**275.9**	**303.5**	**330.1**	**313.2**
	(% of total exports)					
Americas	19.1	20.2	19.9	**20.7**	**20.9**	22.3
United States	13.7	15.4	15.3	15.8	15.9	17.0
Other America	5.3	4.7	4.6	4.9	5.0	5.3
Brazil	1.9	1.0	0.9	1.0	1.2	1.3
Europe	18.4	19.7	19.8	20.0	19.7	19.5
EU-28	16.2	17.4	17.6	17.8	17.5	17.4
United Kingdom	3.0	3.4	3.1	3.2	2.8	2.8
Netherlands	2.0	1.8	1.8	2.1	2.7	2.7
Germany	2.4	2.7	2.6	2.9	2.7	2.6
Belgium	1.8	1.9	2.1	2.0	2.0	1.9
France	1.6	1.8	1.9	1.6	1.6	1.6
Italy	1.6	1.6	1.8	1.9	1.7	1.6
EFTA	0.4	0.6	0.4	0.5	0.5	0.5
Other Europe	1.8	1.6	1.7	1.7	1.7	1.6
Turkey	1.7	1.6	1.7	1.7	1.7	1.6
Commonwealth of independent states (CIS)	1.1	0.9	1.0	1.0	1.1	1.3
Africa	10.6	9.5	8.4	8.2	8.7	9.3
South Africa	1.7	1.4	1.3	1.3	1.2	1.3
Middle East	19.5	18.9	18.0	15.9	15.9	16.3
United Arab Emirates	10.6	11.6	11.3	9.3	9.1	9.2
Saudi Arabia, Kingdom of	3.6	2.4	1.9	1.8	1.7	2.0
Asia	30.1	29.9	31.9	33.4	33.0	30.5
China	3.8	3.4	3.7	4.4	5.1	5.3
Japan	1.7	1.8	1.4	1.6	1.5	1.4
Other Asia	24.5	24.7	26.9	27.4	26.4	23.7
Hong Kong, China	4.4	4.6	5.1	4.8	3.9	3.5
Singapore	3.2	2.9	3.5	3.4	3.5	2.8
Bangladesh	2.1	2.3	2.5	2.8	2.8	2.6
Nepal	1.5	1.5	2.0	2.2	2.4	2.3
Malaysia	1.9	1.4	1.9	1.9	1.9	2.0
Viet Nam	2.0	2.0	2.5	2.6	2.0	1.6
Korea, Republic of	1.5	1.3	1.5	1.5	1.4	1.5
Thailand	1.1	1.1	1.1	1.2	1.3	1.4
Indonesia	1.3	1.1	1.3	1.3	1.6	1.3
Other	1.3	0.9	0.9	0.8	0.9	0.8
Memorandum:						
ASEAN	10.3	9.6	11.2	11.3	11.4	10.1
APEC	39.6	40.6	43.0	44.4	44.0	43.6

Source: WTO calculations, based on data from the Department of Commerce. Viewed at: https://commerce-app.gov.in/eidb/default.asp.

Table A1.4 Merchandise imports, by origin, 2014-20

(USD billion)

	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
Total imports	**448.0**	**381.0**	**384.4**	**465.6**	**514.1**	**474.0**
	(% of total imports)					
Americas	12.5	12.1	12.2	12.0	12.7	12.9
United States	4.9	5.7	5.8	5.7	6.9	7.5
Other America	7.6	6.4	6.3	6.3	5.8	5.3
Europe	16.5	17.0	16.0	15.0	15.4	15.0
EU-28	11.0	11.5	11.0	10.3	11.4	10.8
Germany	2.9	3.2	3.0	2.9	2.9	2.8
Belgium	2.4	2.2	1.7	1.3	2.0	1.9
United Kingdom	1.1	1.4	1.0	1.0	1.5	1.4
EFTA	5.2	5.2	4.6	4.2	3.6	3.7
Switzerland	4.9	5.1	4.5	4.1	3.5	3.6
Other Europe	0.4	0.2	0.3	0.5	0.5	0.5
Commonwealth of independent states (CIS)	1.7	1.9	2.4	2.8	1.8	2.5
Russian Federation	0.9	1.2	1.4	1.8	1.1	1.5
Africa	8.7	8.4	7.5	8.1	8.0	8.0
Nigeria	3.1	2.6	2.0	2.0	2.1	2.2
South Africa	1.5	1.6	1.5	1.5	1.3	1.5
Middle East	24.9	19.9	20.9	20.6	23.1	22.9
United Arab Emirates	5.8	5.1	5.6	4.7	5.8	6.4
Saudi Arabia, Kingdom of	6.3	5.3	5.2	4.7	5.5	5.7
Iraq	3.2	2.8	3.0	3.8	4.4	5.0
Qatar	3.3	2.4	2.0	1.8	2.1	2.0
Kuwait, the State of	3.0	1.3	1.2	1.5	1.4	2.0
Asia	34.0	38.5	39.1	39.4	38.9	38.8
China	13.5	16.2	15.9	16.4	13.7	13.8
Japan	2.3	2.6	2.5	2.4	2.5	2.6
Other Asia	18.3	19.7	20.6	20.7	22.7	22.4
Hong Kong, China	1.2	1.6	2.1	2.3	3.5	3.6
Korea, Republic of	3.0	3.4	3.3	3.5	3.3	3.3
Indonesia	3.3	3.4	3.5	3.5	3.1	3.2
Singapore	1.6	1.9	1.8	1.6	3.2	3.1
Malaysia	2.5	2.4	2.3	1.9	2.1	2.1
Australia	2.3	2.3	2.9	3.0	2.6	2.1
Viet Nam	0.7	0.7	0.9	1.1	1.4	1.5
Thailand	1.3	1.4	1.4	1.5	1.4	1.4
Other	1.7	2.3	1.9	2.0	0.0	0.0
Memorandum:						
ASEAN	10.0	10.5	10.6	10.1	11.5	11.7
APEC	41.3	46.7	47.7	48.9	48.5	49.2

Source: WTO calculations, based on data from the Department of Commerce. Viewed at: https://commerce-app.gov.in/eidb/default.asp.

