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TARIFF AND TRADE POLICY IN INDIA: LEGAL CHALLENGES UNDER WTO LAW AND DOMESTIC REGULATION

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ABSTRACT

India's tariff and trade policy sits at the intersection of its binding commitments under the World Trade Organization (WTO) framework and its sovereign prerogative to regulate imports and exports through domestic instruments such as the Customs Act, 1962, the Customs Tariff Act, 1975, and the Foreign Trade (Development and Regulation) Act, 1992.¹²³⁴ This paper undertakes a doctrinal and policy analysis of the legal architecture governing India's tariff measures, safeguard and anti-dumping actions, and export restrictions, and situates that architecture within the turbulence of contemporary geopolitics. The paper argues that the Russia–Ukraine war and the associated realignment of global energy and fertilizer markets, the escalation of United States tariffs on Indian exports between April 2025 and February 2026,⁵⁶⁷ and recurrent disruptions to maritime supply chains have collectively tested the

¹Marrakesh Agreement Establishing the World Trade Organization, Apr. 15, 1994, 1867 U.N.T.S. 154 [hereinafter WTO Agreement].

²The Customs Act, 1962, No. 52, Acts of Parliament, 1962 (India).

³The Customs Tariff Act, 1975, No. 51, Acts of Parliament, 1975 (India), ss. 8B, 9 and 9A.

⁴The Foreign Trade (Development and Regulation) Act, 1992, No. 22, Acts of Parliament, 1992 (India).

⁵Exec. Order No. 14257, Regulating Imports With a Reciprocal Tariff to Rectify Trade Practices that Contribute to Large and Persistent Annual United States Goods Trade Deficits, 90 Fed. Reg. 15041 (Apr. 2, 2025).

⁶Exec. Order No. 14329 (Aug. 6, 2025) (imposing an additional 25% ad valorem duty on Indian-origin goods with reference to India's continued purchase of Russian-origin crude oil).

⁷The White House, Fact Sheet: The United States and India Announce Historic Trade Deal (Feb. 2026),

adequacy of India's legal toolkit for reactive trade governance. Using doctrinal analysis of statutes and WTO jurisprudence — including India – Solar Cells, India – Agricultural Products, and India – Sugar and Sugarcane⁸⁹¹⁰ — alongside an empirical review of India's post-2022 export-restriction and tariff-adjustment measures, the paper demonstrates a discernible pattern: India increasingly resorts to trade-remedial and quantitative instruments whose WTO-consistency is doctrinally contestable, while simultaneously diversifying its treaty relationships through new free trade agreements with the United Kingdom, the European Free Trade Association and Gulf partners.¹¹¹²¹³ The paper further examines the paralysis of the WTO Appellate Body and its consequences for the enforceability of India's trade-remedy obligations.¹⁴¹⁵ The findings suggest that India's policy responses — tariff adjustments, export prohibitions, windfall taxation and quality-control orders — are legally defensible only within narrow exception clauses of the GATT, and that overreliance on unilateral measures risks both WTO litigation exposure and erosion of India's credibility as a rules-based trading partner. The paper concludes with recommendations for calibrated legal reform, including codified emergency-trade-measure guidelines, institutional strengthening of the Directorate General of Trade Remedies, and a coherent geo-economic trade strategy responsive to future shocks.

Keywords

Tariff Policy; WTO Law; GATT; Customs Tariff Act; Foreign Trade Policy 2023; Geopolitics and Trade; Export Restrictions; Anti-Dumping; Safeguard Measures; India–US Trade Relations.

<https://www.whitehouse.gov/fact-sheets/2026/02/fact-sheet-the-united-states-and-india-announce-historic-trade-deal/>.

⁸India — Certain Measures Relating to Solar Cells and Solar Modules, WT/DS456/AB/R (Sept. 16, 2016) [hereinafter Solar Cells AB Report].

⁹India — Measures Concerning the Importation of Certain Agricultural Products, WT/DS430/AB/R (June 4, 2015) (avian-influenza import prohibitions).

¹⁰India — Measures Concerning Sugar and Sugarcane, WT/DS579/R, WT/DS580/R & WT/DS581/R (circulated 14 Dec. 2021) (Brazil, Australia and Guatemala v. India).

¹¹AIB Insights, The India–UK Free Trade Agreement: A Boon or a Curse?, Published in AIB Insights (Nov. 2025) (recording signature of the India–UK Comprehensive Economic and Trade Agreement).

¹²India–European Free Trade Association (EFTA) Trade and Economic Partnership Agreement, signed 10 March 2024, entered into force 1 October 2025.

¹³India Briefing, India's Free Trade Agreements: Updates in 2025 (23 Dec. 2025) (India–Oman CEPA signed 18 December 2025; entry into force anticipated in early 2026).

¹⁴Understanding on Rules and Procedures Governing the Settlement of Disputes, Apr. 15, 1994, 1869 U.N.T.S. 401, art. 17 [hereinafter DSU].

¹⁵WTO, Overview of the Appellate Body, https://www.wto.org/english/tratop_e/dispu_e/appellate_body_e.htm (noting that the Appellate Body has been unable to hear new appeals since 11 December 2019 owing to a shortfall in the number of serving members).

