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Trade Policy Review Body

TRADE POLICY REVIEW

REPORT BY THE SECRETARIAT

INDIA

This report, prepared for the sixth 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/313 contains the policy statement submitted by India.

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SUMMARY

1. During the period under review, India continued its efforts to liberalize and facilitate trade, such as through the introduction of self-assessment in customs procedures and the elimination of state-trading requirements for some agricultural products. India also proceeded with further structural reforms including by eliminating price controls on diesel and relaxing foreign direct investment (FDI) restrictions in some sectors. Nonetheless, the tariff structure remains complex and the simple average MFN tariff rate increased during the review period.

2. India's trade policy is largely driven by domestic supply considerations and also intended to attain short-term objectives, such as containing fluctuations in commodity prices. This requires constant fine-tuning of policies, for example, through notifications by the Directorate General of Foreign Trade (DGFT) and Customs, rendering the trade regime less predictable and creating additional costs.

3. India's economic growth has been accelerating in recent years, although it is still below the 10% rate achieved in fiscal year 2010-11. Under the newly-revised series of national accounts released in January 2015, real GDP growth was 6.9% in 2013-14 and estimated to be around 7.4% in 2014-15; these revised figures show a more positive trend and outlook than that based on the previous series. India's per capita GDP was around US$1,500 in 2013-14. Inflation stood at 5.9% in July-September 2014; food prices, although lower recently, continued to put pressure on overall consumer prices. In the past few years, inflation became slightly milder due partly to declining oil prices. The Reserve Bank of India has recently been focusing on containing inflation. In February 2015, India introduced a new framework of "inflation targeting" for the medium term. During the period under review, the repo rate was increased several times until January 2015, when it was lowered by 0.25 percentage points. India does not publish official unemployment figures; the authorities state that the largest employment sector in India is agriculture.

4. India has continued its process of fiscal consolidation. Nonetheless, throughout the review period, India continued to post sizeable public sector deficits. According to India's regulations, the Government is required to reduce its fiscal deficit to 3% by 2017-18. It also intends to further streamline taxes including by introducing a goods and services tax (GST).

5. The current account deficit has recently been decreasing, to around 1.7% of GDP in 2013-14, mainly due to a decreasing merchandise trade deficit. Trade (exports and imports) in goods and non-factor services as a percentage of GDP was around 53% during the review period. The merchandise trade deficit increased until 2012-13 but decreased in 2013-14. The services trade surplus continued to increase, to 3.9% of GDP in 2013-14. The current account deficit has been financed through large capital inflows, both foreign direct and portfolio investment.

6. As recognized by the Government, structural bottlenecks remain a barrier to achieve a higher growth. This includes delays in project approval, ill-targeted subsidies, low manufacturing base and low agricultural productivity, difficulty in land acquisition, weak transportation network and power supply, and strict labour regulations and skill mismatches. These bottlenecks are being addressed through investment in infrastructure and education, simplification of the business environment by eliminating overregulation, and increasing predictability in trade and investment regimes.

7. India is an original Member of the WTO and provides MFN treatment to all Members and other trading partners. It accepted the Fourth and Fifth Protocols of the GATS. India is a strong advocate of the multilateral trading system and has historically been party to few regional trade agreements. However, despite India's reservations, regionalism has increasingly become an element of its overall trade policy objective of enhanced market access for its exports. This is evidenced by the 15 agreements currently in force and its involvement in the negotiation of other agreements.

8. India's trade policy objectives are stipulated in its Foreign Trade Policy (FTP), which is issued every five years, but revised periodically to take into account internal and external factors. The new 2015-20 FTP, released on 1 April 2015, aims to make India a significant participant in international trade and to raise its share of global exports to 3.5% in 2020. This is expected to be achieved by providing a sustainable and stable policy environment for foreign merchandise and

services trade; linking rules, procedures and incentives for trade with other recent initiatives such as "make in India", "digital India" and "skills India"; promoting the diversification of India's exports by assisting key sectors to become more competitive; and creating an architecture for India's engagement with key regions of the world.

9. Measures to attract FDI have included gradually increasing the number of sectors in which FDI is permitted and reducing sectoral restrictions. Since its last Review, India has continued to liberalize its investment policies, including raising foreign-ownership limits in some sectors, such as insurance and railway transport.

10. India has continued to streamline customs procedures and implement trade-facilitation measures. With a view to facilitating trade, India adopted the use of self-assessment in its customs procedures in 2011, and around 97.6% of India's imports were processed via the risk management system. Despite the implementation of these measures, India's import regime remains complex, especially its licensing and permit system, and its tariff structure, which has multiple exemptions, with rates varying according to product, user or specific export promotion programme.

11. In general, the value of imports is based on the transaction value. A landing charge (for loading, unloading, and handling) of 1% is added to the c.i.f. value, to calculate the transaction value. India uses "tariff values" (reference prices), to calculate customs duty levied on imports of certain palm oils, crude soybean oil, poppy seeds, brass scrap, gold, silver, and areca nuts. These reference prices are, in principle, revised every two weeks and adjusted to align them with international market prices.

12. India's tariff is announced in the annual Budget; however, individual tariff rates may be changed during the fiscal year. In addition to the standard tariff rate, importers are required to pay an additional duty and a special additional duty instead of local taxes. To determine the "effective" applied tariff rate (i.e. basic duties and other customs duties) on a particular product, separate customs and excise tax schedules must be consulted, which adds to the complexity of the tariff. India's tariff comprises mainly *ad valorem* rates (around 94% of tariff lines), levied on the c.i.f. value of imports, and some alternate or specific duties (6.1% of tariff lines).

13. The simple average MFN tariff rate rose to 13% in 2014-15, up from 12% in 2010-11. This reflects a rise in tariffs in agriculture, particularly for cereals and preparations thereof, oilseeds and fats, and sugars and confectionary. The average for WTO non-agricultural products (9.5%) is considerably lower than the average for WTO agricultural products, which is 36.4%. In 2014-15, tariffs ranged from zero to 150%. The largest proportion of tariff lines (71.7%) was subject to a tariff rate between 5% and 10%, while 10.7% of lines was subject to a tariff rate greater than zero but lower than 5%. The percentage of duty-free lines has declined slightly, from 3.2% to 2.7% of the total.

14. Non-*ad valorem* rates apply to 700 tariff lines. Of these, three are specific rates, while 697 are alternate rates affecting textiles and clothing as well as natural rubber products, which were not previously subject to alternate rates. *Ad valorem* equivalents of non-*ad valorem* rates were not available.

15. India's WTO bound tariff levels are much higher than the applied rates, especially for many agricultural products. These gaps allow the Government to modify tariff rates in response to domestic and international market conditions, but at the same time, they reduce tariff predictability.

16. India uses tariff rate quotas on some agricultural products and crude oil. The quotas are allocated by the DGFT with eligible importers being state-trading entities.

17. Imports may also be subject to non-tariff barriers including prohibitions, licences, and restrictions, as well as packaging, quality, and sanitary requirements. Import restrictions may be imposed on grounds, *inter alia*, of health, safety, moral and security reasons, and for self-sufficiency and balance of payments reasons. In 2012, India discontinued monitoring of some imported goods that were considered sensitive. In 2014, exclusive rights accorded to import 11 agricultural products were removed; nonetheless, India continues to apply import quotas on

marble and similar stones and sandalwood. State trading applies to certain agricultural goods, urea, and certain petroleum oils as a policy tool to ensure, *inter alia*, a "fair" return to farmers, food security, the supply of fertilizer to farmers, and the functioning of the domestic price support system.

18. India is one of the most active users of anti-dumping measures among WTO Members; it initiated more than 80 anti-dumping investigations against 23 trading partners during the period under review. During the same period, significant changes were made to India's anti-dumping legislation including new rules defining situations that are considered to represent the circumvention of anti-dumping duties, and providing for anti-circumvention investigations to address such circumvention. India initiated one countervailing investigation during the period; no definitive countervailing measure is in place. Since its last Review, India has also initiated 18 safeguard investigations.

19. Since India's last Review, there have been no significant changes to its SPS and TBT regulations. Some trade concerns were raised regarding its notified measures.

20. As in the case of imports, export prohibitions and restrictions are mainly in place, *inter alia,* to ensure domestic supply of specific goods and thus may be removed and applied as the circumstances require. In order to reduce the anti-export bias inherent in India's import and indirect tax regimes, a number of duty remission and exemption schemes are in place to facilitate exports. Tax holidays are also available to investors through special economic zones and export-oriented units.

21. India grants direct and indirect assistance to various sectors. Most central government subsidies are destined for agriculture. Other key subsidies include those for fertilizers and petroleum. Price controls, which apply to some commodities, including liquefied petroleum gas, natural gas, kerosene, and agricultural products, are mainly aimed at providing subsidies to farmers and the population under the poverty line. In 2012, new price controls on drugs were introduced with a view to ensuring availability of "essential medicines".

22. Since its last Review, India has made several amendments to its competition policy legislation, which concerned, *inter alia,* mergers and recovery of monetary penalty. India is an observer to the WTO Agreement on Government Procurement. While its procurement system continues to be decentralized, comprising a multiplicity of entities at different levels of Government (including numerous central public-sector enterprises), India has started to use an e-procurement portal for government procurement at the central level. Public procurement is considered an important government policy instrument and is used to achieve certain socio-economic objectives. As a result, the Government maintains reservations and price preferences as part of the procurement system. However, competition from foreign suppliers is ordinarily allowed.

23. Since its last Review, India has taken several initiatives to modernize its IPR administration and continue its efforts to enforce IPRs. The Copyright Act was amended, *inter alia,* to implement the 1996 WIPO Copyright Treaty and guidelines were issued on patents for biological materials, both in 2012. In March 2012, India issued its first and only compulsory licence (on certain anti-cancer medicine).

24. Improving productivity of agriculture has been among the Government's main policy objectives; the sector's contribution to GDP has remained around 18% since 2011, while it accounts for around 56% of the total workforce (including non-organized labour). The sector is also critical for achieving the Government's objectives of food security and price stability. Tariff protection and support accorded to this sector remains greater than to others. Average tariff protection for agriculture (36.4%) remains, therefore, substantially higher than for non-agricultural products (9.5%). India initiated a new support scheme through the National Food Security Act 2013, which aims to provide food grains procured by the Government at subsidized prices to around two-thirds of the population. This is likely to have a significant impact on the overall subsidy provided by the Government.

25. During the period under review, the share of manufacturing in GDP declined slightly, to around 13% of GDP. Against the background of low productivity in the sector, the Government issued a new manufacturing policy in 2011, which aims at increasing the sector's share in GDP to

25%. The Government also launched a "make in India" campaign in 2014 to strengthen the sector and attract investment.

26. The services sector, which accounts for more than half of India's GDP, is the main driver of economic growth. Regulatory changes were introduced (notably in financial services, telecommunications, and transport), such as the introduction of a scheme for setting up wholly-owned banks subsidiaries, raising foreign equity limit in insurance to 49%, amending the main securities legislation, adopting the National Telecom Policy 2012, and allowing FDI in railway transportation except in the operation of railways.

1 ECONOMIC ENVIRONMENT

1.1 Recent Economic Developments

1.1. India's economic growth has been accelerating in recent years although it is still below the 10% rate achieved in 2010-11. Under the newly-revised series of national accounts released in January 2015, real GDP growth was 6.9% in fiscal year 2013-14[1] and estimated to be around 7.4% in 2014-15; these revised figures show a more positive trend and outlook than data based on the previous series (Table 1.1).[2] India's per capita GDP was around US$1,500 in 2013-14. Inflation (in terms of CPI) stood at 5.9% in July-September 2014; food prices, although somewhat declining recently, have grown, thus continuing to affect overall consumer prices. In the past few years, inflation became slightly milder due partly to declining oil prices. Nonetheless supply-side constraints remain, resulting in a still high rate of inflation. India does not publish official unemployment figures; the authorities state that the largest employment sector in India is agriculture.[3] The current account deficit has recently been decreasing, to about 1.7% of GDP in 2013-14, mainly due to decreasing merchandise trade deficit. Trade (exports and imports) in goods and non-factor services as a percentage of GDP was around 53% during the review period.

Table 1.1 Selected macroeconomic indicators, 2010-15

	2010-11	2011-12	2012-13	2013-14[a]	2014-15[a]
Real GDP at market prices (Rs billion, 2004-05 prices)	52,823.9	56,330.5	58,998.5	61,958.4	..
Real GDP at market prices (US$ billion, 2004-05 prices)	1,159.0	1,175.5	1,084.3	1,024.1	..
Current GDP at market price (Rs billion)	77,841.2	90,097.2	101,132.8	113,550.7	..
Current GDP at market price (US$ billion)	1,707.9	1,880.2	1,858.7	1,876.9	..
GDP per capita at current market price (US$)	1,440.1	1,564.2	1,527.3	1,522.2	..
National accounts (Percentage change unless otherwise indicated)					
Real GDP growth	10.3	6.6	4.7	5.0	5.5
Consumption	8.2	8.9	5.2	4.7	..
Private consumption	8.7	9.3	5.0	4.8	..
Government consumption	5.8	6.9	6.2	3.8	..
Gross fixed capital formation	11.0	12.3	0.8	-0.1	..
Exports of goods and non-factor services (XGS)	19.6	15.6	5.0	8.4	..
Imports of goods and non-factor services (MGS)	15.6	21.1	6.6	-2.5	..
Share of XGS in GDP (%)	22.0	23.9	24.0	24.8	
Share of MGS in GDP (%)	26.3	30.2	30.7	28.4	..
Prices, interest rates and money					
Inflation (%age change)					
CPI - industrial workers	10.4	8.3	10.3	9.8	5.0
WPI	9.6	8.9	7.4	6.0	..
Deposit rate[b]	8.25-9.0	9.3	8.75-9	8.75-9.25	8.5-8.75
Base rate[c]	8.25-9.0	10.0-10.75	9.7-10.25	10.0-10.25	10.0-10.25
Broad money (M3)	16.1	13.2	13.6	13.6	..
Exchange rate					
Rs/US$ (financial year - annual average)	45.6	47.9	54.4	60.5	61.0[i]
Real effective exchange rate[d] (Percentage change)	12.5	-2.8	-3.5	-3.9	6.2[i]

[1] India's fiscal year runs from April to March.