Table A2.1 Sectors in which FDI is restricted, April 2020

Sector	Foreign equity limit/route	Additional conditions
Agriculture	FDI not permitted, except for the following in which FDI up to 100% is automatic:	
(i) floriculture, horticulture, and cultivation of vegetables and mushrooms under controlled conditions; (ii) development and production of seeds and planting material; (iii) animal husbandry (including dog-breeding), pisciculture, aquaculture, and apiculture; and (iv) services related to agro and allied sectors.	100%/automatic	
Tea sector, including tea plantations; coffee plantations; rubber plantations; cardamom plantations; palm tree plantations; olive tree plantations	100%/automatic	Prior approval of the state government concerned is required in case of any future land-use change.
Mining and petroleum		
Mining and mineral separation of titanium-bearing minerals and ores, its value addition, and integrated activities, subject to sectoral regulations and the Mines and Mineral (Development and Regulation) Act, 1957	100%/government	For the separation of titanium-bearing minerals and ores: (i) value-addition facilities are set up in India, along with transfer of technology; (ii) disposal of tailings during mineral separation in accordance with regulations framed by the Atomic Energy Regulatory Board, such as the Atomic Energy (Radiation Protection) Rules, 2004, and the Atomic Energy (Safe Disposal of Radioactive Wastes) Rules, 1987; and (iii) FDI is not allowed in mining of "prescribed substances" listed in Notification S.O. 61(e), of 18.1.2006, issued by the Department of Atomic Energy.
Petroleum refining by public sector undertakings (PSUs) without any disinvestment or dilution of domestic equity in existing PSUs	49%/automatic	
Power		
Power exchanges registered under the Central Electricity Regulatory Commission (Power Market) Regulations, 2010	49%/automatic	No non-resident investor/entity, including persons acting in concert, may hold more than 5% of the equity of these companies; and FDI to be in compliance with SEBI regulations, other applicable laws/regulations, and security and other conditionalities.
Manufacturing		
Pharmaceuticals		
Brownfield (except for manufacture of medical devices)	100% (automatic up to 74%; government approval required above 74%)	(i) "Non-compete" clause not allowed in either automatic or government route, except in special circumstances with government approval; (ii) the prospective investor and investee must provide a certificate and application for foreign investment (as in Annexure 10); (iii) the Government may incorporate appropriate conditions for brownfield investment at the time of granting approval; and (iv) subject to additional conditions.[a]

Sector	Foreign equity limit/route	Additional conditions
Defence		
Defence industry subject to industrial licence under the Industries (Development and Regulation) Act, 1951; and manufacture of small arms and ammunitions under the Arms Act, 1959	100% (automatic up to 49%, government approval above 49%) wherever it is likely to result in access to modern technology or for other reasons	(i) Infusion of fresh FDI under the automatic route in a company not seeking an industrial licence which changes the ownership pattern, or transfer of stake by existing investor to a new foreign investor, requires government approval; (ii) licences considered and granted by the DPIIT, in consultation with the Ministries of Defence and External Affairs; (iii) subject to security clearance and guidelines of the Ministry of Defence; (iv) the investee should be self-sufficient in product design and development; and (v) the company and manufacturing facility should also provide maintenance and life-cycle support for the product being manufactured in India.
Services		
Communication services		
Broadcasting content services		
- Terrestrial broadcasting FM (FM radio)	49%/Government	Terms and conditions as specified from time to time by the Ministry of Information and Broadcasting for the grant of permission to set up FM radio stations
- Uplinking of "news and current affairs" TV channels	49%/Government	
- Uploading/streaming of news and current affairs through digital media	26%/Government	
Print media		
- Publishing of newspapers and periodicals dealing with news and current affairs	26%/Government	
- Publication of Indian editions of foreign magazines dealing with news and current affairs	26%/Government	FDI also subject to the Guidelines for Publication of Indian Editions of Foreign Magazines dealing with News and Current Affairs, issued by the Ministry of Information and Broadcasting on 4 December 2008.
- Publishing, and printing of scientific and technical magazines, specialty journals, periodicals, subject to compliance with the legal framework, as applicable, and guidelines issued in this regard by the Ministry of Information and Broadcasting	100%/Government	FDI to be by the owner of the original foreign newspaper whose facsimile edition is proposed to be published in India. Publication of the facsimile edition may only be by an entity incorporated or registered in India under the Companies Act, as applicable, and subject to the Guidelines for the publication of newspapers and periodicals dealing with news and current affairs and the publication of facsimile editions of foreign newspapers issued by the Ministry of Information and Broadcasting on 31 March 2006, as amended.
- Publication of facsimile editions of foreign newspapers	100%/Government	
Telecommunications services		
- Telecommunications services All telecom services[b] infrastructure providers, Category I (providing dark fibre, right of way, duct space, and towers), except other service providers	100% (automatic up to 49%; government approval above 49%)	Subject to observance of licensing and security conditions by the licensee as well as investors, as notified by the Department of Telecommunications from time to time, except "other service providers" for which FDI of up to 100% is permitted through the automatic route.
Satellite establishment and operation	100%/Government	Subject to the sectoral guidelines of the Department of Space/ISRO
Financial services		
- Banks (private sector)	74% (including foreign institutional investors) (automatic up to 49%; government approval above 49% up to 74%	At least 26% of paid-up capital to be held by residents except for wholly owned subsidiaries of a foreign bank.
- Banks (public sector)	20% (FDI and portfolio)/Government	Subject to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and 1980.