1. INTRODUCTION

India has been a contracting party to the General Agreement on Tariffs and Trade since 8 July 1948 and a founding Member of the World Trade Organization since 1 January 1995.¹⁶ Its tariff and trade policy is therefore simultaneously a matter of domestic constitutional competence — flowing from Entry 41 and Entry 83 of the Union List under Article 246 of the Constitution¹⁷ — and a matter of binding international obligation under the WTO covered agreements.¹⁸¹⁹ For much of the post-liberalisation period (1991 onward), Indian trade law scholarship focused on tariff liberalisation, the dismantling of quantitative restrictions, and compliance with WTO commitments. Since 2020, however, the analytical centre of gravity has shifted. Successive shocks — the COVID-19 pandemic, the Russian invasion of Ukraine in February 2022, the Red Sea shipping crisis, and the imposition of steep 'reciprocal' tariffs by the United States between April 2025 and August 2025 — have compelled India to deploy its trade-law toolkit not merely to liberalise, but to defend domestic price stability, food security and strategic autonomy.

This paper examines the legal architecture within which these defensive and adaptive measures operate. It asks three connected questions. First, what domestic statutory and constitutional instruments empower the Union Government to alter tariffs and restrict trade, and what procedural and substantive constraints do they impose? Second, to what extent are India's recent tariff adjustments, export prohibitions and safeguard actions consistent with its obligations under GATT 1994, the Agreement on Safeguards, the Anti-Dumping Agreement, and the SCM Agreement?²⁰²¹²² Third, how have geopolitical shocks — the Russia-Ukraine war's effect on oil and fertilizer prices, and the 2025–2026 India-US tariff confrontation — reshaped the practical operation of these legal instruments? The paper is structured as follows: Part 2 reviews the literature on WTO law and Indian trade regulation; Part 3 analyses the domestic and international legal framework together with leading WTO case law involving India; Part 4 examines the geopolitical dimension in detail, including import cost volatility,

¹⁶WTO, India and the WTO, https://www.wto.org/english/thewto_e/countries_e/india_e.htm (India a founding Member since 1 January 1995 and a contracting party to GATT 1947 since 8 July 1948).

¹⁷Constitution of India, art. 246 read with Union List, Entry 41 (trade and commerce with foreign countries) and Entry 83 (duties of customs).

¹⁹General Agreement on Tariffs and Trade 1994, Apr. 15, 1994, 1867 U.N.T.S. 187, art. II (Schedules of Concessions).

²⁰Agreement on Safeguards, Apr. 15, 1994, 1869 U.N.T.S. 154.

²¹Agreement on Subsidies and Countervailing Measures, Apr. 15, 1994, 1869 U.N.T.S. 14 [hereinafter SCM Agreement].

²²Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Anti-Dumping Agreement).

supply-chain disruption and India's policy responses; Part 5 sets out findings; Part 6 offers recommendations; and Part 7 concludes.

2. LITERATURE REVIEW

Scholarship on Indian trade law has traditionally proceeded along two tracks. The first track, doctrinal and WTO-centric, analyses India's compliance record before WTO panels and the Appellate Body. Commentary on India – Certain Measures Relating to Solar Cells and Solar Modules, for instance, treats the dispute as emblematic of the tension between industrial policy objectives (energy security, domestic manufacturing) and the national-treatment discipline of Article III:4 GATT and Article 2 of the TRIMs Agreement.²³²⁴²⁵²⁶ Similarly, analyses of India – Agricultural Products examine the limits of the SPS Agreement as a justification for import prohibitions,²⁷ while commentary on India – Measures Concerning Sugar and Sugarcane critiques India's market price support and export-subsidy programmes for sugarcane against the disciplines of the Agreement on Agriculture and the SCM Agreement.²⁸²⁹ These strands of literature converge on the observation that India frequently invokes the general exceptions of Article XX GATT or sector-specific carve-outs, with mixed success before adjudicators who apply the exceptions narrowly.³⁰

The second track is institutional and administrative, focusing on the Directorate General of Trade Remedies (DGTR) and its predecessor bodies, the procedural safeguards of the Customs Tariff Act, 1975, and judicial review of trade-remedy determinations by the Supreme Court and the Customs, Excise and Service Tax Appellate Tribunal.³¹³²³³ Landmark constitutional and interpretive rulings — such as *Maganbhai Ishwarbhai Patel v. Union of India* on the executive's treaty-implementation power, and *Commissioner of Customs (Import) v. Dilip Kumar & Co.* on the strict construction of exemption notifications — anchor this literature in Indian public law rather than international law.³⁴³⁵

²⁴India — Certain Measures Relating to Solar Cells and Solar Modules, WT/DS456/R (Feb. 24, 2016).

²⁵Vrinda Yadav, *India — Certain Measures Relating to Solar Cells and Solar Modules*, 2(3) Intl. J. for Legal Research & Analysis (2024).

²⁶Agreement on Trade-Related Investment Measures, Apr. 15, 1994, 1868 U.N.T.S. 186, art. 2.

³⁰GATT 1994, art. XX (General Exceptions).

³²Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995, framed under s. 9 of the Customs Tariff Act, 1975.

³³Department of Commerce, Ministry of Commerce and Industry, Government of India, Directorate General of Trade Remedies — Constitution and Mandate (2018) (merging the erstwhile Directorate General of Anti-Dumping and Allied Duties and the Directorate General of Safeguards).

³⁴*Maganbhai Ishwarbhai Patel v. Union of India*, (1970) 3 SCC 400 (Supreme Court of India) (on the treaty-making and implementation power of the Union executive under art. 73 of the Constitution).