[2] Main changes in the new series of national accounts included: (i) change of the base year from 2004-05 to 2011-12; (ii) measuring economic growth in terms of GDP at constant market prices, instead of GDP at factor cost; and (ii) improving the coverage of information, *inter alia,* on corporate entities in manufacturing and services sectors.

[3] The authorities have indicated that this is due to the relatively large segment of non-organized (not formally employed) workers, and that only figures for organized employment are available. In the absence of annual statistics on employment, the authorities make use of indicators including: quick quarterly survey on employment – unemployment by the Labour Bureau, which has been conducted in selected sectors; Industrial Outlook Survey of the RBI, which has been conducted on a quarterly basis since 1998, and gives performance indicators concerning employment in public and private limited companies engaged in manufacturing. Other employment-related indicators include: monthly Naukri Job Index (NJI); Monster Employment Index (MEI); and HSBC Purchasing Managers Index (PMI).

	2010-11	2011-12	2012-13	2013-14[a]	2014-15[a]
Nominal effective exchange rate[d] (Percentage change)	5.3	-7.9	-10.6	-10.5	1.0[i]
Central Government balance (% GDP)					
Current balance	-3.2	-4.4	-3.6	-3.3	-3.0
Current revenue (revenue receipts)	10.1	8.3	8.7	8.9	9.2
Tax revenue (net)	7.3	7.0	7.3	7.2	7.6
Current expenditure	13.4	12.7	12.3	12.1	12.2
Capital receipts	5.3	6.1	5.3	4.8	4.7
Capital expenditure	2.0	1.8	1.6	1.7	1.8
Gross fiscal balance[e]	-4.8	-5.7	-4.8	-4.5	-4.1
Primary balance[f]	-1.8	-2.7	-1.8	-1.2	-0.8
Central Government total debt	50.6	50.2	55.2	..	..
Domestic debt	48.6	48.2	53.4	..	..
Saving and investment (% of GDP)					
Gross domestic savings	34.2	30.8	30.8	31.5	31.8
Gross domestic investment	36.8	35.0	35.6	34.8	34.9
External sector (% of GDP)					
Current account balance	-2.8	-4.2	-4.8	-1.7	-1.3[j]
Net merchandise trade	-7.5	-10.3	-10.7	-7.9	..
Services balance	2.6	3.5	3.5	3.9	..
Financial account	..	..	..	..	..
Direct investment	0.7	1.2	1.1	1.1	..
Terms of trade, goods (1999/00=100)	91.8	63.1	61.9	60.2	..
Merchandise exports[g] (Percentage change)	40.4	20.9	-1.0	3.9	..
Merchandise imports[g] (Percentage change)	27.6	30.3	0.5	-7.2	..
Service exports[g] (Percentage change)	29.8	14.2	2.4	4.0	..
Service imports[g] (Percentage change)	34.2	-2.9	3.2	-2.8	..
Foreign exchange reserves[h] (US$ billion, end-period)	274.3	260.1	259.7	276.4	..
In months of imports	9.5	7.1	7.0	7.8	..
Total external debt (US$ billion, as at end-March)	317.9	360.8	409.5	442.3	..
Debt service ratio	4.4	6.0	5.9	5.9	5.9

.. Not available.

a Provisional.
b Refers to the deposit rates of five major banks with maturity rates of one to three years.
c Relates to five major banks.
d Six currency trade based weight (including the euro, Japanese yen, U.S. dollar, UK pound, Chinese renminbi, HK dollar).
e Revenue receipts plus capital receipts (not including borrowing and other liabilities) minus total expenditure.
f Fiscal balance minus interest payments.
g Growth rates are based in US$.
h Excluding gold, SDRs (Special Drawing Rights), and Reserve Tranche Position in IMF.
i As at 6 March 2015.
j RBI estimate as given in Sixth Bi-Monthly Monetary Policy Statement 2014-15, 3 February 2015.

Source: Reserve Bank of India online information; Ministry of Finance (2015), *Economic Survey 2014-15*; IMF (2015), *India – Staff Report for the 2015 Article IV Consultation*; and information provided by the authorities.

1.2. In recent years, growth has been led mainly by services, which is the largest contributor to GDP, in particular in financing, insurance, real estate, and business services (Table 1.2); under the revised series of national accounts issued in January 2015, manufacturing's contribution to growth is higher than that using the previous series. The authorities have noted that, despite the decline in its relative share, agriculture continues to be the mainstay of the majority of the population, occupying some 56% of the total workforce (including non-organized labour).[4]

[4] Data provided by the Indian authorities.

1.3. The authorities aim to achieve a sustained growth of 7-8% or above within the coming 3-4 years.[5] However, to achieve sustained growth at the potential rate, structural reforms would be needed; for example, bottlenecks will need to be eliminated and investment expanded in infrastructure, education (including vocational training), and health care. The business environment will also need to be simplified by streamlining the regulatory environment, including reforms in taxes and further trade liberalization. In this context, it has been reported that India's structural bottlenecks may include: (i) delays in project approvals reflecting difficulties in taking quick decisions[6]; (ii) ill-targeted subsidies, whose cost has been increasing steadily in recent years and benefitting the rich and the middle-class[7]; (iii) low manufacturing base and low value addition in manufacturing[8]; (iv) presence of a large informal sector and inadequate labour absorption in the formal sector due, *inter alia,* to absence of required skills; (v) low agricultural productivity; (vi) difficulty in land acquisition[9]; (vii) a need for a better transportation network (e.g. road, rail, and coastal shipping) and infrastructure (e.g. ports and airports) within India; (viii) unreliable power supply; and (ix) strict labour regulations and skill mismatches.[10]

1.4. While social conditions improved (e.g. the infant mortality rate declined to 42 per 1,000 in 2012 (compared with 66 per 1,000 in 2001)[11] and the literacy rate reached 73% in 2011 (compared with 48% in 2001)[12]), poverty alleviation remains a challenge. In 2011-12, 21.9% of the entire population lived below the poverty line.[13] Although these levels are considerably below those of around a decade ago (e.g. 27.5% in 2004-05), there is still a large number of the poor, especially in the rural areas (25.7% in 2011-12). The authorities are of the view that India's trade and related policies and measures are influenced by development and poverty-alleviation challenges.

Table 1.2 Basic economic and social indicators, 2010-15

	2010-11	2011-12	2012-13	2013-14	2014-15[a]
	Annual % change				
GDP by economic activity at constant prices					
Agriculture, forestry, and fishing	8.6	5.0	1.4	4.7	..
Mining and quarrying	6.5	0.1	-2.2	-1.4	..
Manufacturing	8.9	7.4	1.1	-0.7	..
Electricity, gas, and water	5.3	8.4	2.3	5.9	..
Construction	5.7	10.8	1.1	1.6	..
Services	9.7	6.6	7.0	6.8	..
Trade, hotels, and restaurants	12.0	1.2	4.5	1.0	..
Transport, storage, communication	12.6	9.4	6.0	6.1	..
Financing, insurance, real estate, and business services	10.0	11.3	10.9	12.9	..
Community, social, and personal services	4.2	4.9	5.3	5.6	..
	(%)				
Share of sectors in current GDP at factor cost					
Agriculture, forestry, and fishing	18.2	17.9	17.5	18.2	..
Mining and quarrying	2.8	2.7	2.4	2.1	..
Manufacturing	14.8	14.7	14.1	12.9	..
Electricity, gas, and water	1.6	1.6	1.7	1.9	..
Construction	7.9	8.2	8.1	7.8	..
Services	54.6	54.9	56.3	57.0	..
Trade, hotels, and restaurants	17.3	17.4	17.2	16.5	
Transport, storage, communication	7.3	7.3	7.5	7.5	..

[5] Budget Speech 2014-15.
[6] The Cabinet Committee on Investment (CCI) was established in 2012; in 2013, it approved previously-stalled projects amounting to about 5% of GDP (IMF, 2014).
[7] According to some studies, substantial leakages in food subsidies, including widespread diversion to the black market, have been estimated (OECD, 2014). The Government announced the establishment of the Expenditure Management Commission in Budget 2014-15 with a view to reviewing expenditure and suggesting reforms.
[8] The Government aims to raise the share of manufacturing in GDP to 25%.
[9] The Government is considering revisions to the current Land Acquisition Act in order to avoid delay in the implementation of infrastructure projects.
[10] Ministry of Finance (2014) and OECD (2014).
[11] Planning Commission online information. Viewed at: http://planningcommission.nic.in/data/datatable/data_2312/DatabookDec2014%20176.pdf.
[12] Planning Commission online information. Viewed at: http://planningcommission.nic.in/data/datatable/data_2312/DatabookDec2014%20224.pdf.
[13] Planning Commission online information. Viewed at: http://planningcommission.nic.in/data/datatable/data_2312/DatabookDec2014%20101.pdf.

	2010-11	2011-12	2012-13	2013-14	2014-15[a]
Financing, insurance, real estate, and business services	16.1	16.5	17.2	18.5	..
Community, social, and personal services	14.0	13.8	14.3	14.5	..
Share of sector in total employment[b]					
Agriculture, forestry, and fishery	4.9	4.8	..	..	..
Mining and quarrying	4.3	4.1	..	..	..
Manufacturing	22.4	22.5	..	..	..
Electricity, gas, and water	3.1	3.0	..	..	..
Construction	3.3	3.2	..	..	..
Services	62.1	62.3	..	..	..
Wholesale and retail trade	2.5	2.6	..	..	..
Transport, storage, and communication	9.0	9.2	..	..	..
Financing, insurance, real estate, etc.	10.7	11.2	..	..	..
Public administration and defence, and other services	39.9	39.2	..	..	..

.. Not available.

a Provisional.
b Organized sector employment only.

Source: Ministry of Statistics and Programme Implementation online information. Viewed at: http://mospi.nic.in/Mospi_New/site/inner.aspx?status=3&menu_id=82. Reserve Bank of India online information, and Ministry of Finance (2014), *Economic Survey 2013-14*.

1.2 Fiscal Policy

1.5. India's fiscal deficit as a ratio to GDP has declined in recent years. Based on the Fiscal Responsibility and Budget Management Act (FRBMA) and a Medium-Term Fiscal Policy Statement in each year's annual budget, India has continued a process of fiscal consolidation; the central Government deficit stood at 4.5% in 2013-14, a decline from 5.7% in 2011-12, mainly achieved by reduction in expenditure. The current target for fiscal consolidation under the FRBMA, as revised in September 2012, is to achieve a central Government deficit of 3% of GDP by 2017-18; accordingly, the Government aims to achieve a target of reducing the fiscal deficit to 3.5% in 2016-17. Although progress has been made recently, achieving fiscal consolidation in the medium-term still remains a challenge for India, in particular considering its infrastructure needs and growth targets. The ratio of central Government debt to GDP decreased in 2013-14 to 46.3% (estimates) compared with 50.6% in 2010-11.[14] Some 96% of India's (central Government) debt is domestic. Fiscal deficits of States amounted to around 2.3% of GDP in 2014-15 (compared with 1.9% in 2011-12).

1.6. India classifies its expenditure as revenue (current) and capital, and plan and non-plan (interest payments, subsidies, defence expenditure, payrolls, and pensions). The thrust of public expenditure management policies has been to rationalize non-plan revenue expenditure by, for example, requiring cash-rich public sector enterprises to transfer higher dividends to the central Government, and raising the levels of plan expenditure, preferably capital expenditure. In this context, the authorities consider that certain subsidies, e.g. the food subsidies, have huge overhead costs, and not all the budget allocated to the subsidy reaches the poor; in other cases, e.g. subsidies on fertilizers, the expenditures generate a distorted resource allocation to the detriment of productivity.[15] Expenditures on subsidies can be streamlined in various ways, such as approving a new direct tax code that would entail streamlined and smaller tax deductions, reforming untargeted subsidies on fuel and fertilizer, and strengthening governance and transparency in the allocation of subsidized food and making use of direct cash transfers instead.[16] In 2014, India began adopting unique identification numbers for individuals (Aadhaar) with a view, *inter alia,* to identifying beneficiaries of subsidies and providing know-your-customer (KYC) norms in financial services.[17] While a new system of subsidized procurement and distribution of food has been introduced under the National Food Security Act 2013, the authorities consider that it is increasingly feasible and more effective for poverty reduction than the existing subsidy

[14] The authorities estimate that the ratio will decline to 46.1% in 2015-16.
[15] Ministry of Finance (2014).
[16] IMF (2014).
[17] The Direct Benefit Transfer (DBT) scheme was introduced in 2013, supported by the Aadhaar numbers and Aadhaar-linked bank accounts (OECD 2014). Aadhaar numbers have been granted to 757 million citizens as at January 2015.

programmes to adopt direct cash transfer to the poor with the use, *inter alia,* of the identification numbers and payment through mobile phones.[18]

1.7. India's tax-to-GDP ratio stood at 7.4% in 2013-14 and is estimated to stand at 7.6% in 2014-15 (Table 1.3); the authorities consider this ratio to be low and in need of improvement by, for example, broadening the tax base.[19] The authorities consider that India has a complex tax system that suffers from problems in structure (e.g. tax exemptions, tax rebates, uneven tax treatment of similar economic activities) and administration.[20] Parliament is still in the process of approving the goods and services tax (GST) as well as a direct tax bill, which is envisaged to remove a large number of cesses and tax exemptions.[21]

Table 1.3 Central Government's tax revenue, 2010-15

(Rs billion and %)

	2010-11	2011-12	2012-13	2013-14	2014-15[a]
Total tax revenue, net of states' share (Rs billion)	5,698.7	6,297.6	7,402.6	8,360.3	9,772.6
(% of GDP)	7.3	7.0	7.3	7.4	7.6
	(% of total tax revenue)				
Direct taxes	55.3	54.9	53.4	54.4	53.7
Corporation taxes	37.7	36.3	34.4	34.0	33.0
Personal income taxes	17.5	18.5	19.0	20.4	20.4
Indirect taxes	43.4	44.1	45.7	44.8	45.8
Customs	17.1	16.8	16.0	15.1	14.8
Excise duties	17.4	16.3	17.0	15.4	15.1
Service taxes	9.0	11.0	12.8	14.2	15.8

a Provisional estimates.