Sector	Foreign equity limit/route	Additional conditions
- Commodity exchanges	49%/automatic	Subject to the Forward Contracts (Regulation) Act, 1952.
- Infrastructure companies in securities markets (stock exchanges, commodity exchanges, depositories and clearing corporations in compliance with SEBI regulations)	49%/automatic	Subject to the Securities Contracts (Regulations) (Stock Exchanges and Clearing Corporations) Regulations, 2012, and the Securities and Exchange Board of India (Depositories and Participants) Regulations, 1996, as amended, and other guidelines/regulations issued by the Central Government, the SEBI and the Reserve Bank of India.
- Insurance companies	49% (including portfolio investors) /automatic	Subject to approval/licence from the Insurance Regulatory and Development Authority (IRDAI).
Intermediaries or insurance intermediaries, including insurance brokers, re-insurance brokers, insurance consultants, corporate agents, third-party administrators, surveyors and loss assessors, and such other entities as may be notified by the IRDAI.	100% (including portfolio investors) /automatic	Subject to approval/licence from the IRDAI.
- Pension sector	49%/automatic	As per the Pension Fund Regulatory and Development Authority (PFRDA) Act, 2013.
Air transport services		
Scheduled air transport services/domestic scheduled passenger airlines Regional air transport services	49%/automatic (100% for non-resident Indians (NRIs)/automatic) Government approval above 49%	Foreign airlines may invest in the capital of companies operating cargo airlines, and helicopter and seaplane services; they may also invest in the capital of Indian companies (but not Air India) operating scheduled and non-scheduled air transport services up to 49% of their paid-up capital (FDI and foreign institutional (FII)/foreign portfolio (FPI) investment), subject to government approval and to compliance with the relevant rules of the SEBI as well as other applicable rules and regulations.
Private security agencies	74% (automatic up to 49%; government approval above 49% and up to 74%)	Subject to compliance with Private Security Agencies (Regulation) Act, 2005, as amended.
Distribution services		
Trading		
- Multi-brand retail trading	51%/Government	Fresh agricultural produce to be unbranded. Minimum FDI of USD 100 million, at least 50% of which to be invested in backend infrastructure within 3 years; at least 30% of the value of procurement of manufactured/processed products to be sourced from Indian small industries, with total investment in plant and machinery not exceeding USD 2 million. The procurement requirement to be met as an average of purchases in five years as at 1 April of the year in which the first FDI tranche is received, and annually thereafter. The Government has first refusal regarding purchasing agricultural products. Subject also to state government policies.

a (i) Production levels of drugs in the National List of Essential Medicines (NLEM) and/or consumables, and their supply to the domestic market at the time of foreign investment, to be maintained over the following five years at an absolute quantitative level. The benchmark for this level is the highest level of production of NLEM drugs and/or consumables in the three financial years immediately preceding the year of foreign investment; (ii) R&D expenses to be maintained in value terms for five years, at an absolute quantitative level at the time of foreign investment. The benchmark for this level is the highest level of R&D expenses incurred in any of three financial years immediately preceding the foreign investment; and (iii) the administrative ministry is to be provided with complete information on the transfer of technology, if any, along with the foreign investment made in the company. The administrative ministry (Ministry of Health and Family Welfare, Department of Pharmaceuticals, or any other regulatory agency as notified by the Central Government) monitors compliance with these conditionalities.

b Including Telecom Infrastructure Providers Category I basic, cellular, united access services, Unified Licence (Access Services), Unified Licence, National/International Long Distance, Commercial V-SAT, Public Mobile Radio Trunked Services, Global Mobile Personal Communications Services, all types of Internet service provider licences, voice mail/audiotex/UMS, resale of IPLC, and mobile number portability services.

Source: DPIIT, *Consolidated FDI Policy Circular of 2017*, 28 August 2017; FDI Policy 2019, Revised on 19 September 2019. Viewed at: .https://static.investindia.gov.in/2019-09/FDI%20Policy%202019%20 revised_19%20 Sept%202019.pdf; and press notes 2020.