³⁵*Commissioner of Customs (Import), Mumbai v. Dilip Kumar & Co.*, (2018) 9 SCC 1 (Supreme Court of India,

A third and more recent strand of literature, still emergent, addresses the 'geo-economic turn' in trade regulation: the use of tariffs, export controls and sanctions as instruments of foreign policy rather than economic efficiency. Analyses of the 2025–2026 India–US tariff confrontation, the European Union's and United States' sanctions architecture targeting Russian energy, and India's food-export restrictions following the Ukraine invasion, situate trade law within a broader security and diplomatic context.³⁶³⁷³⁸³⁹⁴⁰ This literature has not yet been synthesised with the doctrinal WTO-compliance literature described above; this paper attempts precisely that synthesis, reading India's post-2022 tariff and export measures simultaneously as domestic administrative acts, WTO-law questions, and instruments of geo-economic strategy. Gaps remain. First, existing literature rarely integrates the Appellate Body's continuing dysfunction — it has been unable to hear new appeals since 11 December 2019 for want of a quorum of serving members — into the analysis of India's litigation risk.⁴¹⁴² Second, the intersection of windfall taxation, export prohibition and safeguard duties as a composite 'emergency trade toolkit' has not been examined as a coherent legal category. This paper addresses both gaps.

3. ANALYSIS AND DISCUSSION

3.1 The Domestic Legal Architecture

India's power to impose, alter or exempt customs duties derives from the Customs Act, 1962 and the Customs Tariff Act, 1975, enacted pursuant to Entry 83 of the Union List.⁴³⁴⁴⁴⁵ Section 8B and Sections 9, 9A and 9B of the Customs Tariff Act, 1975 respectively empower the Central Government to impose safeguard duties, anti-dumping duties and countervailing duties upon a determination of injury to domestic industry by the designated authority.⁴⁶⁴⁷ Since 2018, this investigative function has been consolidated in the Directorate General of Trade Remedies (DGTR), which merged the erstwhile Directorate General of Anti-Dumping and Allied Duties with the Directorate General of Safeguards.⁴⁸ Exemption notifications issued under Section 25 of the Customs Act are, per the Supreme Court's Constitution Bench ruling in *Commissioner of Customs (Import), Mumbai v. Dilip Kumar & Co.*, to be construed strictly against the assessee in cases of ambiguity — a rule of interpretation that channels significant

Constitution Bench) (rule of strict construction of exemption notifications under the Customs Act, 1962).

³⁸Global Trade Research Initiative, *Trump's Reciprocal Tariffs and India: Flagship Report* (2025).

³⁹Centre for Social and Economic Progress, *India and Sanctions on Russian Energy: Policy Response and Future Options* (Oct. 2025).

⁴⁰India Briefing, *US Tariff on India: Navigating 50 Per Cent Tariff Rate and Trade Rules* (27 Aug. 2025).

discretion back to the executive.⁴⁹

Export policy operates through a parallel but distinct track: the Foreign Trade (Development and Regulation) Act, 1992 and the Foreign Trade Policy 2023 (FTP 2023) notified thereunder.

⁵⁰⁵¹ Chapter 2 of the FTP 2023 empowers the Directorate General of Foreign Trade (DGFT) to classify goods as 'free', 'restricted' or 'prohibited' for export, and to impose ad hoc restrictions — the precise mechanism used for the wheat, sugar and non-basmati rice export restrictions discussed in Part 4.⁵² Notably, changes to export policy are typically made through executive notification rather than fresh primary legislation, which affords speed but raises administrative-law questions of adequate notice to exporters holding pre-existing contracts — an issue partially addressed through 'grandfather clauses' exempting consignments already handed over to customs for examination prior to the notification.⁵³

The treaty-implementation dimension of this framework rests on the Supreme Court's ruling in *Maganbhai Ishwarbhai Patel v. Union of India*, which confirmed that the Union executive may enter into and give domestic effect to international agreements — including tariff concessions under GATT — through executive action under Article 73 of the Constitution, without requiring a parliamentary statute for every commitment, provided no existing statutory right is abridged.⁵⁴ This constitutional latitude explains the speed with which India has concluded and implemented recent free trade agreements, including the India–UK Comprehensive Economic and Trade Agreement and the India–EFTA Trade and Economic Partnership Agreement, which entered into force on 1 October 2025.⁵⁵⁵⁶

3.2 The WTO Legal Framework and India's Case Law

India's tariff bindings are recorded in its WTO Schedule of Concessions under Article II GATT,⁵⁷ while Article I requires most-favoured-nation treatment and Article III requires national treatment for imported goods once they have entered the domestic market.⁵⁸ Departures from these disciplines are permissible only through the narrowly construed general exceptions in Article XX (public morals, health, conservation, and goods in short supply) or the security

⁵¹Ministry of Commerce and Industry, Government of India, Foreign Trade Policy 2023 (notified 31 March 2023, effective 1 April 2023).

⁵²Ministry of Commerce and Industry, Government of India, Foreign Trade Policy 2023, ch. 2 (General Provisions Regarding Imports and Exports), paras 2.107–2.108 (export prohibition and restriction).

⁵³Directorate General of Foreign Trade, Notification No. 06/2015-2020 (13 May 2022) (prohibiting export of wheat, subject to exemptions for consignments already registered and government-to-government humanitarian commitments).