Source: WTO Secretariat, based on information provided by the Indian authorities.

1.3 Monetary and Exchange Rate Policy

1.8. The Reserve Bank of India (RBI) formulates, implements, and monitors monetary policy. On 20 February 2015, the Government signed an agreement with the RBI on a monetary policy framework, which is intended to meet the challenge of an increasingly complex economy.[22] The main objective of monetary policy to be operated by the Reserve Bank will primarily be to maintain price stability while keeping in mind growth objectives. As per the agreement, the RBI will aim to bring inflation below 6% by January 2016 and the target for financial year 2016-17 and all subsequent years will be 4% with a band of +/- 2 percentage points. Inflation is the year-on-year change in the monthly Consumer Price Index – Combined expressed in percentage terms. The RBI is required to publish the operating target(s) and establish an operating procedure of monetary policy through which the operating target will be achieved so as to explain the deviation from the target band for three consecutive quarters from 2016-17.

1.9. The RBI has recently been focusing on containing inflation and tightening its monetary policy stance, although in 2015 this stance was slightly eased. In May 2011, following the change in policy stance to fix only one rate, the repo rate was increased to 7.25%.[23] The rate was then increased several times, to 8% on 28 January 2014. On 15 January 2015, the rate was lowered by 0.25 percentage point to 7.75%, and on 4 March 2015 it was brought down by 25 basis points to 7.5%. In the Sixth Bi-Monthly Monetary Policy statement of 2014-15 issued on 3 February 2015, the statutory liquidity ratio (SLR) of scheduled commercial banks was lowered by 0.5 percentage

[18] Ministry of Finance (2014).
[19] Budget Speech 2014-15 and Ministry of Finance (2014).
[20] Ministry of Finance (2014).
[21] The Government's continued intention is to introduce a GST and to consolidate the Income Tax Act 1961 and the Wealth Tax Act 1957 in a Direct Tax Code.
[22] Ministry of Finance online information. Viewed at: http://finmin.nic.in/reports/MPFAgreement28022015.pdf.
[23] Since 3 May 2011, the RBI has been using the repo rate (RBI's lending rate to commercial banks) as the only independently varying policy rate. The RBI implements monetary policy through the use of several direct and indirect instruments. The main direct instruments used to conduct monetary policy include the cash reserve ratio (CRR), the statutory liquidity ratio (SLR), and refinance facilities. The RBI uses the liquidity adjustment facility (LAF), as its main indirect instrument which enables it to adjust short term liquidity through repo and reverse repo auctions. The RBI also makes use of open market operations.

points from 22% to 21.5% of their net time deposit liabilities (NDTL) with effect from 7 February 2015. In addition, export credit refinance was withdrawn and replaced with system-level liquidity.[24]

1.10. Regarding other monetary policy measures, banks were required, *inter alia,* to meet at least 99% of the cash reserve ratio (CRR) on a daily basis, and limit the provision of liquidity under the Liquidity Adjustment Facility (LAF) to 0.5% of the bank's own NDTL; the statutory liquidity ratio (SLR) of scheduled commercial banks was lowered by 0.5 percentage points from 22% to 21.5% of their NDTL in February 2015.[25]

1.11. Reforms in India's monetary policy are gradually being adopted in accordance with an RBI expert committee's recommendation in January 2014[26], such as the adoption of the CPI, instead of the wholesale price index (WPI)[27], as the key measure of inflation, and making a transition from a quarterly to a bi-monthly monetary policy cycle since April 2014.

1.12. India's exchange rate is classified by the IMF as floating, determined by the interbank market. The RBI may intervene in the market when deemed necessary, such as to modulate excessive volatility in order to maintain orderly conditions, in accordance with its general monetary policy stance. In 2014, subject to certain conditions, India allowed all residents and non-residents (except citizens of Pakistan and Bangladesh) to take out Indian rupee notes up to Rs 25,000 when leaving the country[28]; in the case of Nepal and Bhutan there is no limit on rupee notes to be carried into or taken out of India for denomination below Rs 100 only.

1.4 Balance of Payments

1.13. India's current account deficit increased up until 2012-13; it declined significantly. While India posts a structural merchandise trade deficit, it has a sizeable surplus in the services balance. During the period under review, the merchandise trade deficit moderated and the services trade surplus increased (Table 1.4).

Table 1.4 Balance of payments, 2010-15

(US$ million)

	2010-11	2011-12	2012-13	2013-14	2014-15[a]
Current account	**-47,909**	**-78,179**	**-87,843**	**-32,358**	**-17,940**
Goods and services balance	-83,084	-125,661	-130,741	-74,644	-37,145
Goods balance	-127,164	-189,690	-195,656	-147,609	-73,214
Exports f.o.b.	256,318	309,843	306,581	318,607	166,974
Imports c.i.f.	383,481	499,533	502,237	466,216	240,188
Services balance	44,080	64,029	64,914	72,965	36,069
Receipts	124,635	140,935	145,677	151,475	75,925
Transportation	14,298	18,257	17,334	17,380	8,992
Travel	15,793	18,462	17,999	17,922	9,225
Construction	677	804	1,004	1,339	841
Insurance and pension	1,945	2,632	2,227	2,121	1,138
Financial	6,508	5,967	4,949	6,650	2,944
Charges for use of intellectual property	193	281	302	585	274
Computer, information, and telecommunications	55,217	63,972	67,785	72,010	36,257
Other business	22,823	24,557	28,447	28,482	14,144
Personal, cultural, and recreational	227	393	911	1,323	624

[24] The export credit refinance was reduced in phases. It was 50% of eligible export credit outstanding as at 2 June 2014.
[25] IMF (2014).
[26] Reserve Bank of India online information. Viewed at: http://rbi.org.in/Scripts/PublicationReportDetails.aspx?ID=743.
[27] The RBI had traditionally been using the WPI as the key inflation measure.
[28] RBI, Second Bi-Monthly Monetary Policy Statement 2014-15.

	2010-11	2011-12	2012-13	2013-14	2014-15[a]
Government goods and services, n.e.s.	531	478	574	488	270
Other	6,424	5,133	3,962	2,809	1,089
Payments	80,555	76,906	80,763	78,510	39,856
Transportation	13,947	16,454	14,806	14,792	8,041
Travel	11,026	13,762	11,823	11,810	7,961
Construction	1,157	1,006	1,220	1,236	564
Insurance and pension	1,400	1,497	1,409	1,116	565
Financial	7,483	7,984	4,633	5,814	2,266
Charges for use of intellectual property	2,424	3,207	4,159	3,980	2,314
Computer, information, and telecommunications	3,748	3,258	3,511	3,928	2,025
Other business	26,626	25,467	30,349	27,189	13,086
Personal, cultural, and recreational	543	275	616	831	738
Government goods and services, n.e.s.	820	780	813	979	500
Other	11,382	3,214	7,011	6,525	1,674
Income balance	-17,951	-15,987	-21,455	-23,028	13,554
Credit	9,587	10,144	10,276	11,352	5,319
Debit	27,537	26,130	31,731	34,380	18,873
Secondary income	53,125	63,469	64,353	65,315	32,759
Credit	55,618	66,129	67,696	69,948	35,016
Debit	2,494	2,660	3,343	4,633	2,258
Capital account	**40**	**-61**	**-294**	**659**	**3**
Gross acquisitions/disposals of non-produced non-financial assets	25	-86	-71	6	5
Capital transfers	16	25	-223	652	9
Financial account	**50,505**	**80,673**	**85,449**	**32,581**	**20,459**
Direct investment	11,834	22,061	19,819	21,564	16,183
Foreign direct investment in India	29,029	32,952	26,953	30,763	16,763
India's direct investment abroad	-17,195	-10,892	-7,134	-9,199	580
Portfolio investment	28,243	16,573	26,704	4,802	22,202
Portfolio investment in India	29,422	16,812	27,582	5,009	22,337
Portfolio investment by India	-1,179	-239	-878	-207	135
Financial derivatives (other than reserves) and employee stock options	0	0	-45,173	2,006	26
Other investment	23,478	29,208	45,173	19,717	176
Other equity	2,049	597	187	20	0
Currency and deposits	3,768	12,095	15,312	39,386	6,702
Loans	18,295	16,770	10,726	-1,129	3,210
Trade credit and advances	12,034	6,668	21,657	-5,044	69
Other	-12,668	-6,922	-2,708	-13,443	338
Reserve assets	-13,050	12,831	-3,826	-15,508	18,076
Errors and omission	-2,636	-2,432	2,688	-882	2,522

a April to September 2014.

Source: Reserve Bank of India online information, "RBI Bulletin". Viewed at: http://rbi.org.in/scripts/BS_ViewBulletin.aspx.

1.14. India's current account deficit reflects the extent by which gross domestic investment needs exceed gross domestic savings; during the review period, public investment was consistently greater than public sector savings. The financing of the current account deficit has not been a problem: there have been large capital inflows on average, both as foreign direct investment (FDI) and as portfolio investment. Nonetheless, capital inflows have been highly volatile in recent years; there was substantial decline in portfolio investment in 2013-14. The Government has adopted measures to increase capital inflows; these include: (i) increasing the cap for foreign institutional investment in government securities[29] and corporate bonds, deregulating the interest rate on non-residents' deposits, allowing public financial institutions to raise funds abroad through quasi-sovereign bonds, and easing restrictions on external commercial borrowing.[30] It would appear that net portfolio investment in India rose in 2014-15. The authorities consider that these measures, in combination with a decline in the current account deficit and revival in equity flows, have helped in building up foreign exchange reserves in 2013-14 and 2014-15 to date.

1.5 Developments in Trade

1.5.1 Composition of trade in goods

1.15. Exports increased from US$251.1 billion in 2010-11 to US$314.4 billion in 2013-14, although in 2012-13 they decreased slightly over 2011-12. Over the review period, the share of vegetable products, mineral products, chemicals, and textiles and textile articles increased, while the share of precious stones and metals, and pearls decreased. Petroleum and mineral products and precious stones and metals are the main components of Indian exports, followed by textiles and textile articles (Table A1.1 and Chart 1.1).

1.16. In 2013-14, imports totalled US$450.2 billion, up from US$369.8 billion in 2010-11. In 2013-14, petroleum and mineral products represented around 42% of India's total imports, followed by machinery and electrical equipment, precious stones and metals, and chemicals (Table A1.2).

1.5.2 Direction of trade in goods

1.17. In 2013-14, India's main export markets were the EU28, followed by the United States and the United Arab Emirates (Table A1.3 and Chart 1.2). India's main sources of imports were China, the EU28, the Kingdom of Saudi Arabia, and the United Arab Emirates (Table A1.4). During the period under review, the share of the United States and Africa as India's export destinations increased while that of EU28 and the United Arab Emirates decreased. As regards the origin of India's imports, although China and the EU28 are still major exporters to India, the share of the Kingdom of Saudi Arabia has been increasing.

1.5.3 Trade in services

1.18. India is a net exporter of services. The services trade surplus as a percentage of GDP increased from 2.6% in 2010-11 to 3.9% in 2013-14, mainly owing to growth in exports (receipt) of computer, information, and telecommunications, and other businesses services. On the other hand, imports (payment) of charges for use of imports of intellectual property increased substantially up until 2012-13; it decreased by 12% in 2013-14.

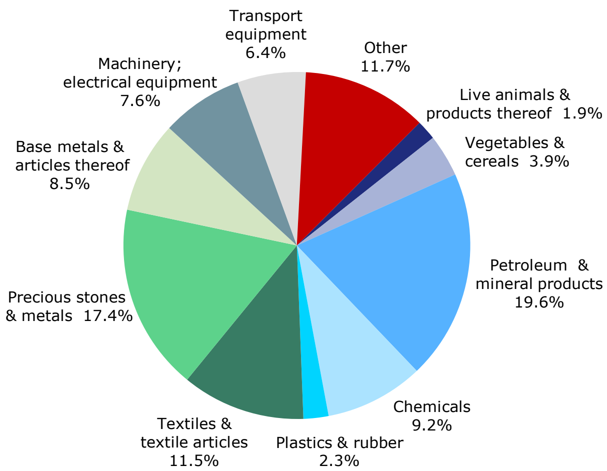
[29] The investment limit in government securities by registered foreign portfolio investors (FPIs) is capped at US$30 billion, of which US$5 billion is reserved for long-term investors.

[30] OECD (2014).

