DYNAMIC STRUCTURE OF CUSTOMS AND TARIFF POLICIES IN INDIA

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ABSTRACT

Customs authorities implement country-specific laws and regulations for importing and exporting commodities. Certain commodities may be subject to import and export restrictions. Customs duties are tariffs or taxes imposed on goods imported or exported. They can be particular or ad valorem, meaning they are based on the worth of commodities. India's Foreign Trade Policy aims to increase exports, improve performance, promote trade, and maintain a positive balance of payments. The Central Government establishes guidelines for importing and exporting products in India, known as foreign trade. The GST has significantly impacted overseas transactions, altering the way businesses operate in India. In India, The Customs Act, 1962, governs the application of customs duty, and the imposition of extra customs taxes is under the Customs Tariff Act, 1975. In the age of globalization, overseas commerce has become the lifeblood of any economy. The major goal is not just to generate foreign cash but also to boost economic activity. International commerce allows nations to specialize in their most cost-effective and efficient items while simultaneously consuming more than they could create on their own.

Keywords: Customs duty, Imports, Exports, Taxes.

INTRODUCTION

In India, "customs law" refers to the legislative framework that oversees the import and export of commodities inside the nation. Traditionally, merchants entering the kingdom with commodities were expected to present a gift to the king, and over time, this became a custom. It can be inferred that taxes on these products have existed since the Vedic period. [1] Customs

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[1] Vivek Dubey, 'Cyber Crime and Laws in India' (2020) 7(12) JETIR https://www.jetir.org/papers/JETIR2012252.pdf accessed 27 March 2025.

regulations are crucial for trade control and national security, in addition to being a significant source of revenue for the government.

In India, the Parliament has the authority to adopt legislation governing customs duties. This power is drawn from Entry 83 of List I of VII Schedule[2], coupled with Article 246 of the Indian Constitution[3], which reads: "Duties of Customs, including export duties."

In the exercise of this power, the Parliament established the Customs Act of 1962. The Customs Act aimed to "consolidate and amend customs-related laws." The Customs Act of 1962 is the fundamental legislation that governs customs duty in India. It establishes the legal basis for the imposition, assessment, and collection of customs duties. The Act specifies how customs administration, inspection, seizure, and customs-related case adjudication are to be carried out.

The Customs Tariff Act (1975) supplements the Customs Act by specifying the customs duty rates applicable to different products imported into or exported from India. It offers a thorough tariff schedule that categorizes commodities and determines duty rates.

International trade policies and procedures, particularly those relating to import and export are seen by the Foreign Trade (Development and Regulation) Act of 1992. It serves as the foundation for trade regulation as well as license and permit issuing.[4]

The WTO and international treaties also play an essential role in managing customs duties. India is a founding member of the WTO. The World Trade Organization plays a significant role in global trade organization and regulation. It entails establishing reasonable tariffs and maintaining a framework that promotes global commerce. The World Trade Organization (WTO) develops standard customs regulations to promote global integration, lower trade barriers, and improve market access. [5]

TYPES OF CUSTOMS DUTY

The different types of customs duty post the implementation of GST in India are as follows:

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[2] Schedule 7, List I, entry 83.
[3] Constitution of India, art 246
[4] Law4u, 'How is Customs Duty Regulated and Enforced in India?' (Law4u, 19 August 2023) https://law4u.in/answer/7223/how-is-customs-duty-regulated-and-enforced-in-india accessed 27 March 2025.
[5] Rimma Kosenko, 'The Role of the WTO in Customs Duty Regulation' (2024) 10 *Entrepreneurship* https://ep.swu.bg/images/pdfarticles/2024/Num.10_EP_2_2024_The_Role_of_the_WTO_in_Customs_Duty_Regulation_30.10.2024.pdf accessed 27 March 2025.

Basic Customs Duty (BCD)

BCD is covered under section 12 of the Customs Act 1962.[6] It is imposed on all imported and exported goods unless they are specifically exempted. The determination is based on the HSN code. The rates are given in Schedule I of the Customs and Tariffs Act. It is typically calculated using different methods like Specific duty or tariffs, which are based on the amount of product, whereas ad valorem duty is based on the value of the item. Compound tariffs apply when both specific and ad valorem duties are levied on imports or exports.[7]

Integrated Goods and Services Tax (IGST)

After the implementation of GST in India, the Countervailing Duty (CVD) and Special Additional Customs Duty (SAD) were replaced by IGST with some exceptions.[8] It can be found in Section 3(7) of The Customs Tariff Act, 1975. [9]These are applicable to all Imports and are treated as an interstate supply. It ensures a balance between imported and domestically produced goods.