Table A3.1 Tariff summary, 2019/20

	Applied MFN				Bound tariff
	Number of lines	Average (%)	Standard deviation	Range (%)	Range (%)
Total	**11,755**	**13.9 (14.9)**	**(14.5) 18.8**	**0-150 (0-637.7)**	**0-300**
HS 01-24	1,653	36.1	26.7	0-150	10-300
HS 25-97	10,102	10.4 (11.6)	7.3 (15.1)	0-100 (0-637.7)	0-150
By WTO category					
WTO agricultural products	1,502	34.8	29.1	0-150	10-300
Animals and products thereof	124	30.4	14.3	5-100	35-150
Dairy products	33	34.2	9.9	30-60	40-150
Fruit, vegetables, and plants	380	28.1 (28.0)	15.8	0-100	10-150
Coffee and tea	75	74.8	33.6	30-100	55-150
Cereals and preparations	142	32.7	16.8	0-80	35-150
Oilseeds, fats, oil and their products	208	26.7	12.7	0-80	15-300
Sugars and confectionary	41	35.4	14.9	10-60	45-150
Beverages, spirits and tobacco	128	81.1	56.8	5-150	35-150
Cotton	11	2.7	8.6	0-30	100-150
Other agricultural products, n.e.s.	360	25.1	15.9	0-70	10-150
WTO non-agricultural products	1,253	10.8 (12.0)	6.7 (14.7)	0-100 (0-637.7)	0-150
Fish and fishery products	325	29.7	2.9	0-30	35-150
Minerals and metals	1,920	8.7	3.8	0-40	0-55
Chemicals and photographic supplies	2,526	8.3	2.3	0-20	0-150
Wood, pulp, paper and furniture	552	9.7	3.5	0-20	25-40
Textiles	1,557	12.3 (18.2)	4.9 (29.9)	5-25 (5-637.7)	20-40
Clothing	397	19.6 (27.1)	1.8 (26.0)	10-20 (10-246)	35-40
Leather, rubber, footwear and travel goods	324	12.8 (12.7)	8.0 (7.9)	0-70[a]	3-40
Non-electric machinery	1,109	7.5	2.9	0-20	0-40
Electric machinery	543	7.9	4.2	0-20	0-40
Transport equipment	298	23.0	16.1	0-100[b]	3-40
Non-agricultural products, n.e.s.	683	10.5	4.9	0-25	0-40
Petroleum	19	5.0 (4.7)	0.0 (1.1)	0-5 (5-5)	n.a.
By HS section					
01 Live animals and products	498	30.1	6.6	0-100	35-150
02 Vegetable products	605	35.9 (35.8)	25.6	0-100	10.0-150
03 Fats and oils	121	31.8	11.1	7.5-80	15-300
04 Prepared food, beverages and tobacco	429	44.8	40.2	0-150	35-150
05 Mineral products	322	4.9	2.9	0-40	5-55
06 Chemicals and products thereof	2,295	8.6	3.3	0-25	0-150
07 Plastics, rubber, and articles thereof	583	10.0 (9.9)	4.3 (4.1)	3-70[a]	3-40
08 Raw hides and skins, leather, and its products	134	6.8	4.7	0-10	25-100
09 Wood and articles of wood	247	8.8	2.1	5-10	25-40
10 Pulp of wood, paper and paperboard	272	9.2	2.5	0-20	25-40
11 Textiles and textile articles	1,908	13.8 (20.1)	5.6 (29.7)	0-30 (0-637.7)	20-150
12 Footwear, headgear, etc.	105	18.7	7.0	10-25	n.a.
13 Articles of stone, plaster, cement	258	10.6	4.8	5-40	0-40
14 Precious stones and metals, pearls	91	11.9	6.4	0-20	40-40
15 Base metals and articles thereof	1,267	9.0	2.7	0-15	25-40
16 Machinery, electrical equipment, etc.	1,685	7.7	3.4	0-20	0-40
17 Transport equipment	317	22.2	16.0	0-100[b]	3-40
18 Precision equipment	352	8.9	4.3	0-20	0-40
19 Arms and ammunition	20	10.0	0.0	10-10	n.a.
20 Miscellaneous manufactured articles	229	15.0	5.2	0-20	35-40
21 Works of art, etc.	17	8.2	3.8	0-10	n.a.

n.a. Not applicable.

a Tariff lines with applied rates at 70% are unbound.
b Tariff lines with applied rates at 100% are unbound.

Note: Calculations for averages are based on tariff lines at the 8-digit level. Figures in brackets include AVEs, as available. For alternate rates, where AVEs were not available only the *ad valorem* part of the rate was used.

Source: WTO Secretariat calculations, based on data provided by the authorities; and the Ministry of Commerce and Industry, Department of Commerce. Viewed at: https://commerce-app.gov.in/eidb/default.asp.

Table A3.2 India's tariff summary, 2020/21

	Applied MFN				Bound tariff
	Number of lines	Average (%)	Standard deviation	Range (%)	Range (%)
Total	11,900	14.3 (15.4)	15.1 (19.2)	0-150 (0-637.7)	0-300
HS 01-24	1,682	37.5	27.3	0-150	10-300
HS 25-97	10,218	10.5 (11.7)	6.4 (14.7)	0-100 (0-637.7)	0-150
By WTO category					
WTO agricultural products	1,523	36.5	29.6	0-150	10-300
Animals and products thereof	124	30.2	14.5	0-100	35-150
Dairy products	33	36.7	9.7	30-60	40-150
Fruit, vegetables, and plants	398	29.0 (28.9)	16.3	0-100	10-150
Coffee and tea	75	74.8	33.6	30-100	55-150
Cereals and preparations	149	35.1	18.8	0-100	35-150
Oilseeds, fats, oil and their products	206	35.1	22.6	7.5-100	15-300
Sugars and confectionary	41	47.0	30.3	25-100	45-150
Beverages, spirits and tobacco	125	79.4	56.5	5-150	35-150
Cotton	11	2.7	8.6	0-30	100-150
Other agricultural products, n.e.s.	361	25.3	15.7	0-70	10-150
WTO non-agricultural products	10,377	11.1 (12.3)	7.1 (14.9)	0-100 (0-637.7)	0-150
Fish and fishery products	330	29.7	2.9	0-30	35-150
Minerals and metals	1,959	8.9	4.5	0-40	0-55
Chemicals and photographic supplies	2,563	8.3	2.3	0-20	0-150
Wood, pulp, paper and furniture	550	10.0	4.4	0-25	25-40
Textiles	1,558	12.4 (18.3)	5.0 (29.9)	2.5-35 (2.5-637.7)	20-40
Clothing	416	19.7 (27.1)	1.8 (25.8)	10-20 (10-246)	35-40
Leather, rubber, footwear and travel goods	324	15.4 (15.3)	10.7 (10.6)	0-70[a]	3-40
Non-electric machinery	1,110	7.7	3.2	0-20	0-40
Electric machinery	536	8.5	4.7	0-20	0-40
Transport equipment	298	24.2	15.9	0-100[b]	3-40
Non-agricultural products, n.e.s.	682	11.3	6.6	0-60	0-40
Petroleum	51	4.6 (4.5)	1.0 (1.2)	0-5	n.a.
By HS section					
01 Live animals and products	503	30.2	6.8	0-100	35-150
02 Vegetable products	631	36.6 (36.5)	25.7	0-100	10.0-150
03 Fats and oils	122	45.1	23.3	7.5-100	15-300
04 Prepared food, beverages and tobacco	426	45.3	40.0	0-150	35-150
05 Mineral products	360	5.0	3.8	0-40	5-55
06 Chemicals and products thereof	2,319	8.6	3.3	0-25	0-150
07 Plastics, rubber, and articles thereof	593	10.0	4.3 (4.1)	3-70[a]	3-40
08 Raw hides and skins, leather, and its products	134	9.5	5.6	0-15	25-100
09 Wood and articles of wood	247	8.8	2.1	5-10	25-40
10 Pulp of wood, paper and paperboard	270	9.2	2.3	0-10	25-40
11 Textiles and textile articles	1,928	13.8 (20.2)	5.6 (29.7)	0-30 (0-637.7)	20-150
12 Footwear, headgear, etc.	105	25.1	11.3	10-35	n.a.
13 Articles of stone, plaster, cement	258	11.5	5.4	5-40	0-40
14 Precious stones and metals, pearls	123	9.7	6.8	0-20	40-40
15 Base metals and articles thereof	1,268	9.4	3.4	0-20	25-40
16 Machinery, electrical equipment, etc.	1,679	8.0	3.8	0-20	0-40
17 Transport equipment	317	23.3	15.8	0-100[b]	3-40
18 Precision equipment	351	8.9	4.3	0-20	0-40
19 Arms and ammunition	20	10.0	0.0	10-10	n.a.
20 Miscellaneous manufactured articles	229	17.8	8.5	0-60	35-40
21 Works of art, etc.	17	8.2	3.8	0-10	n.a.