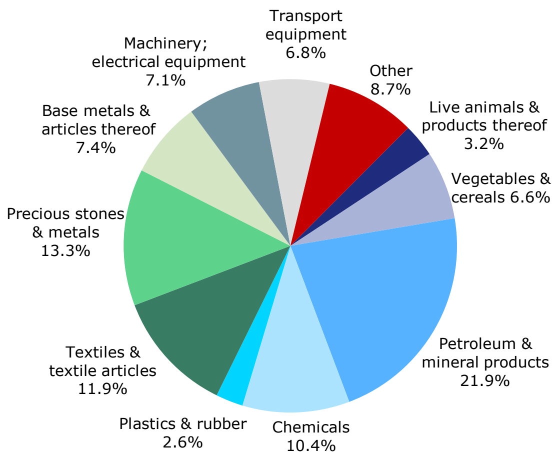
Chart 1.1 Product composition of merchandise trade by HS section, 2010/11 and 2013/14

2010/11 | **2013/14**

Exports

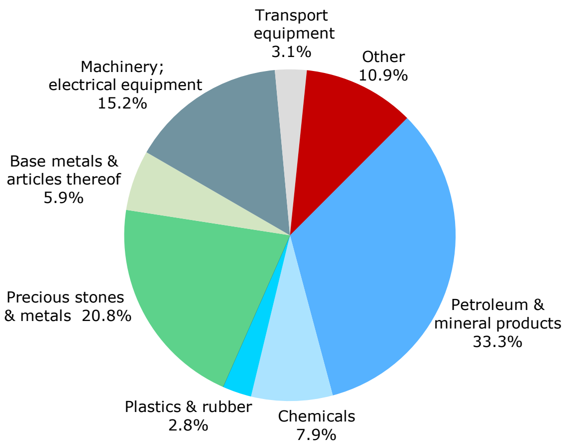


Total: US$251.1 billion

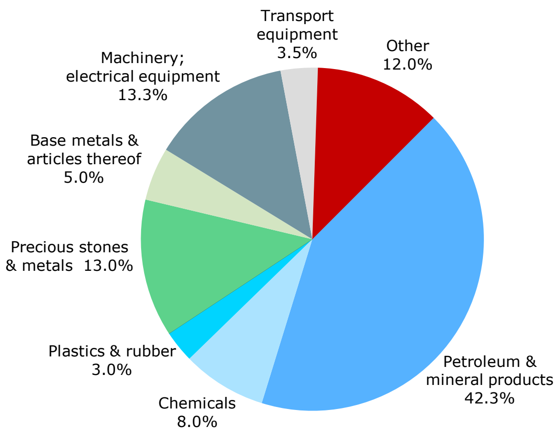


Total: US$314.4 billion

Imports



Total: US$369.8 billion



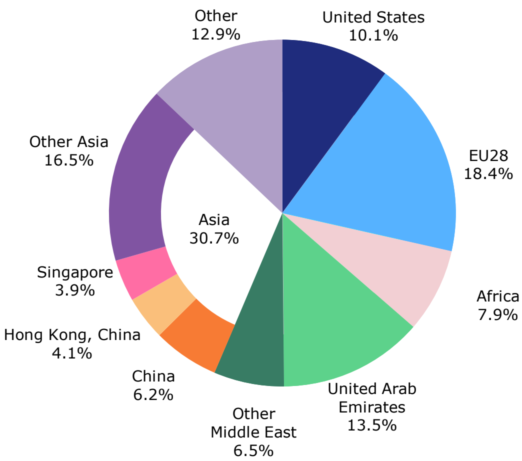
Total: US$450.2 million

Source: WTO calculations, based on Department of Commerce online information, "Export Import Data Bank".

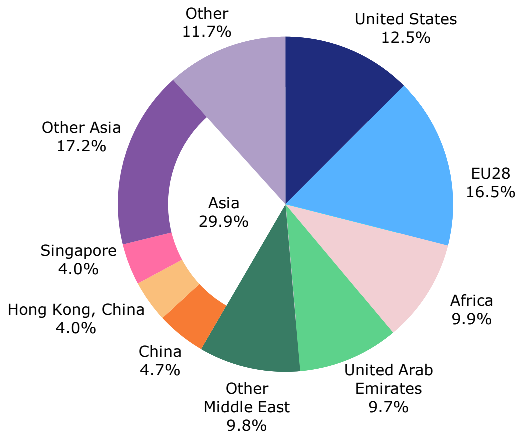
Chart 1.2 Direction of merchandise trade, 2010/11 and 2013/14

2010/11 | **2013/14**

Exports

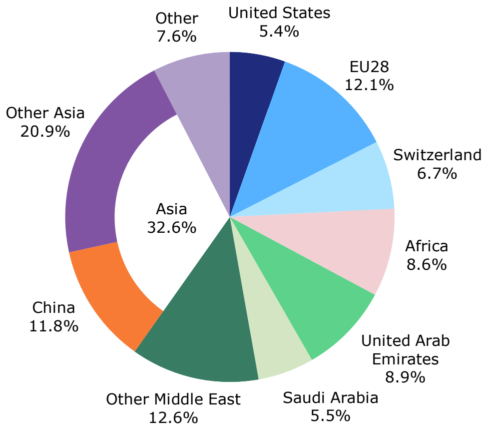


Total: US$251.1 billion

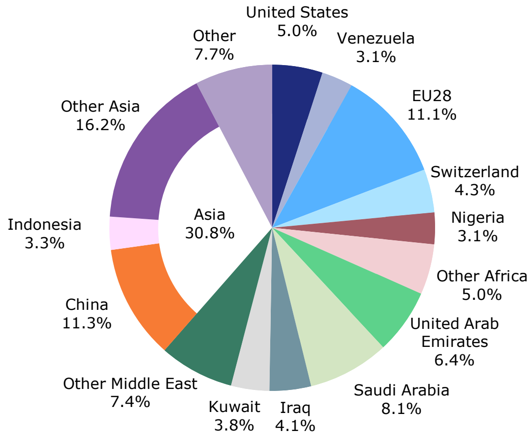


Total: US$314.4 billion

Imports



Total: US$369.8 billion



Total: US$450.2 billion

Source: WTO calculations, based on Department of Commerce online information, "Export Import Data Bank".

1.6 Foreign Direct Investment

1.19. India has benefited from large inflows of capital during the period under review, both in the form of portfolio investment and as foreign direct investment (FDI). Annual FDI inflows grew from US$34.8 billion in 2010-11 to US$36.0 billion in 2013-14, although these are lower than a recent peak of US$46.6 billion in 2011-12.

1.20. FDI inflows have been strong in services including financial, banking, insurance, business, outsourcing, R&D, courier, and technical services, and the automobile industry and telecommunications (Table 1.5).

Table 1.5 Foreign direct investment inflows/outflows, by economic activity, 2010-15[a]

(US$ million)

	2010-11	2011-12	2012-13	2013-14	2014-15 (up to December 2014)
Total FDI inflows	34,847	46,556	34,298	36,046	31,853
	(% of FDI equity inflows)				
Services[b]	15.4	14.9	21.6	9.2	10.9
Automobile industry	6.1	2.6	6.9	6.2	7.5
Telecommunications	7.8	5.7	1.4	5.4	12.7
Drugs and pharmaceuticals	1.0	9.2	5.0	5.3	5.8
Construction	7.8	9.0	6.0	5.0	3.4
Computer software and hardware	3.7	2.3	2.2	4.6	4.6
Power	6.0	4.7	2.4	4.4	2.7
Chemicals (other than fertilizers)	11.0	11.5	1.3	3.6	2.6
Metallurgical industries	5.1	5.1	6.5	2.3	1.2
Hotel and tourism	1.4	2.8	14.5	2.0	2.8
Total outflows, net	17,195	10,892	7,134	9,199	..

.. Not available.

a Financial years.
b Including financial, banking, insurance, business, outsourcing, R&D, courier, technical

Note: Percentages are based FDI equity inflows only, taken from the Department of Industrial Policy and Promotion.

Source: Reserve Bank of India and Department of Industrial Policy and Promotion online information, and information provided by the Indian authorities.

1.21. Between 2010-11 and 2013-14, Mauritius was the largest source of FDI, followed by Singapore, except in 2013-14 (Table 1.6). It would appear that part of these large flows may result from the advantages of the tax treaty between Mauritius and India, which may make it attractive for investors to route their investment through Mauritius to take advantage of the preferential provisions, which include exemption from capital gains tax. Other major sources during the period under review are the United Kingdom, the Netherlands, and Japan.

1.22. India's total net FDI outflows decreased from US$17.2 billion in 2010-11 to US$9.2 billion in 2013-14.

Table 1.6 Foreign direct investment inflows/outflows (country-wise), 2010-15[a]

(US$ million)

	2010-11	2011-12	2012-13	2013-14	2014-15 (up to December 2014)
Total inflows, net	34,847	46,556	34,298	36,046	31,853
FDI equity inflow	21,383	35,120	22,424	24,299	21,045
	(% of FDI equity inflows only)				
Singapore	8.0	15.0	10.3	24.6	20.5
Mauritius	32.7	28.3	42.4	20.0	28.0
United Kingdom	12.7	22.4	4.8	13.2	4.9
Netherlands	5.7	4.0	8.3	9.3	12.3
Japan	7.3	8.5	10.0	7.1	6.8

	2010-11	2011-12	2012-13	2013-14	2014-15 (up to December 2014)
Germany	0.9	4.6	3.8	4.3	3.7
United States	5.5	3.2	2.5	3.3	7.0
Cyprus	4.2	4.5	2.2	2.3	2.3
France	3.4	1.9	2.9	1.3	2.7
Total outflows, net	17,195	10,892	7,134	9,199	..

.. Not available.

a Financial years.

Note: Percentages are based FDI equity inflows only, taken from the Department of Industrial Policy and Promotion.

Source: Reserve Bank of India and Department of Industrial Policy and Promotion online information, and information provided by the Indian authorities.

2 TRADE AND INVESTMENT REGIME

2.1 General Framework

2.1. There have been no changes to India's overall institutional and legal framework since the last Review. Under the Constitution of India, which entered into force on 26 January 1950, India is a union of its States and Union Territories. It has a Parliamentary system of Government with a bicameral Parliament, an independent Executive and Judiciary. Parliament comprises the President, the Council of States (Rajya Sabha or Upper House) and the People's House (Lok Sabha or Lower House). The Lower House is re-elected every five years through universal suffrage. The Upper House is not subject to dissolution but every two years one-third of its members shall retire. It has a federal system of Government with each State electing its own State legislature. There are currently 29 States and 7 Union Territories, with the most recent State of Telangana created on 2 June 2014.[1]

2.2. The Head of State is the President of India who is elected for five years by the members of an electoral college comprising members of both houses of Parliament and the state legislative assemblies.[2] The President appoints the Prime Minister and, on the advice of the Prime Minister, the other Ministers in the Council of Ministers. All members of the Council of Ministers must be members of Parliament.[3] The role of the Council of Ministers is to aid and advise the President but in practice executive power is vested in the Council of Ministers.

2.3. In addition to the Centre, each State elects a legislative assembly which, along with the State Government, enacts legislation as empowered to do so under the Constitution. The Seventh Schedule of the Constitution determines the division of legislative powers between the Centre, the States and issues for which both have concurrent power.[4] The President appoints a Governor for each State, who is the Head of the State and exercises executive authority in that State.

2.4. With the exception of money bills, a bill may originate in either House of Parliament. They must be passed by a simple majority of both Houses. Once a bill is passed by one House, it is transmitted to the other, which, subject to any amendments, is passed by the other House. Once it has been adopted by both Houses, the bill is sent to the President for approval. If both Houses are unable to agree on the bill within six months, the President may summon both Houses to meet, discuss and vote on the bill. If the bill is passed by a majority of members of both houses present at the joint session, it is deemed to have been passed by Parliament.

2.5. Money bills may only be introduced in the House of the People (Lower House).[5] Once they are passed by the Lower House, they are transmitted to the Council of States for any recommendations. If the bill is not returned within 14 days of receipt to the House of the People

[1] The Union Territories are administered by the central Government.

[2] There is also a Vice President who is elected for five years by an electoral college of both houses of Parliament and the state assemblies; the Vice President is the *ex officio* Chairman of the Upper House of Parliament (Rajya Sabha or Council of States).

[3] Under Article 75:5 "A Minister who for any period of six consecutive months is not a member of either House of Parliament shall at the expiration of that period cease to be a Minister".

[4] The First List (Union List) includes issues related to defence, arms and firearms and atomic energy, foreign affairs and the United Nations, international treaties, railways, highways, maritime shipping and navigation, and also international trade, banking and insurance, taxes on income other than agricultural income, customs and excise duties, corporate tax; the Second list (State List) gives power to the States for issues such as agriculture, fisheries, mining and mineral development, trade and commerce within the State, taxes on agricultural income, certain excise duties such as on alcoholic products and narcotics, taxes on consumption and sale of electricity. The Third List (Concurrent List) contains items including forests, commercial and industrial monopolies, education, legal, medical and other professions, and commerce in products such as foodstuffs, cotton, and jute, and price controls.

[5] The Constitution (Article 110) defines money bills as bills containing provisions dealing with all or any of: imposition, abolition, remission, alteration or regulation of any tax; regulation of the borrowing of money or the giving of any guarantee by the Government of India or the amendment of laws with respect to any financial obligations undertaken or to be undertaken by the Government of India; custody of the Consolidated Fund or the Contingency Fund of India, the payment of moneys into or the withdrawal of moneys from any such Fund; the appropriation of any moneys out of the Consolidated Fund of India; declaring of any expenditure to be expenditure charged on the Consolidated Fund of India or increasing the amount of any such expenditure; the receipt of money on account of the Consolidated Fund of India or the public account of India, or the increasing of the amount of any such expenditure; or any matter incidental to these provisions.

with any recommendations, it is deemed to have been passed by both Houses of Parliament. The recommendations of the Council of States may or may not be accepted by the House of the People. In both cases, once the House of the People passes the bill, it is deemed to have been passed by both Houses.

2.6. Once a bill is passed by both houses of Parliament it must be signed by the President to become law. Except for money bills, the President may amend the bill and return it to either house for consideration. However, if the bill is approved by both houses with or without the amendments suggested, the President may not withhold assent a second time. The Act is then published in the Gazette of India and, unless a date of entry into force is indicated, becomes law on the date of assent by the President.

2.7. Under Chapter III of the Constitution, the President also has the authority to promulgate ordinances when Parliament is in recess when it is deemed that it is necessary to do so immediately. The Ordinance shall have the same force and effect as an Act of Parliament but must be laid before both houses of Parliament and approved within six weeks of the reassembly of Parliament. If it is not approved by Parliament during this period, it ceases to exist. The Ordinance may also be withdrawn by the President at any time.

2.8. The Indian legal system is based on common law. The Judiciary is headed by the Supreme Court of India, comprising a Chief Justice and 30 other judges appointed by the President in consultation with the Chief Justice. It is the highest appellate court with the power to take up appeals against decisions by the High Courts of the States and Union Territories, and has sole jurisdiction over disputes between the Government of India and the States, and between two or more States. Any law passed by the Supreme Court is binding on all other courts in India. The highest court in each State and Union Territory is the High Court. There are currently 24 High Courts with five having jurisdiction over more than one State. The States are further divided into districts, with district courts and subordinate courts of civil and criminal jurisdiction. Decisions taken by district courts may be appealed with the High Court with jurisdiction over that particular state or union territory.