⁵⁸GATT 1994, art. I (General Most-Favoured-Nation Treatment) and art. III (National Treatment on Internal Taxation and Regulation).

exception in Article XXI, or through the trade-remedy agreements — Safeguards, Anti-Dumping, and SCM — which permit temporary, injury-based measures subject to strict procedural discipline.⁵⁹⁶⁰⁶¹⁶²⁶³⁶⁴

Three WTO disputes involving India illustrate the doctrinal limits of these exceptions. In India – Solar Cells (DS456), the Panel and Appellate Body rejected India's defence of domestic-content requirements under the Jawaharlal Nehru National Solar Mission, holding that the requirements violated Article III:4 GATT and Article 2 of the TRIMs Agreement, and that neither the Article XX(j) 'short supply' exception nor the Article XX(d) 'compliance' exception justified the measure.⁶⁵⁶⁶⁶⁷ The ruling narrowed the interpretive space available to India (and other Members) for using local-content conditions to advance renewable-energy or industrial policy objectives. In India – Agricultural Products (DS430), the Appellate Body found that India's import prohibitions on poultry and other agricultural products, ostensibly imposed to guard against avian influenza, were not based on the relevant international standard and were not supported by adequate risk assessment, in violation of the SPS Agreement.⁶⁸ The ruling is instructive because it shows the WTO's insistence on scientific and procedural rigour even where a Member invokes a bona fide public-health rationale. In India – Sugar and Sugarcane (DS579–DS581), a Panel found in December 2021 that India's mandatory minimum cane prices (the Fair and Remunerative Price and various State Advised Prices) and its export-subsidy schemes for sugar exceeded permissible domestic-support levels under the Agreement on Agriculture and violated the SCM Agreement's prohibition on export subsidies.⁶⁹ Because the WTO Appellate Body has been non-functional since December 2019 for want of a quorum, India's appeal of the Sugar panel report has, in practice, been left in limbo — an 'appeal into the void' — leaving the correctness of the panel's findings legally unresolved even as the underlying policy questions remain live.⁷⁰⁷¹

Read together, these cases demonstrate a consistent pattern: India's industrial-policy and agricultural-support measures are frequently challenged, and WTO adjudicators apply the general exceptions and agriculture/subsidy disciplines strictly, leaving India with limited legal room to justify protective measures except through properly conducted trade-remedy investigations (safeguard, anti-dumping or countervailing duty proceedings) rather than blanket restrictions or price-support schemes.

⁶²GATT 1994, art. XI (General Elimination of Quantitative Restrictions).

⁶⁴GATT 1994, art. XXI (Security Exceptions).

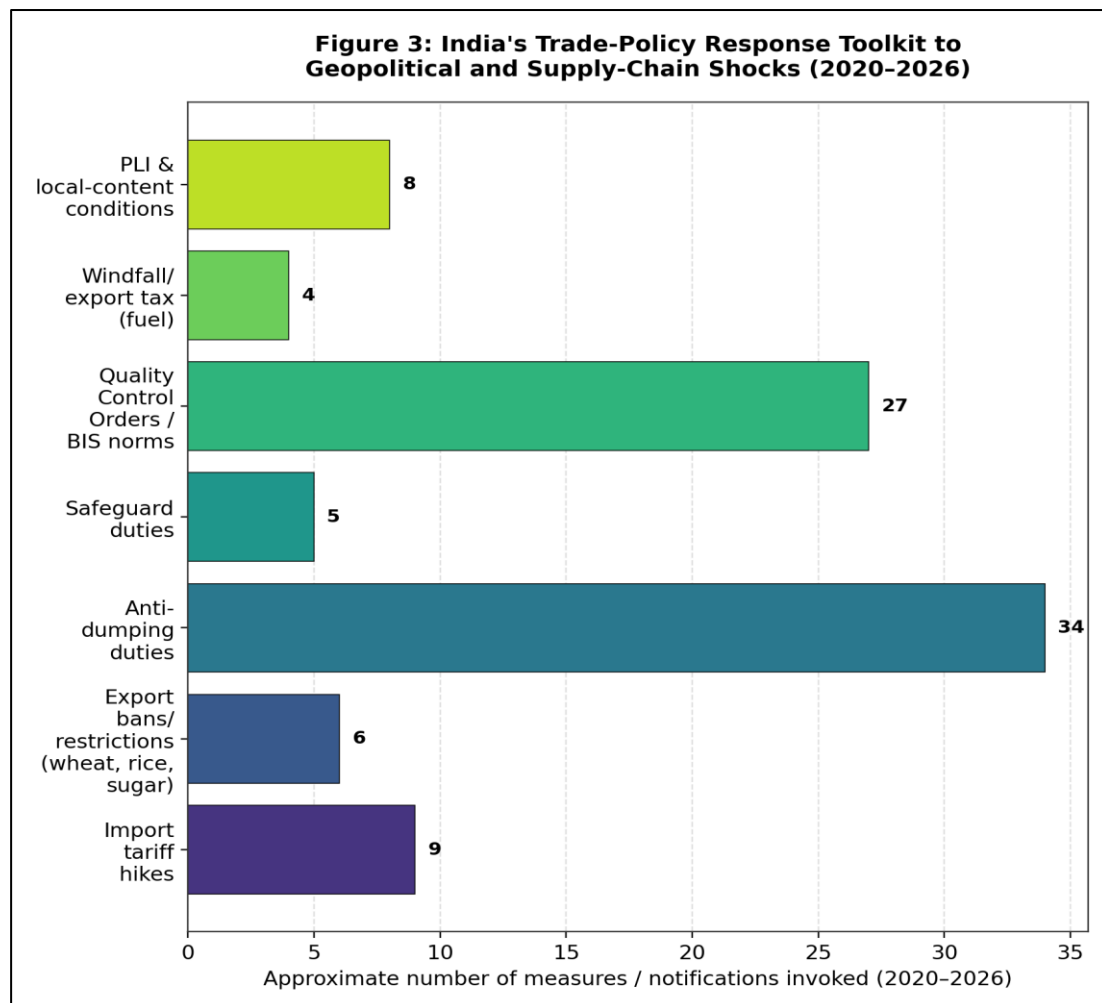


Figure 3: India's trade-policy response toolkit to geopolitical and supply-chain shocks, 2020–2026 (illustrative frequency of instruments invoked).