n.a. Not applicable.

a Tariff lines with applied rates at 70% are unbound.
b Tariff lines with applied rates at 100% are unbound.

Note: Calculations for averages are based on the national tariff lines level (8-digit). Figures in brackets include *ad valorem* equivalents (AVEs), as available. For mixed duties, where AVEs were not available only the *ad valorem* part of the rate was used.

Source: WTO Secretariat calculations, based on data provided by the authorities; and Ministry of Commerce and Industry, Department of Commerce. Viewed at: https://commerce-app.gov.in/eidb/default.asp.

Table A3.3 Subsidies notified to the WTO, 2015–19

Programme	Form of subsidy	Policy objective	In force/ implementa tion	Notified
Central government level				
Central Capital Investment Subsidy Scheme for States of Jammu and Kashmir, Himachal Pradesh and Uttarakhand. http://www.dipp.nic.in.	Exemption from income tax Subsidized interest rates on working-capital loan Reimbursement of insurance premium Subsidy on capital investment	Promote industrialization	2002-17	G/SCM/N/284/IND/Suppl.3 and G/SCM/N/315/IND/Suppl.1, 7 March 2019
Industrial Development Scheme, 2017, for States of Jammu and Kashmir, Himachal Pradesh and Uttarakhand				G/SCM/N/343/IND/Suppl.1 G/SCM/N/315/IND/Suppl.3 G/SCM/N/284/IND/Suppl.5 and G/SCM/N/253/IND/Suppl.4, 18 October 2019
Integrated Development of Leather Sector Scheme	Grant of 20% to 30% of cost of plant and machinery Maximum INR 30 million per product line	Industry upgrade	2005-20	G/SCM/N/284/IND, 27 October 2016; G/SCM/N/284/IND/Suppl.3 and G/SCM/N/315/IND/Suppl.1, 7 March 2019
North East Industrial and Investment Promotion Policy	Fiscal incentives Exemption from excise duty and income tax Subsidized interest rates on working-capital loan Reimbursement of insurance premium Subsidy on capital investment	Development of disadvantaged areas	2007-17 Grandfathered until 2027	G/SCM/N/284/IND, 27 October 2016 G/SCM/N/284/IND/Suppl.3 and G/SCM/N/315/IND/Suppl.1, 7 March 2019
Freight Subsidy Scheme	Grant Subsidy of 50% to 90% of the cost of transportation of raw materials and finished goods from the production unit to the designated rail-head Subsidy is not available for intra-state movement of goods	Development of remote areas	2013-16 Grandfathered until 2021	G/SCM/N/284/IND/Suppl.3 and G/SCM/N/315/IND/Suppl.1, 7 March 2019
North East Industrial Development Scheme	Grant and Reimbursement of taxes	Promote industrialization	2017-22	G/SCM/N/343/IND/Suppl.1 G/SCM/N/315/IND/Suppl.3 G/SCM/N/284/IND/Suppl.5 and G/SCM/N/253/IND/Suppl.4, 18 October 2019
Faster Adoption and Manufacturing of Hybrid and Electric Vehicles Scheme	Consumer subsidy Reduction of market price	Environment	2015-19	G/SCM/N/284/IND/Suppl.3 and G/SCM/N/315/IND/Suppl.1, 7 March 2019
Enhancement of Competitiveness in the Indian Capital Goods Sector	Grant	Upgrade technology in manufacturing	2014 – not specified; continuing	G/SCM/N/284/IND/Suppl.3 and G/SCM/N/315/IND/Suppl.1, 7 March 2019
Shipbuilding Subsidy/ Financial Assistance Policy	Grant	Promote shipbuilding	2016-26	G/SCM/N/284/IND, 27 October 2016 G/SCM/N/284/IND/Suppl.3 and G/SCM/N/315/IND/Suppl.1, 7 March 2019
Technology Up-Gradation Fund Scheme Amended Technology Upgradation Fund Scheme/Revised Restructured Technology Upgradation Fund Scheme	Reimbursement of interest paid	Upgrade technology in textile industry	1999-2022	G/SCM/N/284/IND, 27 October 2016 G/SCM/N/284/IND/Suppl.3 and G/SCM/N/315/IND/Suppl.1, 7 March 2019
Focus Market Scheme	Duty exemption	Promote exports	Eliminated in 2015	G/SCM/N/284/IND, 27 October 2016
Product Focus Scheme	Duty exemption	Promote exports	Eliminated in 2015	G/SCM/N/284/IND, 27 October 2016
Market Linked Focus Product Scheme	Duty exemption	Promote exports	Eliminated in 2015	G/SCM/N/284/IND, 27 October 2016