2.2 Trade Policy Formulation and Objectives

2.2.1 Trade policy formulation

2.9. Trade policy is formulated and implemented by the Department of Commerce in the Ministry of Commerce and Industry, with the assistance of other Ministries and agencies, including the Ministry of Finance, the Reserve Bank of India and other sectoral Ministries such as Agriculture, Consumer Affairs, Food and Public Distribution, Textiles, Petroleum and Steel. The role of the Department of Commerce, according to its Annual Report for 2012-13 is "to facilitate creation of an enabling environment and infrastructure for accelerated growth of exports". Its mandate is regulation, development and promotion of India's international trade and commerce through formulation of appropriate trade and commercial policy and implementation of its various provisions.[6] The Department formulates, implements and monitors the Foreign Trade Policy (FTP) which is issued every five years and reviewed annually, and forms the basic policy framework for the promotion of exports and trade. The Department is also responsible for multilateral and bilateral commercial relations, special economic zones, state trading, export promotion and trade facilitation, and development and regulation of certain export-oriented industries and commodities.

2.10. There are a number of offices that are attached to the Department to help in the formulation and implementation of trade policy. The Directorate General of Foreign Trade (DGFT) whose role has evolved from the prohibition and control of exports and imports to "facilitator" of foreign trade, formulates and implements the Foreign Trade Policy. The DGFT also issues authorizations to exporters and monitors their corresponding export obligations. The Directorate General of Anti-Dumping and Allied Duties (DGAD) is responsible for conducting investigations, where required under the Customs Tariff Act, into the amount of anti-dumping or countervailing duty to be applied if injury to the domestic industry is determined. The Tariff Commission was established in September 1997 to look at the impact of the tariff on domestic industry and export potential; in this regard it also looks at the inverted tariff structure of the Indian tariff and suggests remedial action. According to the authorities it has conducted studies on around

[6] Department of Commerce (2014).

30 products during the last two years and suggested that there was an inverted duty structure in some of these cases.

2.11. There are also a number of subordinate offices such as the Directorate General of Commercial Intelligence and Statistics (DGCIS), which collects, compiles and disseminates India's trade and commercial statistics; Office of Development Commissioner of Special Economic Zones; and autonomous bodies, notably the Coffee, Rubber, Tea, Tobacco and Spices Board which are statutory bodies responsible for the development of these crops; the Marine Products Export Development Authority, responsible for the development of the marine industry particularly exports; the Agricultural and Processed Food Products Export Development Authority (APEDA), which is responsible for export promotion of 14 agricultural and processed food products and the monitoring of the import of sugar; the Export Inspection Council (EIC) which carries out quality control of exports; the Indian Institute of Foreign Trade; and the Indian Institute of Packaging (IIP).

2.12. The Department also has a number of public sector undertakings (PSUs) involved in international trade such as the State Trading Corporation of India (STC) responsible for trading agricultural products such as spices; the Minerals and Metals Trading Corporation (MMTC) which is responsible not only for trading in minerals and metals but also precious stones and fertilizers; and the Project and Equipment Corporation of India (PEC) which is responsible for trading in engineering and defence equipment and non-engineering items. Finally, 29 export promotion councils (EPCs) provide advice on export promotion and other functions outlined in the FTP.

2.2.2 Trade policy goals

2.13. Increasing India's share in global exports remains the main thrust of the Government's trade policy goals. The main goal of the FTP 2009-14 was to make India a global player in world trade by doubling its share of global trade by 2020. This was to be achieved through fiscal measures such as tax incentives, credit for export schemes, institutional changes, rationalization of procedures, diversification of export markets and increased market access, including through regional trade agreements. The FTP is announced every five years and reviewed and adjusted annually. The new FTP for 2015-2020 was released on 1 April 2015. Its goal is to make India a significant participant in international trade and to raise India's share of global exports from 2% to 3.5% by 2020. This is expected to be achieved by providing a sustainable and stable policy environment for foreign merchandise and services trade; linking rules, procedures and incentives for trade with other recent initiatives such as "make in India", "digital India" and "skills India"; promoting the diversification of India's exports by assisting key sectors to become more competitive; and creating an architecture for India's engagement with key regions of the world.[7] The acceleration in exports is expected to be achieved through exemption and remission of indirect taxes on inputs for producing final export products, imports of capital goods at concessional rates of duty, and by stimulating services exports and focusing on specific products and markets.

2.14. Despite this focus on increasing exports, India continues to use trade policy as a means to regulate domestic supply and to address short-term objectives such as containing inflation and fluctuations in commodity prices. Thus export taxes, minimum export price, as well as adjustments to import duties, are used on an ad hoc basis through a notification by the DGFT. During the period under review for instance, exports of onions, sugar and potato were subject to changing minimum export prices to regulate domestic supply of these products. Export prohibitions on edible oils have been extended on an annual basis since March 2008 with some exceptions introduced on 8 June 2013.[8] Onions are a particularly sensitive item and export prohibitions and minimum export prices are used liberally to control exports. For instance, exports of onions were banned on 29 June 2012.[9] Exports of onions were then permitted but subject to a minimum export price of US$650 per metric tonne on 14 August 2013[10] which was increased to US$900 per metric tonne on 19 September 2013[11] and US$1,150 per metric tonne on 1 November 2013[12], before

[7] Department of Commerce (2015).
[8] Department of Commerce, Notification No. 22 (RE-2013)/2009-2014 dated 18 June 2013.
[9] Department of Commerce, Notification No. 3 (RE-2013)/2009-2014 dated 29 June 2012.
[10] Department of Commerce, Notification No. 35 (RE-2013)/2009-2014 dated 14 August 2013.
[11] Department of Commerce, Notification No 41 (RE-2013)/2009-2014 dated 19 September 2013.
[12] Department of Commerce, Notification No. 22 (RE-2013)/2009-2014 dated 1 November 2013.

being reduced to US$800 per metric tonne on 16 December 2013[13], US$350 per metric tonne on 19 December 2013[14] and to US$150 per metric tonne on 26 December 2013[15], and then removed on 4 March 2014.[16] Minimum export prices of US$500 per metric tonne were then reinstated on 2 July 2014[17], and reduced to US$300 per metric tonne on 21 August 2014.[18] Similarly minimum export prices and/or export prohibitions are used periodically for other agricultural products such as potatoes, rice, sugar and pulses. During the period 3 July 2009 and 31 March 2013 export restrictions were placed on wheat flour and exports of cotton were subject to prior registration of contracts with DGFT. In February-March 2014 the Government decided to provide a subsidy of Rs 3,333 per metric tonne (US$55), raised to Rs 3,371 per tonne for August-September 2014, to sugar mills to export raw sugar of up to 4 million tonnes during the 2013/14 and 2014/15 marketing years.

2.15. Import policy is also largely driven by domestic supply considerations. In the case of sugar for instance, import duties were lifted temporarily in 2012 to allow an increase in imports but reinstated at 10% in July 2012. Such frequent changes to policy are disruptive and reduce predictability in India's trade policy. In a report prepared on sugar policy, headed by the Chairman of the Economic Advisory Council to the Prime Minister on 5 October 2012, it was stated that "the export-import policy of the Government does not allow firms to have a long-term relation internationally and impedes the growth of the sector. The policies are unanticipated and create uncertainty for the firms. Also the short term cyclicality, which is largely a consequence of Government intervention, adversely affects the long-term strategic development of the sector".[19] The authorities note that India's autonomous measures are occasionally taken to provide a stable and predictable policy regime for agricultural trade. In February 2013, some of the major processed and/or value added agricultural products such as wheat of meslin flour (HS 1101), cereal flours (HS 1102), milk products (HS 3501), butter and other fat derivatives from milk (HS 0405) etc. were exempted from export restrictions/bans.

2.3 Trade Agreements and Arrangements

2.3.1 WTO

2.16. India is a founding Member of the WTO. It provides MFN treatment to all other WTO Members and other trading partners. India has also accepted the Fourth and Fifth Protocols and is a party to the Information Technology Agreement. It has been an observer to the WTO Government Procurement Agreement since 10 February 2010.

2.17. India's most recent notifications (Table 2.1) include those for domestic support for agriculture, import licensing procedures, and quantitative restrictions with regard to the WTO Trade Facilitation Agreement. India has not yet submitted its Category A notification.

Table 2.1 Notifications to the WTO, 1 January 2011–13 March 2015

WTO Agreement	Description	Document symbol (most recent notification)	Date
Agreement on Agriculture			
Article 18.2 (DS:1)	Domestic support	G/AG/N/IND/10; G/AG/N/IND/10/Corr.1	10/09/2014
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/5	07/03/2011
Article 18.2 (ES:1)	Export subsidies	G/AG/N/IND/9	30/07/2012
Agreement on Sanitary and Phytosanitary Measures			
Article 7 Annex B	Notification of measure	G/SPS/N/IND/92	03/11/2014

[13] Department of Commerce, Notification No. 57 (RE-2013)/2009-2014 dated 16 December 2013.
[14] Department of Commerce, Notification No. 59 (RE-2013)/2009-2014 dated 19 December 2013.
[15] Department of Commerce, Notification No. 61 (RE-2013)/2009-2014 dated 26 December 2013.
[16] Department of Commerce, Notification No. 72 (RE-2013)/2009-2014 dated 4 March 2014.
[17] Department of Commerce, Notification No. 86 (RE-2013)/2009-2014 dated 2 July 2014.
[18] Department of Commerce, Notification No. 91 (RE-2013)/2009-2014 dated 21 August 2014.
[19] Department of Food and Public Distribution (2013).

WTO Agreement	Description	Document symbol (most recent notification)	Date
Enabling Clause			
Paragraph 2	Notification of preferential tariff treatment for LDCs	G/C/W/651 and WT/COMTD/N/38	12/09/2011
Paragraph 2c	Notification of regional trade agreement	WT/COMTD/N/37	12/09/2011
Agreement on the Implementation of Article VI of the GATT 1994 (Anti-dumping)			
Article 16.4 – ad hoc	Semi-annual report	G/ADP/N/259/IND	10/09/2014
Article XVII and Understanding on the Interpretation of Article XVII (State trading)			
Article XVII:4(a)	Notification on State Trading Enterprises	G/STR/N/14/IND	30/11/2012
Agreement on Import Licensing			
Article 7.3	Replies to questionnaire on import licensing procedures	G/LIC/N/3/IND/14	03/10/2014
Decision on Notification Procedures for Quantitative Restrictions			
G/L/59/Rev.1	Notification of quantitative restrictions in force	G/MA/QR/N/IND/1	20/06/2014
Agreement on Subsidies and Countervailing Measures			
Article 7.3	Replies to questionnaire on import licensing procedures	G/LIC/N/3/IND/13	16/09/2013
Article 25	Semi-annual report	G/SCM/N/274/IND	10/09/2014
Article 25	Notification pursuant to Article XVI.1 of the GATT and Article 25 of the Agreement	G/SCM/N253/IND and G/SCM/N/253/Suppl. 1	02/05/2014 21/11/2014
Agreement on Safeguards			
Article 12.1(a)	Initiation of an investigation	G/SG/N/6/IND/40	21/10/2014
Article 12.1(b)	Preliminary finding of serious injury and to impose a measure	G/SG/N/8/IND/26/Suppl.1; G/SG/N/10/IND/17/Suppl.1; G/SG/N/11/IND/12/Suppl.1	22/10/2014
Article 12.1(b)	Finding of serious injury and proposal to impose a measure	G/SG/N/8/IND/27; G/SG/N/10/IND/18; G/SG/N/11/IND/13	16/10/2014
Article 12.6	Notification of laws, regulations and administrative proceedings relating to safeguard measures	G/SG/N/1/IND/3/Suppl.1	25/09/2012
Agreement on Technical Barriers to Trade			
Article 2.9	Proposed technical regulation	G/TBT/N/IND/46	24/10/2013
General Agreement on Trade in Services			
Article V	Notification of Economic Integration Agreement	S/C/N/599	12/09/2011

Source: WTO Secretariat.

2.18. India also remains active in taking issues to the WTO Dispute Settlement Mechanism. During the period under review it was involved in three disputes each as complainant and as defendant (Table 2.2). In addition, it was involved in 29 disputes as a third party.

Table 2.2 WTO dispute settlement cases involving India as complainant, respondent, 2011-13 March 2015

Dispute	Member	Status (July 2014)	WTO document series
India as respondent			
Certain taxes and other measures on imported wines and spirits	EU	Consultations commenced on 22 September 2008	WT/DS380
Measures concerning the importation of certain agricultural products from the United States	United States	Panel report circulated on 14 October 2014; Appeal by India	WT/DS430

Dispute	Member	Status (July 2014)	WTO document series
Certain measures relating to solar cells and solar modules	United States	Panel established 23 May 2014 and composed on 29 September 2014	WT/DS456

Source: WTO Secretariat.

2.3.2 Regional and preferential agreements

2.3.2.1 Regional trade agreements

2.19. While India remains a supporter of multilateral trade liberalization, like other WTO Members it has negotiated a number of regional trade agreements. India currently has a network of 15 RTAs in force that have been notified to the WTO. These are mainly with its neighbours and other Asian countries. In addition, it has a few RTAs with countries in Latin America (Chile, MERCOSUR), and is a party to the Global System of Trade Preferences (GSTP) but these are partial in their scope and cover very few tariff lines (Table A2.1).

2.20. Since the previous Review in 2011, two agreements, with Malaysia and Japan, have entered into force. In addition, the parties to the South Asian Free Trade Area (SAFTA) have now completed negotiations to add services commitments to the Agreement, although this has not yet been notified to the WTO. India is also party to an early harvest agreement in goods with Thailand but this has also not been notified to the WTO. According to the authorities the process to notify these agreements will be initiated in consultations with India's trading partners. On 9 September 2014, India signed the Trade in Services and Investment Agreement with ASEAN (the Agreement on Goods has been in force since 1 January 2010 and was notified by the parties to the WTO). The Services and Investment Agreement is expected to come into force on 15 July 2015.