4. GEOPOLITICAL DIMENSIONS: WAR, SUPPLY CHAINS AND TARIFF POLICY

The period since February 2022 illustrates how exogenous geopolitical shocks feed directly into the domestic and international legal analysis set out in Part 3. Four interlinked phenomena are examined below: the indirect impact of the Russia–Ukraine war on Indian trade policy; import-cost volatility in oil and fertilizers; supply-chain disruption; and India's composite policy response of tariff adjustment and export restriction.

4.1 Indirect Impact of the Russia–Ukraine War

India is not a party to the Russia–Ukraine conflict, but the war has had substantial indirect legal and economic consequences for Indian trade policy. Western sanctions on Russian energy exports created a large price differential between Russian Urals crude and other benchmark

grades, which Indian refiners exploited by sharply increasing imports of discounted Russian crude — from a negligible pre-war share of under two per cent of India's crude basket to figures reported in the range of a third or more of total imports in subsequent years.⁷² This shift has generated friction with Western partners: the United States, through Executive Order 14329 of 6 August 2025, imposed an additional 25 per cent ad valorem tariff on Indian-origin goods explicitly citing India's continued purchase of Russian oil, bringing the cumulative U.S. tariff on many Indian exports to 50 per cent.⁷³⁷⁴ From a public international law perspective, India's continued purchase of Russian crude does not itself violate any WTO obligation — Article XI GATT restricts import and export prohibitions by WTO Members but does not prohibit a Member from choosing its trading partners for lawful goods — while the countervailing use of tariff measures as a secondary-sanctions-style instrument by the United States raises its own Article I (MFN) and Article XXI (security exception) questions that remain untested before any WTO adjudicator, given the Appellate Body impasse.⁷⁵⁷⁶⁷⁷

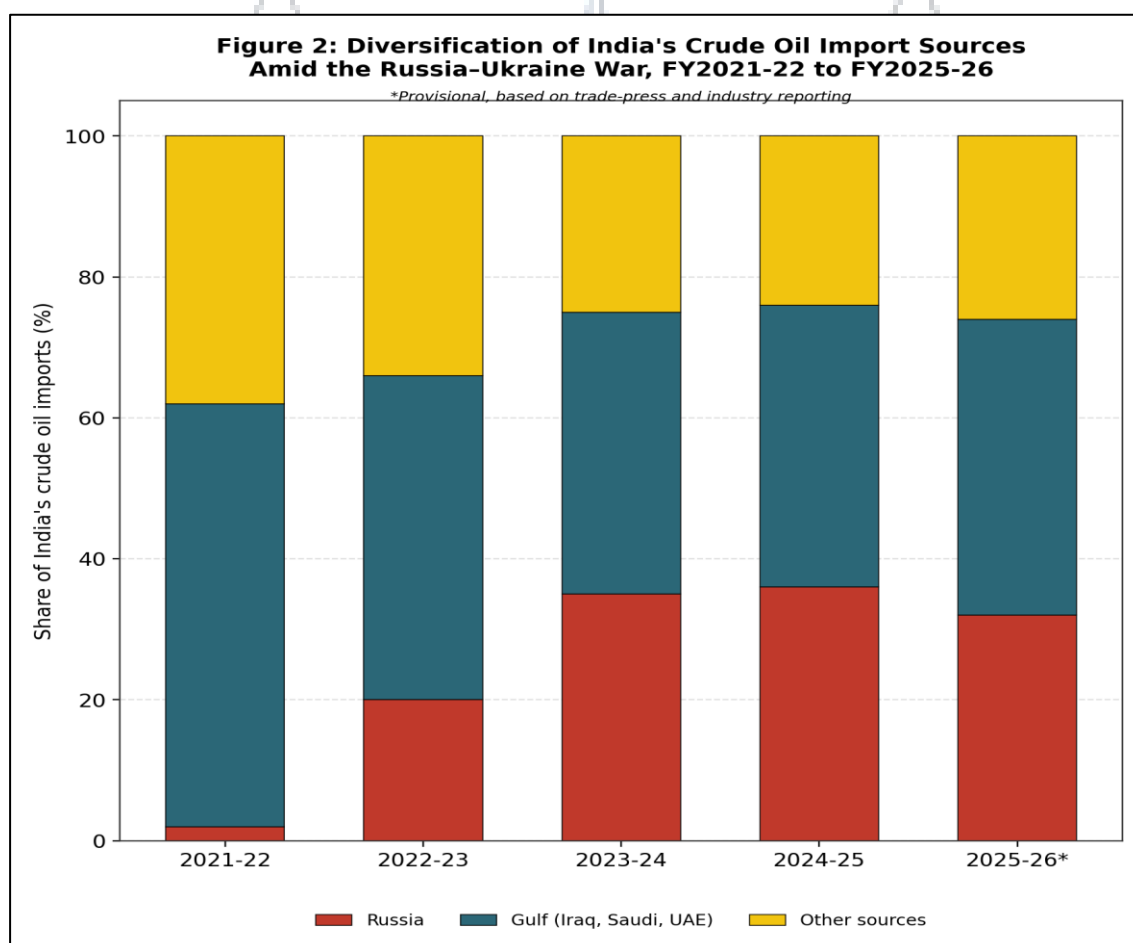


Figure 2: Diversification of India's crude oil import sources amid the Russia–Ukraine war, FY2021-22 to FY2025-26.