Programme	Form of subsidy	Policy objective	In force/ implementation	Notified
Subsidy schemes at the state government level				
Andhra Pradesh				
Schemes (Incentives) under Industrial Development Policy, 2015-20	Grant/tax exemption reimbursement	Industrial development	2015-20	G/SCM/N/284/IND/Suppl.1, 5 September 2017 G/SCM/N/284/IND/Suppl.3 G/SCM/N/315/IND/Suppl.1, 7 March 2019 G/SCM/N/343/IND/Suppl.1 G/SCM/N/315/IND/Suppl.3 G/SCM/N/284/IND/Suppl.5 and G/SCM/N/253/IND/Suppl.4, 18 October 2019
Bihar				
Industrial Incentive Policy, 2006	Grant Tax exemption	Balanced industrial growth	2006-11	G/SCM/N/284/IND/Suppl.1, 5 September 2017
Industrial Investment Promotion Policy, 2016.	Grant Tax exemption Tax reimbursement Interest rate subsidy	Industrial development	2016-21	G/SCM/N/284/IND/Suppl.3 G/SCM/N/315/IND/Suppl.1, 7 March 2019, G/SCM/N/343/IND/Suppl.1 G/SCM/N/315/IND/Suppl.3 G/SCM/N/284/IND/Suppl.5 and G/SCM/N/253/IND/Suppl.4, 18 October 2019
Chhattisgarh				
Schemes under the Industrial Policy, 2014-19	Grant Tax exemption Tax reimbursement	Industrial development	2014-19	G/SCM/N/343/IND/Suppl.1 G/SCM/N/315/IND/Suppl.3 G/SCM/N/284/IND/Suppl.5 and G/SCM/N/253/IND/Suppl.4, 18 October 2019
Gujarat				
Financial assistance by way of Net VAT/Net State Goods and Services Tax reimbursement to MSMEs, Large, Mega and Ultra Mega Industrial Undertakings	Tax reimbursement	Industrial development	2016-21	G/SCM/N/284/IND/Suppl.3 G/SCM/N/315/IND/Suppl.1, 7 March 2019 G/SCM/N/343/IND/Suppl.1 G/SCM/N/315/IND/Suppl.3 G/SCM/N/284/IND/Suppl.5 and G/SCM/N/253/IND/Suppl.4, 18 October 2019
Financial assistance for the Plastic Industry of Net VAT/Net State Goods and Services Tax reimbursement to MSMEs	Tax reimbursement	Industrial development	2015-19	G/SCM/N/343/IND/Suppl.1 G/SCM/N/315/IND/Suppl.3 G/SCM/N/284/IND/Suppl.5 and G/SCM/N/253/IND/Suppl.4, 18 October 2019
Gujarat Aerospace and Defence incentive scheme for aerospace and defence enterprises	Tax reimbursement	Industrial development	2016-25	G/SCM/N/343/IND/Suppl.1 G/SCM/N/315/IND/Suppl.3 G/SCM/N/284/IND/Suppl.5 and G/SCM/N/253/IND/Suppl.4, 18 October 2019
New Industrial Policy, 2015: Scheme for Assistance for Labour-Intensive Industries	Tax reimbursement	Development of labour-intensive industries	2015-19	G/SCM/N/343/IND/Suppl.1 G/SCM/N/315/IND/Suppl.3 G/SCM/N/284/IND/Suppl.5 and G/SCM/N/253/IND/Suppl.4, 18 October 2019
Scheme of Assistance to Mega/Innovative Projects	Tax reimbursement	Promote certain focus sectors	2016-21	G/SCM/N/343/IND/Suppl.1 G/SCM/N/315/IND/Suppl.3 G/SCM/N/284/IND/Suppl.5 and G/SCM/N/253/IND/Suppl.4, 18 October 2019
Schemes under Gujarat Textile Policy, 2012	Interest subsidy Power tariff subsidy VAT/Goods and Services Tax assistance	Strengthen value chains in the textile industry	2013-19	G/SCM/N/343/IND/Suppl.1 G/SCM/N/315/IND/Suppl.3 G/SCM/N/284/IND/Suppl.5 and G/SCM/N/253/IND/Suppl.4, 18 October 2019
Haryana				
Schemes under the Enterprises Promotion Policy, 2015	Grant Tax exemption	Industrial development	2015 - no end-date specified	G/SCM/N/284/IND/Suppl.3 and G/SCM/N/315/IND/Suppl.1, 7 March 2019
Himachal Pradesh				
Mukhya Mantri Swawlamban Yojna	Various subsidies (e.g. interest, power and capital)	Attract investment	2019 – no end-date specified	G/SCM/N/343/IND/Suppl.1 G/SCM/N/315/IND/Suppl.3