2.21. With regard to its RTA negotiations, India has made "early announcements" of negotiations with the European Union, EFTA, SACU and the Bay of Bengal Initiative on Multi-Sectoral Technical and Economic Cooperation (BIMSTEC) with Bangladesh, Bhutan, Myanmar, Nepal, Sri Lanka and Thailand. Negotiations are also ongoing with Australia, Canada, GCC, Indonesia, Israel and New Zealand and being considered with Egypt and Mauritius. Finally, India is also a party to negotiations on a Regional Comprehensive Economic Partnership (RCEP) Agreement between the 10 members of the Association of South East Asian Nations (ASEAN) and six of their FTA partners (Australia, China, India, Japan, the Republic of Korea and New Zealand); negotiations which commenced in August 2012 are expected to be completed by end 2015.

2.22. Out of 15 RTAs notified by India to the WTO, four include provisions on services as well as goods (with the Republic of Korea, Malaysia, Japan, and Singapore) although, as noted, the SAFTA Trade in services (SATIS) agreement is in force but not notified to the WTO while India and ASEAN have recently signed a Services and Investment Agreement. India's tariff liberalization in its RTAs tends to vary greatly depending on the negotiating partner. Among its notified RTAs that have been considered by either the Committee on Regional Trade Agreements or the Committee on Trade and Development, India's tariff liberalization commitments range from zero tariffs liberalized in the partial scope Agreement with Chile, to 23.6% in its FTA with Singapore, 75.3% with Malaysia and 86.6% with Japan. With ASEAN, India commits to liberalize 75% of its tariff lines for imports from ASEAN countries. According to the authorities partial scope agreements should not be a measure for computing the level of liberalization; liberalization should be looked at only in reference to full scope agreements.

2.23. In services, India's agreements are largely based on a GATS positive list approach and they have made incremental improvements to its GATS commitments. However, as stated by India in its most recent services agreement with ASEAN "all the schedules tabled by India are well within the existing autonomous regime of India"[20], suggesting that while commitments on services go beyond its GATS commitments, India's applied regime remains more liberal.

[20] See Press Release at: http://commerce.gov.in/pressrelease/pressrelease_detail.asp?id=3116.

2.24. There have been concerns expressed in recent years regarding the potentially negative impact of RTAs, notably on Indian industry. The Department of Commerce recently conducted an internal analysis of various FTAs, and found that the utilization of several FTAs by India's FTA partners was not significant.[21] Given the low impact of FTAs on Indian industry, it is not clear what the immediate benefits of existing FTAs are and what if any implications for India's policy there may be on its current RTA negotiations. According to the authorities each negotiation is driven by the overall balance of interests with the specific trading partner(s).

2.3.2.2 Preferential trade arrangements

2.25. India is a recipient of preferences under the Generalized System of Preferences from Australia, Canada, the European Union, Japan, New Zealand, Norway, Switzerland, Turkey, the United States and the Customs Union between Belarus, Kazakhstan and the Russian Federation.

2.26. Since 13 August 2008, India also provides duty free and quota free treatment (Duty Free Tariff Preference Scheme) to least developed countries following the WTO Hong Kong Ministerial Declaration of December 2005.[22] The scheme is open to all LDCs, and as of 1 January 2015 31 LDCs had indicated their interest in the scheme and therefore received preferential treatment.[23] The scheme was to reduce duties on around 85% of the tariff by 20% per year and phase them out over five years. Effective 1 April 2014, the scheme now provides duty free market access on around 96% of India's tariff lines at the HS 6 digit level with 1.8% of the tariff excluded from the scheme.[24] In the 2014/15 tariff, 94.7% of the tariff was covered by the scheme with 94.1% being duty free (Section 3.1.8).

2.3.3 Other agreements and arrangements

2.27. India has signed bilateral investment treaties with 83 countries. Double tax avoidance agreements have been signed with 71 countries.

2.4 Investment Regime

2.4.1 Legal framework for business

2.28. Investment and incorporation of companies is regulated by the Companies Act, 2013. The Act regulates the establishment of domestic and foreign companies, the power and responsibilities of senior management as well as details relating to audits and accounts. Other key legislation includes the Industries (Development and Regulation) Act 1951 which guides Government industrial policy objectives. The Indian Contract Act 1872 governs transactions relating to industry and trade, while the Industrial Disputes Act 1947 determines the settlement of industrial disputes. Other Acts that are relevant for business are the Competition Act of 2002, and laws and regulations relating to intellectual property rights (see further details in Section 3.3.5).

2.29. Foreign investors can establish in India through multiple routes: as a branch, as joint ventures with Indian partners, as a limited liability company or a wholly-owned subsidiary. There are certain advantages to incorporation as a domestic company. They are required to obtain approval from the Reserve Bank of India and are subject to policies, FDI limits and sectoral legislation relating to foreign investment (see below).

2.30. Establishing a company in India requires investors to register or obtain licences from various Government agencies, both in the Central and relevant State Governments. This is time-consuming and confusing. The Department of Industrial Policy Promotion based in the

[21] According to a speech by the Secretary of Commerce to a meeting of the Confederation of Indian Industries, "of Japan's total trade with India, only 22% could be attributed to the FTA, Malaysia 3.47%, ASEAN 17%, and Rep. of Korea 25%". *Financial Express,* 27 October 2014. Viewed at: http://indianexpress.com/article/business/economy/commerce-industry-secys-speak-in-different-tones-on-fta-impact/.

[22] See WTO documents G/C/W/651 and WT/COMTD/N/38, 12 September 2011.

[23] According to the scheme, in order to benefit from preferences individual LDCs were required to submit to the Government of India a letter of intent and details of officials who would be responsible for issuing certificates of origin as prescribed by the scheme.

[24] Customs Notification No. 8/2014 dated 1 April 2014.

Ministry of Commerce and Industry (DIPP) indicates that some 16 steps must be completed before an investor can establish a company. This has led to India being consistently ranked poorly by the World Bank's "starting a business" ranking (179 out of 189 economies in 2014 compared to 177 in 2013).[25] To streamline the process, the Government through the DIPP is establishing "eBiz", a web-based portal which is a one-stop shop for delivery of services to investors by the Government which is expected to address the needs of business from inception through its lifecycle. This is expected to significantly reduce the amount of time and money spent by investors in obtaining licences to start a business.[26] According to the September 2014 "Make in India" initiative of the new Government, all Central and State Government departments and ministries were expected to be integrated in eBiz by end-2014. The project which is being operated as a public-private partnership covers five pilot States during the first year covering 65 services (18 central Government and 47 State services, with a further 21 (8 Central and 13 State) services to be added during the second and third years of the project. The project is also expected to be extended to a further five States. The Government expects to provide over 200 State and central Government services through this platform during the next seven years.

2.4.1.1 Compulsory Industrial licensing

2.31. The Industries (Development and Regulation) Act, 1951 enables the Government "to direct investment into desired channels of industrial activity, *inter alia,* through the mechanism of licensing keeping with national development objectives and goals".[27] Thus in addition to procedures for establishment, industrial licences are required for investing in certain industries and sectors. These industries (Table 2.3) remained unchanged from the time of the previous Review. In addition to these industries, licences are required for investment by non-medium and small-scale enterprises manufacturing items reserved for the medium- and small-scale sector.[28]

Table 2.3 Industries for which industrial licences are compulsory, 2014

Industry
Electronic aerospace and defence equipment
Industrial explosives including detonating fuses, safety fuses, gunpowder, nitrocellulose and matches
Cigars and cigarettes of tobacco and manufactured tobacco substances (new licences for which have been discontinued since 1999 on health grounds)
Specified hazardous chemicals: hydrocyanic acid and its derivatives; phosgene and its derivatives; and isocyanates and diisocyantes of hydrocarbon not elsewhere specified
The distillation and brewing of alcoholic drinks

Source: Department of Industrial Policy and Promotion, *Annual Report 2012-2013*. Viewed at: http://commerce.nic.in/MOC/publications.

2.32. There are also two industries reserved for the public sector: atomic energy and railway operations other than construction, operation and maintenance of: (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 line or sidings including electrified railway lines and connections to main railway lines; and (x) mass rapid transport systems.[29] Investors in all other sectors and industries do not require approval from the Government but must file an "Industrial Entrepreneurs Memorandum" (IEM) with the Secretariat for Industrial Approval (SIA) in the DIPP. Procedures for filing the IEM have been simplified by making it possible to do so electronically since January 2014. The IEM, according to the authorities, is required principally for data collection purposes on investment and type of industrial activity. Industrial licences are valid for an initial period of three years following which they are extendable for up to a maximum period of seven years.[30] If the licensee commences production during this period, the licence continues to be valid.

[25] International Finance Corporation and the World Bank (2014).
[26] Viewed at: http://dipp.nic.in/English/Ebiz/Integrated_MMP-eBiz.pdf. The e-Biz portal is available at: https://www.ebiz.gov.in/home/.
[27] Department of Industrial Policy and Promotion (2014a).
[28] Department of Industrial Policy and Promotion (undated).
[29] Department of Industrial Policy and Promotion Notification No. S.O. 2113 (E) on 22 August 2014.
[30] Department of Industrial Policy and Promotion (2014b).

2.33. In November 2011, the DIPP also notified the National Manufacturing Policy (NMP) whose overall goal is to raise the share of manufacturing in GDP to 25% and create 100 million jobs over a decade or so. To implement the policy, national investment and manufacturing zones (NIMZs) have been created which provide infrastructure, land use on the basis of zoning, clean and energy-efficient technology and social infrastructure and skill development facilities.[31] The NIMZs are to be declared industrial townships with their own planning and investment clearance facilities. According to the authorities these will be different from special economic zones (SEZs) in terms of size, infrastructure, governance structures related to regulatory procedures, exit policies and fiscal incentives. The NIMZ will be much larger – a minimum of 5,000 hectares, compared to 500 hectares for a SEZ – although sector-specific NIMZs can be as small as 50 hectares; incentives for the NIMZ will include assistance with water and environment audits, easing access to finance, rationalization and simplification of business regulations, as well as for acquiring technology, compared to tax incentives provided for SEZs. The NIMZ must be declared so by the relevant State Government under the Constitution so that it can function as a self-governing and autonomous body while the SEZ operates under its own Act (SEZ Act, 2005).

2.34. In addition to compulsory industrial licensing and reservations for the public sector, environmental clearance under the Environment Protection Act, 1986, is required from the Ministry of Environment and Forests, for 29 industries prior to establishing industrial units.[32] At the level of State Governments, companies are subject to land use, and industrial location laws. Most States also provide incentives for investment.

2.4.1.2 Micro, small and medium enterprises

2.35. Micro, small and medium enterprises (MSMs) as defined in the Micro, Small and Medium Enterprises Development Act, 2006 (Section 3), account for around 8% of India's GDP, 45% of manufacturing output and 42% of exports, and provide employment for a significant share of the population according to estimates by the Ministry of Micro, Small and Medium Enterprises.[33] Historically, in order to support these enterprises, the production of certain products could only be carried out by them. The number of such reserved items has been reduced gradually over the years with around 20 items currently on the list (see Section 3.3.1.4).[34] Despite this reservation, approved non-medium and small-scale companies may also produce items reserved for the MSMs on condition they obtain an industrial licence from the DIPP and undertake to export at least 50% of their annual production.

2.4.2 Foreign investment

2.4.2.1 Policy

2.36. India's foreign investment policy has been consolidated in the Circular on Consolidated FDI Policy which is updated every year by the DIPP; the latest version available has been updated up to 17 April 2014.

2.37. It is implemented through the Foreign Investment Promotion Board (FIPB) comprising representatives from the Departments of Economic Affairs, Industrial Policy and Promotion, and Commerce and the Ministries of External Affairs and Overseas Indian Affairs. The FIPB can also co-opt senior officials from other Ministries, financial institutions, and industrial sectors as and when required.

2.38. There are two main routes for FDI in India: the automatic route requires investors to register with the regional office of the Reserve Bank of India (RBI) and provide information to the

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[31] To date 17 NIMZs have been given approval in principle.

[32] The industries include petrochemical complexes and petroleum refineries, cement, thermal power plants, bulk drugs, fertilizers, dyes and paper.

[33] Ministry of Micro, Small and Medium Enterprises online information. Viewed at: http://msme.gov.in/Web/Portal/New-Default.aspx.

[34] The products at the 6 and 8 digit classification include pickles and chutneys, bread, edible oils, wooden furniture and fixtures, exercise books and registers, some chemical and chemical products, glass bangles and some metal products. The full list is available in Annex V of the Annual Report of the Ministry of Micro, Small and Medium Enterprises 2012-13. Viewed at: http://msme.gov.in/WriteReadData/DocumentFile/ANNUALREPORT-MSME-2012-13P.pdf.

RBI within 30 days of inward investment or issuing shares to non-resident shareholders. The non-automatic route requires approval from the Government through an application to the FIPB. Most sectors are currently open for investment through the automatic route (except for investment by citizens of Bangladesh and Pakistan, which are subject to Government approval). FDI remains prohibited in certain agricultural activities, gambling and lotteries and real estate (Table 2.4). Those which require Government approval include tea, including plantations, defence, titanium mining, pharmaceuticals (brownfield), some broadcasting services, print media, telecommunications (above 49%), public and private banks (above 49%), non-scheduled air transport services (above 49%) as well as retailing services (above 49% for single brand and up to 51% for multi-brand) (Table A2.2).

2.39. For activities that require prior Government approval, the FIPB considers all investment valued at below Rs 12,000 million (around US$200 million); FDI above this amount is considered by the Cabinet Committee on Economic Affairs as are any other proposals referred to it by the FIPB of the Minister of Finance.