4.2 Import Cost Volatility: Oil and Fertilizers

The war disrupted two commodity markets of direct legal and regulatory significance to India: crude petroleum and fertilizers. Russia and Belarus together accounted for a substantial share of global potash, ammonia, urea and monoammonium-phosphate exports prior to 2022; Western sanctions on Belarusian and, to a lesser extent, Russian fertilizer trade caused global fertilizer prices to spike sharply from March 2022 onward.⁷⁸ India — heavily dependent on imported potash and phosphatic fertilizers, and administering a large domestic fertilizer subsidy — responded by deepening direct procurement arrangements with Russian suppliers, which industry sources describe as a 'win-win' that helped avert domestic scarcity despite the broader sanctions environment.⁷⁹ On the petroleum side, the Government of India used its fiscal rather than tariff powers, imposing a Special Additional Excise Duty (the so-called 'windfall tax') on exports of petrol, diesel and aviation turbine fuel from 1 July 2022, in order to capture a share of the extraordinary refining margins generated by cheap Russian crude and to discourage domestic shortages caused by refiners prioritising lucrative export markets over the domestic market.⁸⁰ This measure exemplifies a distinctly domestic-law response — grounded in excise rather than customs or WTO trade-remedy law — to a geopolitically induced price shock, and did not require any WTO notification because export taxes (as opposed to export quantitative restrictions) are not comprehensively disciplined under GATT 1994.

4.3 Supply Chain Disruptions

Beyond commodity markets, the war and subsequent regional instability (including Houthi attacks on Red Sea shipping from late 2023) lengthened transit times and raised freight and insurance costs for India's westbound trade through the Suez Canal corridor, compounding the cost pressures generated by volatile energy prices. Diversification of shipping routes, increased freight insurance premiums, and periodic congestion at Indian and Gulf ports have fed into input costs for import-dependent sectors such as fertilizers, edible oils, electronics components and petrochemicals. These disruptions strengthen the policy case — though not, without more, the legal case under GATT — for maintaining higher buffer stocks and for the kind of DGFT-administered restricted/prohibited export categories discussed in Part 4.4, since Article XI:2(a) GATT permits export prohibitions or restrictions only where 'temporarily applied to prevent or

⁷⁸Deccan Herald, Discounts Lift Russia's Fertilizer Exports, Becomes Top Supplier to India (2022).

⁸⁰Ministry of Finance, Department of Revenue, Notification imposing Special Additional Excise Duty on export of petrol, diesel and aviation turbine fuel (1 July 2022) (the 'windfall tax' on domestic crude and fuel exporters).

relieve critical shortages of foodstuffs or other products essential to the exporting . . . Member'.

⁸¹ Whether India's post-2022 restrictions meet the 'temporary' and 'critical shortage' thresholds of this exception, rather than functioning as a standing instrument of price management, is precisely the doctrinal question examined next.

4.4 Policy Response: Tariff Adjustments and Export/Import Restrictions

India's principal legal responses to the shocks described above fall into four categories. First, export prohibitions and restrictions: the DGFT banned wheat exports with effect from 13 May 2022 (subject to grandfathered consignments and government-to-government humanitarian exceptions), citing the need to manage domestic food security and to contain a domestic price rise driven by a coincidence of a domestic heatwave and the loss of Black Sea supply.⁸²⁸³ A broken-rice export ban followed in September 2022, and further restrictions on non-basmati white rice and sugar followed in 2022–2023, as India — traditionally a residual supplier that had absorbed part of the Ukraine-related global shortfall in April 2022 — sought to avoid depleting domestic buffer stocks.⁸⁴⁸⁵ The G7 publicly criticised the wheat ban as liable to 'worsen the crisis' of global food-price inflation, underscoring the diplomatic as well as legal stakes of Article XI:2(a)'s 'critical shortage' threshold.⁸⁶

Second, tariff adjustments: successive Union Budgets and standalone customs notifications between 2022 and 2025 raised basic customs duty on select finished goods to manage the trade deficit and support domestic manufacturing under the Production-Linked Incentive framework, while periodically lowering duties on inputs such as edible oils to contain consumer price inflation exacerbated by the war. Such changes operate within India's bound tariff ceilings under its WTO Schedule and are therefore, in the ordinary case, unproblematic under Article II GATT provided the applied rate does not exceed the bound rate.⁸⁷

Third, trade-remedy measures: the DGTR's caseload of anti-dumping investigations — heavily weighted toward chemicals, steel and electronics inputs from China and other Asian exporters — expanded through the review period, reflecting both genuine injury claims linked to diverted Chinese capacity and a degree of protective recourse to trade-remedy law as the most WTO-defensible channel for restricting import competition.⁸⁸⁸⁹⁹⁰

Fourth, retaliatory and defensive response to the 2025–2026 U.S. tariff escalation: following

⁸³Kishore Dash, India Bans Exports of Wheat, Complicating Efforts to Address Global Food Security Problems Posed by Russia's War in Ukraine, Washington International Trade Association Blog (16 May 2022).