Cess and Surcharge

These are additional duties brought to collect revenue for specific development programmes. These also help compensate states. These can be the social welfare surcharge (SWS), which replaced the earlier education Cess and the SHEC. It is usually 10 per cent of BCD. Another type of this is the Agricultural Infrastructure and Development Cess (AIDC), which is imposed on select imports to fund agricultural infrastructure.

Countervailing Duty (CVD) specifically for subsidies

Section 9 of the Customs Tariff Act[10] talks about this duty. It is brought in to counter foreign subsidies which are granted to manufacturers and exporters who have received subsidies from their government, and this can lead to price differences. This price can cause injury to the Indian Industry. These are only imposed after the Directorate General of Trade Remedies

[6] Customs Act 1962, s 12.
[7] CMA Knowledge, 'Basics of Customs Duty – A Comprehensive Guide' (CMA Knowledge, 21 March 2025) https://www.cmaknowledge.in/2025/03/basics-of-customs-duty-comprehensive.html accessed 27 March 2025.
[8] TaxGuru, 'Import of Goods under GST – FAQs' (TaxGuru, 26 July 2017) https://taxguru.in/goods-and-service-tax/import-goods-gst-faqs.html accessed 27 March 2025.
[9] Customs Tariff Act 1975, s 3(7).
[10] Customs Tariff Act 1975, s 9.

(DGTR) conducts an inquiry. This helps to ensure fair competition and is calculated based on the subsidy given.

Anti-Dumping Duty

This is found under section 9A of the Customs Tariff Act[11]. It is used to prevent dumping when foreign companies sell goods in India below the market price. For this duty, dumping is supposed to be proved and should also be able to show that the domestic market is affected. The Directorate General of Trade Remedies (DGTR) conducts an inquiry before it is imposed.

Safeguard Duty

Section 8B of the Customs Tariff Act [12]deals with Safeguard Duty. When there is a sudden and considerable increase in imports that threatens domestic industries, a safeguard tariff is applied as a precaution.

Export Duties

This is generally imposed on goods that can be essential to the development of the country. It is applied to not encourage exports of essential goods and to satisfy the domestic market demand.

TARIFF CLASSIFICATION

The methodical classification of commodities for customs is tariff classification. For imports and exports, it establishes the relevant tariff rate, taxes, trade policy, and regulations. These can be different codes on which they are determined.

The most popular, which is the base classification for most countries, is the Harmonized System of Nomenclature (HSN) code. The World Customs Organization created and maintains it. More than 200 nations use it. [13]

[11] Customs Tariff Act 1975, s 9A
[12] Customs Tariff Act 1975, s 8
[13] World Customs Organization, 'HS Nomenclature 2022 Edition' (WCO, 2022) https://www.wcoomd.org/en/topics/nomenclature/instrument-and-tools/hs-nomenclature-2022-edition/hs-nomenclature-2022-edition.aspx accessed 27 March 2025

Further, the Rules for General Interpretation (GIR) are six globally accepted guidelines for interpreting and using the HSN. When a product falls under more than one category, it guarantees uniformity in classification.[14]

The TARIC Code is used in the European Union, which adds EU-specific rules and duties. HTS code is used in the USA. Some countries even have their own national codes.[15]

In India, the HSN codes are used for customs, GST, and foreign trade policies.

TAXABLE EVENTS AND DUTIABLE GOODS IN CUSTOMS LAW

Imported goods under Section 2(25) of Customs Act 1962[16] means any goods brought into India from a place outside India but does not include goods that have been cleared for home consumption Section 2(19) of Customs Act 1962[17] states that export goods means any goods which are to be taken out of India to a place outside India;

Section 12 of the Customs Act of 1962 [18]states that commodities imported into or exported from India are subject to customs charges at the rates set out in the Customs Tariff Act of 1975. When commodities are carried into India, they are considered imported as soon as they enter Indian territorial seas, and customs duties are imposed. At that moment, the taxable event will be counted. A taxable event is an incident that results in liability of tax, in this case, customs duty. Any event that occurs before the taxable event is exempt from duty, and any subsequent event is liable to duty at the then-current rates.[19]

As per the definition of dutiable goods, it means any goods that are chargeable to duty and on which duty has not been paid. It includes both imported goods and exported goods.