2.40. Since the previous Review in 2011, a number of changes have been made to investment policies. The key changes include permitting FDI in limited liability partnerships; FDI up to 100% is permitted in pharmaceuticals (greenfield and brownfield, the latter subject to Government approval); FDI through the automatic route is now permitted for petroleum-refining by the public sector enterprises of up to 49%, up to 100% in courier services, up to 49% in commodity exchanges, up to 74% (raised from 49%) for credit information companies, and up to 49% in infrastructure companies in the Securities Market and in power exchanges; in air transport services foreign airlines have been allowed to invest in the capital of Indian companies operating scheduled and non-scheduled air transport services, up to 49% (including both FDI and Foreign Institutional Investment) of their paid up capital, subject to approval by the FIPB and compliance with other relevant Government regulations; a lifting of FDI limits in single-brand product retail trading from 51% to 100% including up to 49% through the automatic route; and the introduction of FDI up to 51% in multi-brand trading subject to Government approval; for single- and multi-brand retailing other conditions also apply including local sourcing of up to 30% from Indian "small industries" and establishment only in cities with a population of above 1 million (Table A2.2).[35]

Table 2.4 Sectors in which FDI is prohibited, 2014

Sector
Agriculture other than floriculture, horticulture, apiculture, and cultivation of vegetables and mushrooms under controlled conditions; development and production of seeds and planting materials; animal husbandry (including breeding of dogs), pisciculture, aquaculture, under controlled conditions; and services related to agro and allied sectors
Plantations other than tea plantations
Lottery business including government/private and online lotteries etc.
Gambling and betting, including casinos etc.
Chit funds
Nidhi company
Trading in transferable development rights (TDRs)
Real-estate business or construction of farm houses
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 (see Table A2.1))

Source: Department of Industrial Policy and Promotion (DIPP), Consolidated FDI Policy Circular of 2014 (effective from 17 April 2014), 17 April 2014; DIPP, Press Note No. 8 (2014 Series), 27 August 2014; and WTO (2011), *Trade Policy Review: India*, Geneva.

2.41. Most recently (on 25 September 2014) as part of the "Make In India" campaign, the Government raised the FDI limit in defence from 26% to 49% and permitted portfolio investment in defence up to 24% through the automatic route. In addition, up to 100% FDI will be permitted in defence industries for "modern state-of-the-art technology" on a case-by-case basis. FDI of up to 100% through the automatic route has also been permitted in certain railway infrastructure activities such as high-speed trains, dedicated freight lines, railway electrification, signalling,

[35] Multi-brand retailing is also subject to State Government approval and a few States have decided not to go ahead with FDI in this sector.

passenger and freight terminals and mass rapid transport systems.[36] In the construction development sector, the Government has relaxed requirements for the minimum area and capitalization norms (which will not apply to investors which commit at least 30% of the total project cost for low-cost affordable housing) and the exit provisions for foreign investors. With the passage of amending legislation in March 2015, the FDI limit in an Indian insurance company has been raised from 26% to 49%.

2.42. India has bilateral investment promotion and protection agreements (BIPAs) that are in force with 72 countries and regions. In addition, Bilateral Investment Treaties (BITS) with 14 countries have been signed but are not yet in force.[37]

2.4.2.2 Incentives

2.43. A number of investment incentives are provided both by the central and State Governments to encourage investment in certain regions or activities (Section 3.3.1). In September 2014, the Government launched the "Make in India" programme which encourages investment in industry and services.[38]

[36] Make in India online: New Initiatives information. Viewed at http://www.makeinindia.com/policy/new-initiatives/.

[37] Ministry of Finance online information, Bilateral Investment Promotion and Protection Agreements (BIPA). Viewed at: http://finmin.nic.in/bipa_index.asp?pageid=1.

[38] Viewed at: http://dipp.nic.in/English/Investor/make_in_india/Main_Brochure.pdf highlights some of the facilities and incentives available for investors in the targeted sectors.

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1 Measures Directly Affecting Imports

3.1.1 Customs procedures and requirements

3.1. Since its last Trade Policy Review in 2011, the main changes in India's customs procedures have included the adoption in 2011 of self-assessment with a view to facilitating trade.[1] In accordance with Sections 17, 18 and 50 of the Customs Act 1962 and the Bill of Entry (Electronic Declaration) Regulations 2011, and Shipping Bill (Electronic Declaration) Regulations 2011, importers/exporters are required to declare the correct description, value, classification, notification number (if any), and assess the Customs duty leviable (if any) on imports/exports themselves. The declaration may be reassessed or examined by Customs officers. Non-compliant importers/exporters may face penal action on account of wrong self-assessment made with intent to evade duty or avoid compliance of conditions of relevant legal and administrative provisions.

3.2. With a few exceptions, importers- Indian or foreign nationals- must obtain an importer-exporter code (IEC) number by registering with the Directorate General of Foreign Trade (DGFT) in order to be able to import commercially (Table A3.1). Online registration is available.[2]

3.3. Imports into India can be classified as: imports for home consumption, warehousing, transhipment, transit, re-importation, and imports for special economic zones (SEZs).[3] All imports for home consumption require clearance of goods after payment of the duties and charges. Importers must file a bill of entry, which may be processed manually or through the electronic data interchange system. As at end October 2014, 126 customs offices out of the total of 377 offices had electronic data interchange (EDI) facilities; about 98% of declaration documents were processed electronically.[4] The bill of entry may be filed prior to the arrival of the goods to allow for faster clearance, but no earlier than 30 days before the arrival date of the vessel or aircraft carrying the goods.

3.4. India uses a risk management system (RMS) as a trade facilitation measure to selectively screen only high and medium-risk cargo for customs examination. As at end October 2014, about 97.6% of India's imports was processed via RMS.[5] The authorities indicate that RMS for processing imports is operational at almost all customs offices.

3.5. Importers with a good track record and complying with qualifying criteria are entitled to be accredited for special clearance procedures under the Accredited Client's Programme (ACP). As at 31 October 2014, 251 ACP importers were allowed to self-assess their consignments with no need for examination, with a view to meeting India's commitments to simplify and harmonize Customs' procedures under the revised Kyoto Convention.

3.6. To import specific goods, in certain instances, certificates of registration and import permits (e.g. certificates of origin and sanitary and phytosanitary certificates) issued by different agencies are required. These certificates must be submitted at the time of filing the bill of entry.

3.7. Regarding time required for customs clearance, the mean evacuation time for import consignments at Chennai Port was 8 days and 19 hours, according to a study conducted by the Central Board of Excise and Customs. The authorities consider that the introduction of EDI, RMS, e-Payment, the ACP as well as direct delivery of containers at the port rather than clearing them

[1] Central Board of Excise & Customs, "Customs Manual on Self-assessment 2011". Viewed at: http://www.cbec.gov.in/deptt_offcr/cs-self-assesmt2011-manual.pdf.

[2] DGFT online information. Viewed at: http://dgft.gov.in/exim/2000/IECONLINEHelp.pdf and http://dgft.gov.in/exim/2000/download/Appe&ANF/ANF2A.pdf.

[3] See WTO (2011) for the details of customs procedures for import into warehousing, transhipment, transit, re-importation, and imports for special economic zones (SEZs).

[4] Information provided by the authorities.

[5] In 2011, RMS was available at 60 customs offices covering 99.6% of the total imports. WTO document WT/TPR/M/249/Add.1, 14 October 2011.

after being brought to the container freight stations, and a provision for self-assessment contributed to the reduction of customs clearance time.[6]

3.8. If the importer is not satisfied with the assessment (i.e. the classification, rate of duty or valuation) by the customs officer, the importer may appeal against a decision made in writing by an officer ("assessment order") to the Appeals Commissioner or the Customs, Excise, and Service Tax Appellate Tribunal (Customs Act 12962, Sections 128-129). In 2013-14, 11,649 and 1,992 appeals were submitted to the Commissioner and the Tribunal, respectively (compared with 8,286 and 2,518 appeals, respectively, in 2012-13).

3.9. In regard to the Agreement on Trade Facilitation, India has not yet submitted its Category A notification to the Secretariat.

3.1.1.1 Preshipment inspection

3.10. Since 2011, there has been no change in India's preshipment inspection requirements for its imports. Preshipment inspection is required for shredded and unshredded metallic waste and scrap, second-hand and defective steel products, and certain textile and clothing articles.[7]

3.1.2 Customs valuation

3.11. Since 2011, there has been no major change in customs valuation on imports adopted by India. Its main legislation regulating customs valuation includes the Customs Act 1962 (Section 14), as amended, and the Customs Valuation (Determination of Price of Imported Goods) Rules 2007. Under the Act, it is stipulated that determination of value of imports should be based on the transaction value, which is defined as the price actually paid or payable for the goods when sold for export to India, including any amount paid or payable for costs and services (e.g. commissions and brokerage, royalties and licence fees, transport and insurance costs, and handling charges)[8]. A landing charge (for loading, unloading, and handling) of 1% of the c.i.f. value is added to the c.i.f. value.[9]

3.12. Nonetheless, the Central Board of Excise and Customs is authorized by notification in the Gazette of India to fix reference prices ("tariff values") for any type of imported (exported) goods, in accordance with Section 14(2) of the Customs Act 1962. On 16 January 2012, a notification concerning the introduction of reference prices to imports of gold and silver was issued; the changes entered into force on 17 January 2012.[10] On 25 June 2013, areca nuts were made subject to reference prices.[11] The authorities state that tariff values are revised every two weeks and are adjusted to align with international market prices (Table 3.1).

Table 3.1 Tariff values (reference prices), 2009-14

HS code	Description	Tariff value (US$/tonne)					
		2009	2010	2011	2012	2013	2014
1511.10.00	Palm oil (crude)	447	447	447	447	892	669
1511.90.10	Palm oil (RBD)	476	476	476	476	922	696
1511.90.90	Palm oil (others)	462	462	462	462	907	683
1511.10.00	Palmolein (crude)	481	481	481	481	925	700
1511.90.20	Palmolein (RBD)	484	484	484	835	928	703
1511.90.90	Palmolein (others)	483	483	483	483	927	702
1507.10.00	Soyabean oil (crude)	580	580	580	580	958	843
7404.00.22	Brass scrap (all grades)	3,476	4,320	3,993	4,090	3,940	3,697
1207.91.00	Poppy seeds	3,144	3,445	1,970	4,870	3,195	3,747
71 or 98	Gold (US$ per 10 grams)	n.a.	n.a.	n.a.	539	392	392

6 WTO document WT/TPR/M/249/Add.1, 14 October 2011.
7 WTO (2011).
8 Transport cost includes the ship demurrage charges on charted vessels and barge charges.
9 The landing charges are applied at the same rate regardless of the mode of transport. WTO document WT/TPR/M/249/Add.1, 14 October 2011.
10 Customs (non-tariff) Notification No. 3/2012, 16 January 2012.
11 Customs (non-tariff) Notification No. 67/2013, 25 June 2013.

HS code	Description	Tariff value (US$/tonne)					
		2009	2010	2011	2012	2013	2014
71 or 98	Silver (US$ per kilogram)	n.a.	n.a.	n.a.	979	638	519
080280	Areca nuts	n.a.	n.a.	n.a.	n.a.	1,816	2,183

n.a. Not applicable.

Note: "Tariff values" for poppy seeds were introduced through Customs (non-tariff) Notification No. 116/2007, 3 December 2007. Reference prices are for end-year.

Source: Customs (non-tariff) Notifications Nos. 188/2009, 31 December 2009; 03/2010, 31 December 2010; 89/2011, 30 December 2011; 115/2012, 31 December 2012; 134/2013, 31 December 2013; and 117/2014, 31 December 2014.

3.13. The transaction value is not used if "reasonable doubt" arises on the accuracy of the declared value, or in the event, *inter alia,* where: (1) there are certain restrictions on disposition or use of the goods by the buyer; (2) the sale or price is subject to condition or consideration for which a value cannot be determined; (3) part of the proceeds of any resale, disposal or use of the goods by buyer will accrue directly or indirectly to seller; or (4) the buyer and seller are related.[12] If the transaction value is not used, the value is determined according to other methods, in sequential order: transaction value of identical goods; transaction value of similar goods; deductive value; computed value; and residual method.

3.14. The transaction value is also generally used to assess the additional duty on imports. Nonetheless, for imports of some packaged goods, which, if produced domestically, would be subject to a maximum retail price (MRP), the value of the goods is determined using the MRP declared on the package minus an "abatement" for like domestic goods.[13]

3.15. India maintains, in the WTO, the special and differential treatment provisions invoked under the Tokyo Round Agreement[14]; it continues to maintain a reservation concerning the reversal of the sequential order of Articles 5 and 6, and a reservation to apply Article 5.2 whether or not the importer so requests.[15]

3.16. Importers may file an appeal against customs decisions on valuation matters to the Appeals Commissioner or the Customs, Excise, and Service Tax Appellate Tribunal (Customs Act 1962, Sections 128-129).[16]

3.1.3 Rules of origin

3.17. Changes in India's rules of origin since 2011 include the adoption of preferential rules of origin with regard to imports from Malaysia and Japan under bilateral FTAs, which entered into force on 1 July 2011 and 1 August 2011, respectively. India does not apply non-preferential rules of origin. Preferential rules of origin are applied under regional and bilateral trade agreements (Table 3.2). Maximum foreign-content requirements range from 30% to 70%; other criteria to determine origin are sufficient transformation and change in tariff classification.

Table 3.2 General rules of origin under trade agreements, 2015[a]

Agreements	Maximum foreign-content requirements	Minimum cumulative local-content requirements
Regional		
Asia-Pacific Trade Agreement (APTA)	55% of the f.o.b. value (LDCs: 65%)	60% of the f.o.b. value (LDCs: 50%)
Global System of Trade Preferences (GSTP)	50% of the f.o.b. value (LDCs: 60%)	60% of the f.o.b. value (LDCs: 50%)
South Asian Free-Trade Area (SAFTA)[b]	60% of the f.o.b. value (LDCs: 70%; Sri Lanka: 65%) and change in tariff heading[c]	50% of the f.o.b. value (20% of the f.o.b. value as domestic value content in the exporting country) and change in tariff heading

[12] Rule 3(2) of the Customs Valuation Rules 2007.
[13] See WTO (2011), Chapter III(2)(ii) for details.
[14] WTO document WT/L/38, 15 February 1995.
[15] WTO document G/VAL/W/233, 16 September 2013.
[16] WTO document G/VAL/W/173, 29 October 2008.