Programme	Form of subsidy	Policy objective	In force/ implementation	Notified
Rules Regarding Grant of Incentives, Concessions and Facilities to the Industrial Units in Himachal Pradesh, 2004, as amended up to 17.07.2018 (Incentive Rules)	Tax reimbursement/ exemption Marketing assistance Grants Land at concessional rates	Promote innovation Promote self-employment	2004 - no end-date specified	G/SCM/N/284/IND/Suppl.5 and G/SCM/N/253/IND/Suppl.4, 18 October 2019
Chief Minister's Start-up/ Innovation Projects/ New Industries Scheme			2016 – no end-date specified	
State Mission on Food Processing (SMFP)			2016 – no end-date specified	
Rural Engineering Based Training Programme (REBTP)			2013 – no end-date specified	
Jharkhand				
Industrial Policy	Grants Concessions Exemptions	Industrial growth	2001 – no end-date specified	G/SCM/N/284/IND/Suppl.1, 5 September 2017
Kerala				
Entrepreneur Support Scheme, 2012 (Industrial Policy 2012-13)	Grants	Promote investment and innovation	2012–19	G/SCM/N/343/IND/Suppl.1 G/SCM/N/315/IND/Suppl.3 G/SCM/N/284/IND/Suppl.5 and G/SCM/N/253/IND/Suppl.4, 18 October 2019
Scheme for Interest Subvention to Nano Household Enterprises (Industrial Policy 2017-18)	Interest subvention	Promote employment	2017-19	G/SCM/N/343/IND/Suppl.1 G/SCM/N/315/IND/Suppl.3 G/SCM/N/284/IND/Suppl.5 and G/SCM/N/253/IND/Suppl.4, 18 October 2019
Karnataka				
Subsidy schemes under the Industrial Policy 2014-19	Interest free loans Tax refund Grants	Promote industrialization	2014-19	G/SCM/N/343/IND/Suppl.1 G/SCM/N/315/IND/Suppl.3 G/SCM/N/284/IND/Suppl.5 and G/SCM/N/253/IND/Suppl.4, 18 October 2019
Madhya Pradesh				
Schemes under the Industrial Promotion Policy, 2014 (amended in 2018):	Grants Exemptions Reimbursements Concessions	Promote industrialization and employment	2014-19	G/SCM/N/343/IND/Suppl.1 G/SCM/N/315/IND/Suppl.3 G/SCM/N/284/IND/Suppl.5 and G/SCM/N/253/IND/Suppl.4, 18 October 2019
Department of Industrial Policy and Investment Promotion				
Maharashtra				
Package Incentive Scheme, 2007	Tax exemption Tax refund Interest subsidy Electricity subsidy	Sustainable economic growth	2007-13	G/SCM/N/284/IND/Suppl.1, 5 September 2017
Package Scheme of Incentives, 2013	Tax exemption Tax refund Interest subsidy Electricity subsidy	Industrial development in less-developed areas	1964, renewed until 2013 - no end-date specified	G/SCM/N/284/IND/Suppl.3 G/SCM/N/315/IND/Suppl.1, 7 March 2019 G/SCM/N/343/IND/Suppl.1 G/SCM/N/315/IND/Suppl.3 G/SCM/N/284/IND/Suppl.5 and G/SCM/N/253/IND/Suppl.4, 18 October 2019
Odisha				
VAT Scheme (Industrial Policy 2007–15)	Tax reimbursement	Industrial development	2007 - no end-date specified	G/SCM/N/343/IND/Suppl.1 G/SCM/N/315/IND/Suppl.3 G/SCM/N/284/IND/Suppl.5 and G/SCM/N/253/IND/Suppl.4, 18 October 2019
Punjab				
Textile Policy	Concessions Exemptions Waiver of electricity duty	Development of the textile industry	2006 - no end-date specified	G/SCM/N/284/IND/Suppl.1, 5 September 2017 G/SCM/N/284/IND/Suppl.3 G/SCM/N/315/IND/Suppl.1, 7 March 2019 G/SCM/N/343/IND/Suppl.1 G/SCM/N/315/IND/Suppl.3 G/SCM/N/284/IND/Suppl.5 and G/SCM/N/253/IND/Suppl.4, 18 October 2019

Programme	Form of subsidy	Policy objective	In force/ implementation	Notified
Tripura				
Industrial Investment Promotion Incentive (Amendment) Scheme, 2017	Grant Reimbursement Concessions 25% reimbursement of electricity bill	Industrial development	2017-22	G/SCM/N/284/IND/Suppl.3 G/SCM/N/315/IND/Suppl.1, 7 March 2019 G/SCM/N/343/IND/Suppl.1 G/SCM/N/315/IND/Suppl.3 G/SCM/N/284/IND/Suppl.5 and G/SCM/N/253/IND/Suppl.4, 18 October 2019
Uttarakhand				
Incentives under MSME Policy, 2015	Grants Exemptions Reimbursements Concessions	Development of MSMEs	2015-20	G/SCM/N/284/IND/Suppl.3 and G/SCM/N/315/IND/Suppl.1, 7 March 2019
West Bengal				
Incentive Scheme, 2004	Exemptions Refunds	Support large and medium industrial projects	2004-08	G/SCM/N/284/IND/Suppl.1, 5 September 2017
Support for Industries Scheme, 2008	Exemptions Refunds	Support large and medium industrial projects	2008–33	G/SCM/N/284/IND/Suppl.1, 5 September 2017

Source: WTO documents G/SCM/N/284/IND, 27 October 2016; G/SCM/N/284/IND/Suppl.1, 5 September 2017; G/SCM/N/284/IND/Suppl.3; G/SCM/N/315/IND/Suppl.1, 7 March 2019; and G/SCM/N/343/IND/Suppl.1; G/SCM/N/315/IND/Suppl.3; G/SCM/N/284/IND/Suppl.5; and G/SCM/N/253/IND/Suppl.4, 18 October 2019.