The government can exempt any goods from customs duty under section 25 of the Customs Act 1962[20] of the Act. These exemptions can be done by a notification. General Exemptions

[14] World Customs Organization, 'General Rules for the Interpretation of the Harmonized System' (WCO, 2012) https://www.wcoomd.org/-/media/wco/public/global/pdf/topics/nomenclature/instruments-and-tools/hs-interpretation-general-rules/0001_2012e_gir.pdf?la=en accessed 27 March 2025.
[15] What Are Tariff Codes (HS, HTS, TARIC)?' (Across Logistics, 29 May 2023) https://acrosslogistics.com/blog/en/tariff-codes-hs-hts-taric accessed 27 March 2025.
[16] Customs Act 1962, s 2(25).
[17] Customs Act 1962, s 2(19).
[18]Customs Act 1962, s 12.
[19]TaxGuru, 'Applicability of Customs Duty on Imported Goods – Section 12' (TaxGuru, 16 August 2021) https://taxguru.in/custom-duty/applicability-customs-duty-imported-goods-section-12.html accessed 27 March 2025.
[20] Customs Act 1962, s 25.

apply to every product in a particular category or specific exemptions for certain products, people, or transactions.

The import or export of any items may be completely or partially prohibited by the Central Government under section 11 of the act[21]. Prohibition can be because of issues related to national security, prevention of trafficking or smuggling, Safety and public health, or to protect the environment. Quantitative limitations, licensing requirements, or particular circumstances, such as a permit for regulated products like chemicals or wildlife, may also apply to goods.

PROCEDURES FOR IMPORT AND EXPORT

Customs Import Procedures

The importer first needs to register and obtain an importer-exporter code (IEC). This can be done by going to the Directorate General of Foreign Trade (DGFT). Businesses may import products that comply with Section 11 of the Customs Act (1962) [22]and the Foreign Trade (Development & Regulation) Act (1992). To establish if a license is required to import commercial goods or service, importers must first identify the item's Indian Trading Clarification using the Harmonized System of Coding (HS) classification.

Import licenses can be either generic or particular. A general license allows items to be imported from any nation, whereas a particular or individual license restricts imports to certain countries. Import licenses are renewable and valid for 24 months for capital items or 12 months for raw materials, consumables, and replacement parts. They are used for import clearance.

Then the Bill of Entry (BoE) has to be filed which is done online with ICEGATE (Indian Customs and Central Excise Electronic Commerce/Electronic Data Interchange (EC/EDI) Gateway). Includes providing details on invoice, packing list, bill of lading, insurance, and so on.

After this, the inspection of paperwork, tariff codes, and amount of duty is decided. The importer pays any relevant customs duty (BCD, IGST, CVD, etc).[23] Examination and clearance

[21] Customs Act 1962, s 11.
[22] Customs Act 1962, s 11.
[23]Compendium of Import Export Policy (CIEP)' (DGFT, 2024) https://content.dgft.gov.in/Website/CIEP.pdf accessed 27 March 2025.

are done based on the Risk Management System (RMS). An Out of Charge (OOC) order is given following clearance. After this, the goods are collected from the port following OOC.[24]

Customs Export Procedures

The Exporter must get a Registration from IEC from the DGFT. The exporter must also Register with the EPC (Export Promotion Council) if needed. The ICEGATE can be used to electronically file the shipping bill. Any supporting documentation like the invoice, packing list, and LUT/Bond if GST exempt should be added.

The Customs Authorities can inspect the products to confirm their nature, amount etc The Let Export Order (LEO), is issued by the customs officer after all formalities have been duly fulfilled. After that, the products are packed (loaded) into shipping containers and sent out.
The Export General Manifest (EGM) must then be submitted to customs by the shipping line. The EGM is necessary to finish the export procedure.
The Authorised Dealer (AD) Bank, often a bank approved by the Reserve Bank of India (RB) is where the exporter receives payment in foreign currency once the items are dispatched.
After exports are realized, the exporter is qualified for several export incentives by the government.[25]

ENFORCEMENT AND ADJUDICATION IN CUSTOMS LAW

In customs law, the legal process by which the customs authorities determine whether goods are liable for penalties and whether or not they should be confiscated is known as the Adjudication process. The Customs Act 1962 lays down the rules and regulations for Adjudication.