⁸⁵International Food Policy Research Institute, Food Export Restrictions Have Eased as the Russia-Ukraine War Continues, But Concerns Remain for Key Commodities, IFPRI Blog (2024).

the 'Liberation Day' announcement of a 27 per cent reciprocal tariff on 2 April 2025,⁹¹ the subsequent 25 per cent additional Russia-linked tariff effective 27 August 2025 that brought the cumulative rate to 50 per cent on a majority of India's dutiable exports to the United States,⁹²⁹³⁹⁴ India did not impose mirroring retaliatory tariffs but instead pursued a negotiated Interim Trade Agreement, announced in February 2026, under which the reciprocal component was reduced to 18 per cent in exchange for commitments including a reduction in Russian energy purchases.⁹⁵⁹⁶ In parallel, India accelerated its free trade agreement diversification strategy, bringing the India–UK Comprehensive Economic and Trade Agreement and the India–EFTA Trade and Economic Partnership Agreement into effect, and concluding a CEPA with Oman in December 2025, thereby reducing dependence on any single export market.⁹⁷⁹⁸⁹⁹¹⁰⁰

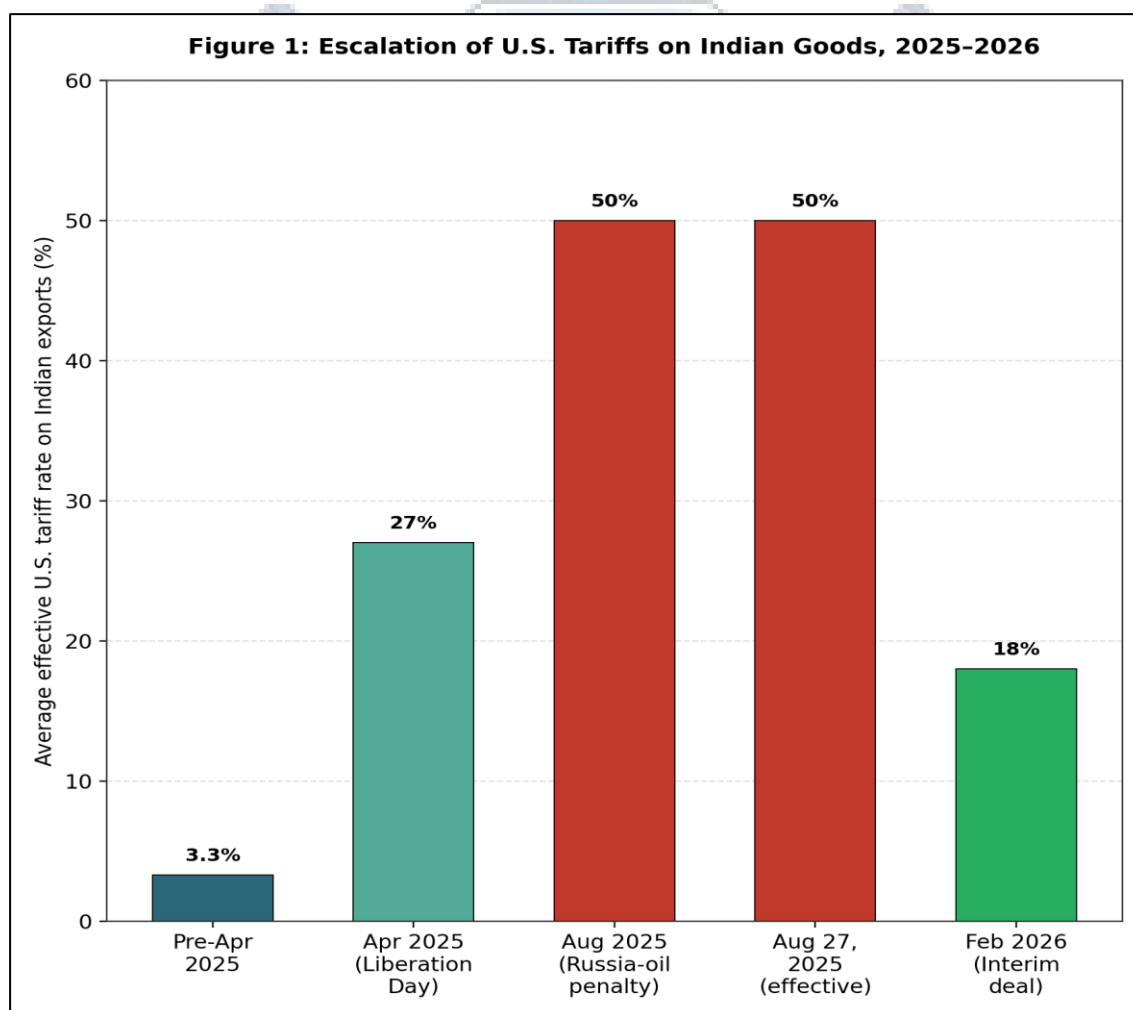


Figure 1: Escalation of U.S. tariffs on Indian goods, April 2025 – February 2026.

⁹⁴Easyship, Trump Tariff on India 2025: 50% U.S. Duties & Impact on Trade (2025).

⁹⁶ClearTax, US Tariff on India: Impact, Affected Products, Rates and India's Response (July 2026) (recording the interim reduction of the U.S. reciprocal tariff from 25% to 18% under the February 2026 framework).

¹⁰⁰Business Standard, From UK FTA to US Tariff Duels: What 2025 Revealed About India's Tradecraft (28 Dec. 2025).