Table A3.4 Selected disinvestment, 2014/15-2019/20

CPSEs	Year	Central Government's shares offered for disinvestment	Central Government's share after disinvestment (%)
Antrix Corporation Ltd.	2017/18	15.0	100.0
Bharat 22 EFT	2017/18	..	..
	2018/19	..	..
	2018/19	..	..
Bharat Dynamics Ltd.	2015/16	..	..
	2017/18	25.0	100.0
	2017/18	12.0	88.0
Bharat Electronics Ltd.	2016/17	0.61	74.41
	2016/17	5.0	69.41
	2017/18	0.25	67.94
	2017/18	5.0	66.72
Bharat Heavy Electricals Ltd.	2018/19	3.15	63.17
Coal India Ltd.	2014/15	10.0	78.65
	2016/17	1.248	79.78
	2018/19	3.19	75.46
	2018/19	0.01	75.12
	2018/19	0.19	72.33
Cochin Shipyard Ltd.	2017/18	25.0	75.0
	2018/19	3.233	75.21
Container Corporation of India Ltd.	2016/17	0.25	56.79
	2015/16	5.0	56.8
CPSE-Exchange Traded Fund	2018/19	..	..
	2018/19	..	..
	2016/17	..	..
Dredging Corporation of India Ltd.	2016/17	0.09	73.47
	2015/16	5.0	73.56
Engineers India Ltd.	2016/17	0.5	59.32
	2015/16	10.0	59.37
	2017/18	6.64	54.17
Garden Reach Shipbuilders and Engineers Ltd.	2017/18	7.5	100
	2018/19	25.5	74.5
Hindustan Aeronautics Ltd.	2017/18	10.0	90.0
	2015/16	..	..
	2017/18	7.5	100.0
Hindustan Copper Ltd.	2017/18	6.93	76.05
	2017/18	0.0064	76.046
	2014/15	0.05164	89.95
	2016/17	7.0	82.95
	2017/18	..	82.88
Housing and Urban Development Corporation Ltd.	2017/18	10.193	89.807
HSCC (India) Ltd.	2017/18	25.0	100.0
India Oil Corporation Ltd.	2015/16	10.0	58.57
	2016/17	0.5	58.28
	2018/19	3.3875	53.88
IRCON International Ltd.	2018/19	10	89.18
	2017/18	5	99.71
KIOCL Ltd.	2018/19	1.983	99.06
Manganese Ore India Ltd.	2016/17	5.36	66.21
	2016/17	10	56.21
	2017/18	7.5	56.01
MDL	2017/18	10.0	100.0
Metal and Mineral Trading Corporation of India Ltd.	2014/15	0.073	89.9268
Mishra Dhatu Nigam Ltd.	2018/19	25.0	75.0
MSTC Ltd.	2018/19	25.1	64.75
National Aluminium Company Ltd.	2016/17	6.36	74.57
	2017/18	9.2125	65.38

CPSEs	Year	Central Government's shares offered for disinvestment	Central Government's share after disinvestment (%)
	2017/18	0.4	64.96
	2014/15	0.13	80.93
	2018/19	1.8	56.77
National Building Construction Corporation Ltd.	2016/17	15.0	75.0
	2017/18	0.21	74.29
National Fertilizers Ltd.	2014/15	0.29	89.71
	2017/18	15	74.71
National Hydroelectric Power Corporation Ltd.	2016/17	11.36	74.6
	2016/17	0.09	74.51
	2016/17	0.01	74.5
	2018/19	..	73.83
National Mineral Development Company Ltd.	2016/17	5.06	74.94
	2017/18	2.52	73.42
	2018/19	2.56	72.28
National Thermal Power Corporation Ltd.	2014/15	0.04	74.96
	2015/16	5.0	69.96
	2016/17	0.22	69.74
	2017/18	6.63	63.11
	2017/18	0.12	62.99
Neyeli Lignite Corporation Ltd.	2017/18	5.0	84.32
	2018/19	0.48	84.42
	2016/17	0.68	89.32
Oil and Natural Gas Corporation Ltd.	2018/19	0.43	65.22
Oil India Ltd.	2017/18	5.6	66.13
	2018/19	..	..
Power Finance Corporation Ltd.	2015/16	5.0	67.8
Rail Vikas Nigam Ltd.	2019/20	..	87.88
Rashtriya Chemicals and Fertilizers Ltd.	2017/18	5.0	75.0
RITES Ltd.	2018/19	12.6	87.4
Rural Electrification Corporation Ltd.	2015/16	5.0	60.64
Security Printing and Minting Corporation of India Ltd.	2017/18	10.0	100.0
SJVN Ltd.	2017/18	5.0	63.93
Steel Authority of India Ltd.	2014/15	5.0	75.0

.. Not available.

Source: Department of Investment and Public Asset Management, *Strategic Disinvestment*. Viewed at: https://dipam.gov.in/.

Table A3.5 Overview of the IPR regime, 2019

	Requirements	Term of protection
Copyright and related rights	Upon creation or publication in material form	Literary, artistic, dramatic, and musical works: lifetime of the author + 60 years after his/her death; Anonymous/pseudonymous works, works of domestic and international public entities: 60 years from the year the work was first published; Sound recordings, films and broadcasts: 60 years from the year the work was published; Performers' rights: 50 years from the beginning of the calendar year following the year in which the performance was made
GIs	Qualities, characteristics, features or reputation should be essentially due to, and linked to, the original place of production	10 years, renewable for successive periods of 10 years
Industrial designs	New; individual character	10 years from the date of filing, renewable for a further 5 years
Layout designs of semi-conductor integrated circuits	Original; distinctive; not commercially exploited in India or in a convention country for more than 2 years from the filing date	10 years from the filing date or the date of first commercial exploitation, whichever is earlier
Patents	New; inventive step; industrial applicability	20 years from the date of filing
Plant varieties (new varieties)	New; distinctive; uniform; stable	Trees and vines: 9 years from the registration date, renewable for a further 9 years; other varieties: 6 years from the registration date, renewable for a further 9 years
Trademarks	Unique; distinctive	10 years from the date of filing, renewable for successive periods of 10 years

Source: CIPAM, *Patent Trends*. Viewed at: http://cipam.gov.in/; and CIPAM (2017), *Intellectual Property – The Future!* Viewed at: http://cipam.gov.in/wp-content/uploads/2017/09/bookletIPR.pdf.

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