Section 122 of the Customs Act 1962 [26]gives customs authorities the power to adjudicate. The principal commissioner of customs, the commissioner of customs, and the joint commissioner of customs have unlimited authority to adjudicate. The assistant commissioner of customs and the deputy commissioner of customs can adjudicate on cases in which the goods are valued at

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[24] 'Public Notice No. 14/2014' (JNCH, 2014) https://www.jawaharcustoms.gov.in/pdf/PN-2014/public-notice-no-14-2014.pdf accessed 27 March 2025.
[25] Compendium of Import Export Policy (CIEP)' (DGFT, 2024) https://content.dgft.gov.in/Website/CIEP.pdf accessed 27 March 2025.
[26] Customs Act 1962, s 122.

5lkh and above. The gazetted officer of customs sees cases where the value of goods doesn't exceed 50000.

Section 122A of the Customs Act 1962 [27]deals with the adjudication procedure and states that the party should be allowed to be heard. They should be given a notice and informed about the grounds. They should also be given reasonable time to present their case. These hearings can be limited to only 3 times.

Goods that are confiscated and believed to be smuggled the duty to prove is on the person who has possession of these goods or the person claiming ownership. This usually happens in cases of gold, watches, etc. it can be found in section 123 of the Customs Act 1962[28].

The person who is believed to be the owner of the goods must be given a show cause notice under section 124 of the act. The opportunity to redeem the goods should be given to the owner. This can be done by asking them to pay a fine. This fine should not exceed the market value of the goods minus the applicable duties.[29] This is specified under Section 125 of the Customs Act 1962.[30]

APPEAL AND DISPUTE RESOLUTION

The Customs Act has provided a structure for dispute resolution through appeals and reviews.

The decision or orders passed by anyone below the rank of the commissioner can be appealed to the commissioner. Sections 128[31] and 129D (4) of the Customs Act of 1962[32] regulate this procedure.

The department examines adjudication orders for appropriateness and legality before submitting an appeal. The Commissioner may instruct a subordinate officer to submit an appeal to the Commissioner (Appeals) if an order is deemed deficient. Section 129D (2) of the Act[33] describes this internal review process.

[27] Customs Act 1962, s 122A
[28] Customs Act 1962, s 123
[29] Ankita Das, 'Procedures for Clearance of Imported and Export Goods' (Tax Management India, 2 June 2016) https://www.taxmanagementindia.com/visitor/detail_article.asp?ArticleID=6535 accessed 27 March 2025.
[30] Customs Act 1962, s 125
[31] Customs Act 1962, s 128.
[32] Customs Act 1962, s 129D (4).
[33] Customs Act 1962, s 129D (2).

Additional appeals against Commissioner (Appeals) orders may be submitted to the Customs, Excise and Service Tax Appellate Tribunal (CESTAT). However the CESTAT only has jurisdiction over certain issues, and it is unable to consider appeals against orders about duty drawback refunds.

Depending on the legal issues at hand, appeals may be filed outside of the CESTAT in High Courts and the Supreme Court.

Further established as an alternative dispute resolution mechanism, the Settlement Commission enables importers and exporters to resolve disputes by fully and truthfully disclosing their liability for customs duties.

FOREIGN TRADE POLICY (FTP) AND FREE TRADE AGREEMENTS (FTAS)

The Indian government modified the FTP to increase stakeholder engagement. The amendments contain provisions mandating mandatory stakeholder consultation before introducing or altering policies related to the import, export, and transit of goods. This aims to encourage participation and ensure that each stakeholder has an opportunity to provide input and take part in the decision-making process. [34]

Customs duties have been significantly impacted by free trade agreements (FTAs). For example, the ASEAN-India Free Trade Agreement (AIFTA) has reduced and eliminated tariffs on goods traded between ASEAN nations and India. Deeper economic integration and a rise in trade volume are the outcomes of this. [35]

The Comprehensive Economic Partnership Agreement (CEPA) between the UAE and India seeks to benefit about US$26 billion worth of Indian goods that are subject to a 5% import tax imposed by the UAE. 99% of Indian imports, or 97% of the UAE's tariff lines, will have their

[34] Dipak K Dash, 'Govt Amends FTP to Make Stakeholder Consultation Mandatory for Inclusive Decision-Making Process' *The Economic Times* (New Delhi, 26 March 2024) https://economictimes.indiatimes.com/news/economy/foreign-trade/govt-amends-ftp-to-make-stakeholder-consultation-mandatory-for-inclusive-decision-making-process/articleshow/116920820.cms accessed 27 March 2025.