3.3 / 4.5 Synthesis: A Composite 'Emergency Trade Toolkit' and Its Legal Risk

The instruments surveyed above — export prohibition under the FTDR Act/FTP 2023, windfall excise taxation, safeguard and anti-dumping duties under the Customs Tariff Act, and negotiated tariff concessions under bilateral FTAs — function, in combination, as a composite emergency trade toolkit that India has deployed with increasing frequency since 2020. Legally, each instrument sits on a different footing: export prohibitions must satisfy the 'temporary' and 'critical shortage' conditions of Article XI:2(a) GATT if they are to escape the general prohibition on quantitative restrictions in Article XI:1;¹⁰¹ trade-remedy duties must satisfy the injury, causation and procedural disciplines of the Safeguards, Anti-Dumping and SCM Agreements;¹⁰²¹⁰³¹⁰⁴ and FTA tariff concessions must be notified and are generally WTO-consistent under the Article XXIV GATT exception for free trade areas provided they cover substantially all trade. The principal legal risk identified in this paper is that instruments originally designed as temporary, crisis-specific responses (the wheat and rice export restrictions, for example) have in practice persisted well beyond the acute phase of the shock that justified them, creating cumulative exposure to a WTO challenge analogous to the sugar dispute, particularly given the continued dysfunction of the Appellate Body, which removes the ordinary appellate check on adverse panel findings but does not remove India's underlying obligation to comply.¹⁰⁵¹⁰⁶¹⁰⁷

5. FINDINGS

1. India's domestic legal framework — the Customs Act, 1962, the Customs Tariff Act, 1975, and the Foreign Trade (Development and Regulation) Act, 1992 — provides the Union executive with wide, largely notification-based discretion to adjust tariffs and restrict trade, subject to only limited procedural checks beyond injury determination by the DGTR.
2. WTO adjudicators have consistently construed India's public-policy defences (short supply, compliance, SPS risk) narrowly, as shown in the Solar Cells, Agricultural Products and Sugar and Sugarcane disputes, leaving properly conducted trade-remedy investigations as the most litigation-resistant channel for protective measures.
3. The Russia–Ukraine war has had a predominantly indirect but legally consequential effect on Indian trade policy: it altered crude-oil and fertilizer sourcing patterns, triggered a domestic windfall tax rather than a tariff response on petroleum products,

and became the stated justification for the United States' additional 25% tariff on Indian goods from August 2025.

4. India's post-2022 export restrictions on wheat, rice and sugar occupy contested legal terrain under Article XI:2(a) GATT; their prolongation beyond the acute 2022 shock increases, rather than decreases, WTO litigation risk over time.
5. The 2025–2026 India–US tariff confrontation was resolved primarily through bilateral negotiation (the February 2026 Interim Trade Agreement) rather than WTO dispute settlement, reflecting the practical marginalisation of the WTO's adjudicative function amid the continuing Appellate Body impasse.
6. India's parallel strategy of concluding new FTAs (UK, EFTA, Oman) functions as a legally sound and WTO-consistent hedge against both geopolitical tariff shocks and the erosion of multilateral dispute settlement, diversifying market access outside the contested WTO/US bilateral channel.

6. RECOMMENDATIONS

1. Codify a statutory framework for 'emergency trade measures' — including sunset clauses and mandatory periodic review — to ensure that export restrictions invoked under Article XI:2(a) GATT remain demonstrably temporary and shortage-linked, reducing exposure to WTO challenge.
2. Strengthen the institutional capacity and procedural transparency of the Directorate General of Trade Remedies, including published reasoned orders and timelines aligned with the Anti-Dumping and Safeguards Agreements, to ensure protective measures are litigation-resilient.
3. Establish a standing inter-ministerial geo-economic risk unit (Ministry of Commerce and Industry, Ministry of External Affairs, Ministry of Petroleum and Natural Gas, and Ministry of Finance) to model tariff, energy and supply-chain contingencies before shocks materialise, rather than responding ad hoc.
4. Pursue accession to, or an equivalent bilateral arrangement mirroring, an interim appeal mechanism for WTO disputes, to preserve appellate review of adverse panel findings notwithstanding the Appellate Body impasse.
5. Continue and deepen FTA diversification (EU, Gulf Cooperation Council, ASEAN review, ongoing US Bilateral Trade Agreement negotiations) to reduce concentration

risk in any single export market, while ensuring new FTAs meet the 'substantially all trade' threshold of Article XXIV GATT to remain WTO-consistent.

6. Introduce a formal legal-risk disclosure requirement within DGFT export-restriction notifications, requiring the notification to specify the factual basis for invoking the Article XI:2(a) exception, to strengthen India's defensive position in any future WTO proceeding.

7. CONCLUSION

This paper has examined India's tariff and trade policy as a field of law under simultaneous pressure from two directions: the doctrinal discipline of WTO law, which narrowly circumscribes the exceptions available to justify protective and restrictive measures, and the practical exigencies of a geopolitically volatile trading environment defined by war, sanctions, and an increasingly transactional American tariff policy. The domestic legal framework — flexible, notification-driven, and constitutionally well-founded — has allowed India to respond quickly to each shock: the Ukraine-war-driven wheat and rice export restrictions, the windfall tax on petroleum exports, and the negotiated de-escalation of the 2025–2026 tariff confrontation with the United States. Yet flexibility carries its own legal cost. WTO case law involving India — from Solar Cells to Sugar and Sugarcane — shows that ad hoc, prolonged, or insufficiently evidenced restrictive measures remain vulnerable to challenge, a vulnerability only partially mitigated by the current dysfunction of the WTO Appellate Body. The most durable response, this paper concludes, lies not in retreating from multilateral discipline but in building sturdier domestic legal processes around India's emergency trade toolkit, while continuing to diversify India's treaty relationships so that no single geopolitical relationship — with Russia, the United States, or any other partner — can again generate the scale of legal and economic disruption witnessed between 2022 and 2026.

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