[35] Manisha Kumari, 'A Review of ASEAN-India Free Trade Agreement After a Decade: Evidence from Structural Gravity Model Estimates' (2025) *Journal of East–West Business* 1–29 https://doi.org/10.1080/10669868.2025.2465724 accessed 27 March 2025.

duties eliminated under the agreement. This implies that 90% of India's total value-based exports to the UAE would be duty-free as soon as the agreement went into effect. [36]

Tariffs, market access, and regulatory concerns are the main topics of ongoing trade negotiations between India and the EU. India pushes for recognition as a data-secure nation, increased access for its professionals, and more reasonably priced pharmaceuticals. The EU wants lower tariffs on high-carbon goods, and agricultural products, and improved intellectual property protections. [37]

Trade pacts between nations, known as Preferential Trade Agreements (PTAs) give one another's markets preferential access by lowering tariffs and other trade restrictions. By providing concessions not available to non-member countries, these agreements seek to encourage trade among member countries.[38]

CHALLENGES IN INDIAN CUSTOMS LAW

India's customs laws have been impacted by the growth of e-commerce. Monitoring the flow of goods has become more difficult due to the rise in cross-border online transactions, particularly in cases of import misclassification and undervaluation of goods.

India's issues with money laundering and smuggling are a serious threat to economic stability and national security. Money laundering remains a significant issue because of the vast informal economy, complex financial networks, and enforcement weaknesses. The size and complexity of money laundering, which is often linked to shell corporations and online transactions, make it difficult to prosecute even with laws like the Prevention of Money Laundering Act (PMLA), 2002.

Similarly, the smuggling of counterfeit currency, gold, electronics, and drugs across borders continues to hinder illegal trade and revenue collection. These illegal activities are made possible by crime syndicates and have been linked to the financing of terrorism.

[36] India Briefing, 'India's International Free Trade and Tax Agreements' (India Briefing, 2024) https://www.india-briefing.com/doing-business-guide/india/why-india/india-s-international-free-trade-and-tax-agreements accessed 27 March 2025.

[37] Reuters, 'India-EU Trade Talks: Tariffs, Market Access, Regulatory Clashes in Focus' *Reuters* (27 February 2025) https://www.reuters.com/world/india/india-eu-trade-talks-tariffs-market-access-regulatory-clashes-focus-2025-02-27/ accessed 27 March 2025.

[38] Open International Political Economy, 'Preferential Trade Agreements' in *International Political Economy* (Pressbooks, 2022) https://pressbooks.pub/openipe/chapter/preferential-trade-agreements/ accessed 27 March 2025.

To improve efficiency and transparency, the Indian government has been integrating digital technologies. However, there are disadvantages to adopting these technologies, such as the need for interdepartmental collaboration and robust cybersecurity defences.

Disputes about international trade have a direct influence on India's customs policies. For example, due to pressure from countries like the United States, India has reviewed import tariffs on a variety of goods, including luxury cars, solar cells, and chemicals.

RECOMMENDATIONS

Strengthening Digital Infrastructure can help tackle many issues in customs law. For example, the Indian Customs Electronic Data Interchange System (ICES) reduces the risk of fraud and expedites clearance processes by processing import documents electronically.

Blockchain and other technologies are also researched to enhance customs compliance. Blockchain's safe and unchangeable data exchange can have a significant impact on trade finance and regulatory processes.

Further, customs officers should be given cutting-edge abilities and be trained properly on how to manage challenges posed by digital trade and e-commerce.

To standardize customs processes and resolve issues of international trade, actively communicating and working together with international trading partners can help in international trade.

CONCLUSION

Customs duties in India are an important source of revenue as well as a good regulatory instrument that helps influence economic policy and trade patterns. The recent changes and policy amendments done over time demonstrate a commitment to upgrade the framework to promote transparency, speed up clearance procedures, and align with worldwide practices. India's economic growth and integration into the global market will be contingent on a balanced policy that preserves revenue while encouraging trade and investment.