Agreements	Maximum foreign-content requirements	Minimum cumulative local-content requirements
South Asia Preferential Trade Arrangement (SAPTA)	60% of the f.o.b. value (LDCs: 70%)	50% of the f.o.b. value (LDCs: 40%)
Bilateral		
Afghanistan	50% of the f.o.b. value and change in tariff heading	40% of the f.o.b. value (30% of the f.o.b. value as domestic value content in the exporting country) and change in tariff heading
ASEAN[b]	65% of the f.o.b. value and change in tariff sub-heading[d]	35% of the f.o.b. value and change in tariff sub-heading
Bhutan	n.a.	n.a.
Chile	60% of the f.o.b. value[d] and change in tariff heading	40% of the f.o.b. value and change in tariff heading
Korea, Rep. of[b]	65% of the f.o.b. value and change in tariff sub-heading	35% of the f.o.b. value and change in tariff sub-heading
MERCOSUR	40% of the f.o.b. value	60% of the f.o.b. value
Nepal	70% of the f.o.b. value and change in tariff heading	30% of the f.o.b. value and change in tariff heading
Singapore[b]	60% of the f.o.b. value and change in tariff heading	40% of the f.o.b. value and change in tariff heading
Sri Lanka	65% of the f.o.b. value and change in tariff heading	35% of the f.o.b. value (25% of the f.o.b. value as domestic value content in the exporting country) and change in tariff heading
Thailand[d]	60% of the f.o.b. value and change in tariff heading	40% of the f.o.b. value and change in tariff heading
Japan	65% of the f.o.b. value and change in tariff sub-heading	35% of the f.o.b. value and change in tariff sub-heading
Malaysia	65% of the f.o.b. value and change in tariff sub-heading	35% of the f.o.b. value and change in tariff sub-heading
Other preferential areas		
Least-developed countries	70% of the f.o.b. value and change in tariff heading	30% of the f.o.b. value and change in tariff heading

n.a. Not applicable.

a Applicable to goods not wholly originating and subject to compliance with other conditions specified in the rules of origin chapter.
b Product-specific rules of origin apply.
c "Change in tariff heading" denotes change at the HS 4 digit level.
d "Change in tariff sub heading" denotes change at the HS 6 digit level.

Note: Rules of origin are not covered under the India-Bhutan preferential trade agreement.

Source: Department of Commerce online information, "International Trade: Trade Agreements". Viewed at: http://www.commerce.nic.in/trade/international_ta.asp?id=2&trade=I; Customs General Exemption Nos. 70 and 71. Viewed at: http://www.cbec.gov.in/customs/cst-809/cs-gen66-90.pdf; and information provided by the Indian authorities.

3.1.4 Tariffs

3.1.4.1 Applied tariffs

3.18. Customs duties are levied and collected under Section 12 of the Customs Act, 1962 and the Customs Tariff Act, 1975. The standard rate of tariff is the statutory duty prescribed in the First Schedule to the Customs Tariff Act. Changes to the statutory duty are announced with the annual Budget at the end of February each year (India's fiscal year runs from April to March). However, the "effective" tariff rate at any given time of the year, can be considerably different from the statutory rate due to general and "end-user" based exemptions which lower the standard rate for certain users and adjustments made to the tariff through notifications issued in the Gazette of India which may lower or raise the standard rate. The effective tariff can therefore vary throughout the year due to these changes which add to the complexity of the tariff and uncertainty for traders.

3.19. In addition to the standard rate, other duties are charged at the border. These are: additional or "countervailing" duty (AD) which is charged in place of excise duties (the Central Value Added Tax or CENVAT charged on a like article produced in India) and the special additional duty (SAD) which is to counterbalance state and local taxes. The general AD is 12.5% as of 1 March 2015 (raised from 12%) although rates range from 6% to 30% (plus specific and compound duties for petroleum products), while the SAD is generally 4%; there are a number of exemptions that apply to these general rates. In addition, there are a number of cesses and charges that are applied to customs duties (Section 3.1.5).

3.20. In 2014-15, India's applied MFN tariff in the HS 2012 nomenclature consisted of 11,481 lines at the eight-digit level.[17] The share of the tariff subject to *ad valorem* rates of duty is 91.2%; there are 3 lines that are subject to specific rates of duty (almonds in shell and shelled, and electrical energy) and 697 lines (compared to 685 lines at the time of the previous Review) carry alternate rates of duty with an *ad valorem* and specific duty component. The alternate rates apply mainly for textiles and clothing but also natural rubber products (the latter were not subject to alternate rates at the time of the last Review). For lines with alternate rates, the Secretariat has only used the *ad valorem* part of the rate in its duty calculations (Table 3.3). *Ad valorem* equivalents were not available. In addition, the effective rate includes any product-specific exemptions announced during 2013-14, up to 1 September 2014; however because India grants exemptions to a number of products on an end-user basis, it is not possible to include all exemptions in the tariff analysis.

Table 3.3 India's tariff structure, 2010-11 and 2014-15[a]

(%, unless otherwise indicated)

	MFN effective applied rate		Final bound[b]
	2010-11	2014-15	
Bound tariff lines (% of all tariff lines)	75.6	74.9	74.9
Simple average rate	12.0	13.0	50.0
WTO agricultural products	33.2	36.4	119.2
WTO non-agricultural products	8.9	9.5	35.5
Duty-free tariff lines (% of all tariff lines)	3.2	2.7	1.4
Simple average rate of dutiable lines only	12.4	13.4	51.0
Non-*ad valorem* tariffs (% of all tariff lines)	6.1	6.1	6.1
Domestic tariff "peaks" (% of all tariff lines)[c]	2.2	2.7	0.6
International tariff "peaks" (% of all tariff lines)[d]	11.9	13.6	73.0
Overall standard deviation of tariff rates	14.2	16.5	40.0
Coefficient of variation of tariff rates	1.2	1.3	0.7
Nuisance applied rates (% of all tariff lines)[e]	0.7	0.02	0.0
Total number of tariff lines	11,328	11,481	8,598
Ad valorem rates	10,277	10,476	7,739
Duty free	361	305	164
Specific rates	5	3	2
Alternate rates	685	697	693

a As at 1 September.
b Final bound rates are based on the 2014 tariff schedule in HS12 nomenclature.
c Domestic tariff peaks are defined as those exceeding three times the overall average applied rate.
d International tariff peaks are defined as those exceeding 15%.
e Nuisance rates are those greater than zero, but less than or equal to 2%.

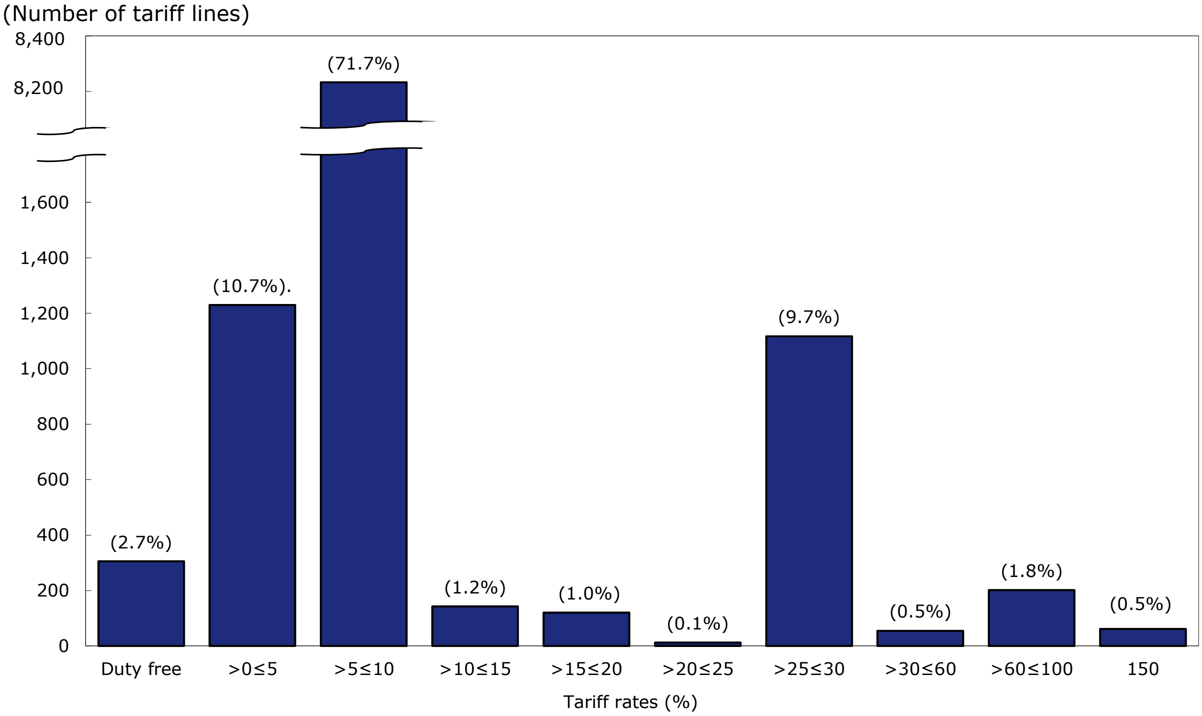
Note: 2010-11 tariff is based on HS07 nomenclature, 2014-15 tariff is based on HS12 (as at 1 September 2014). Calculations for averages are based on national tariff line level (8-digit). Calculations exclude specific rates and include the *ad valorem* part of alternate rates.

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

3.21. There have been no significant changes to the distribution of tariffs since the last Review. Tariff rates range from zero to 150%. Almost 72% of the tariff (up slightly from 71% in 2010-11) is subject to rates ranging from between 5% up to and including 10%. Around 14.5% (13.1% in 2010-11) of the tariff is subject to rates above 10%, with 0.5% of the tariff (mainly alcoholic beverages) having rates of 150% (Chart 3.1). Dispersion in the tariff as measured by the coefficient of variation has increased slightly.

[17] The tariff, as provided by the authorities, is effective as on 1 September 2014. It does not include any changes made through notifications since then.

Chart 3.1 Distribution of MFN applied tariff rates, 2014-15



Note: Calculations exclude specific rates and include the *ad valorem* part of alternate rates. Figures in parentheses denote the share of total lines.

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

3.22. The simple average applied MFN tariff in 2014-15 is 13%, up from 12% at the time of the last Review (2010-11). The overall increase is mainly due to a rise in tariffs in agriculture (WTO definition), whose overall average at 36.4% remains considerably higher than the average for non-agricultural products (9.5%). The increase in the average tariff for agriculture is mainly due to an increase in tariffs for cereals and preparations thereof (from 30.4% in 2010-11 to 40.9% in 2014-15), oilseeds and fats (from 18.5% to 33.2%), and sugars and confectionary (from 33.4% to 41%). Above average tariff protection is also found in a number of other products such as beverages, spirits and tobacco (77.5%), and coffee and tea (74.8%). The average MFN tariff for non-agricultural products also rose from 8.9% to 9.5%, primarily due to increased tariffs on transport equipment from 21.5% to 32.1%. Average tariffs also rose for minerals and metals, chemicals, textiles, leather and rubber and electric machinery (Table 3.4).

Table 3.4 Summary analysis of Indian tariff, 2010-11 and 2014-15

	2010-11 effective tariff (MFN)			2014-15 effective tariff (MFN)			Bound Tariff
	No. of lines	Average (%)	Range (%)	No. of lines	Average (%)	Range (%)	Range (%)
Total	**11,328**	**12.0**	**0-150**	**11,481**	**13.0**	**0-150**	**0-300**
HS 01-24	1,433	35.1	0-150	1,609	37.7	0-150	10-300
HS 25-97	9,895	8.6	0-70	9,872	9.0	0-100	0-150
By WTO definition							
Agricultural products	1,431	33.2	0-150	1,496	36.4	0-150	10-300
Animals and products thereof	106	30.8	5-100	124	30.4	5-100	35-150
Dairy products	32	34.4	30-60	33	34.2	30-60	40-150
Fruit, vegetables and plants	355	27.6	0-100	376	29.0	0-100	10-150
Coffee and tea	75	74.7	17.5-100	75	74.8	30-100	55-150
Cereals and preparations	137	30.4	0-90	142	40.9	0-150	35-150
Oils seeds, fats, oil and their products	196	18.5	0-100	208	33.2	0-100	15-300
Sugars and confectionary	38	33.4	10-60	41	35.4	10-60	45-150

	2010-11 effective tariff (MFN)			2014-15 effective tariff (MFN)			Bound Tariff
	No. of lines	Average (%)	Range (%)	No. of lines	Average (%)	Range (%)	Range (%)
Beverages, spirits and tobacco	123	78.7	7.5-150	126	77.5	5-150	35-150
Cotton	11	5.5	0-30	11	2.7	0-30	100-150
Other agricultural products, n.e.s.	358	25.1	0-70	360	25.2	0-70	25-150
Non-agricultural products	9,897	8.9	0-70	9,985	9.5	0-100	0-150
Fish and fishery products	176	29.5	5-30	287	29.6	0-30	35-150
Minerals and metals	1,912	7.1	0-10	1,920	7.4	0-15	0-40
Chemicals and photographic supplies	2,471	8.1	0-10	2,452	8.2	0-10	0-150
Wood, pulp, paper and furniture	495	9.2	0-10	500	9.2	0-10	25-40
Textiles	1,555	9.6	5-10	1,522	10.0	5-10	10-40
Clothing	397	10.0	10-10	396	10.0	10-10	35-110
Leather, rubber, footwear, travel goods	322	10.2	0-70[a]	329	10.3	0-70[a]	3-40
Non-electric machinery	1,094	7.1	0-10	1,094	7.0	0-10	0-40
Electric machinery	537	6.7	0-10	541	7.0	0-10	0-40
Transport equipment	244	21.5	0-60	244	32.1	0-100[c]	3-40
Non-agricultural products, n.e.s.	676	8.6	0-10	681	8.8	0-10	0-40
Petroleum	18	8.2	0-10	19	4.6	0-10	n.a.
By sector[d]							
Agriculture, forestry and fisheries	621	28.8	0-100	696	29.6	0-100	10-150
Mining	232	5.1	0-10	240	5.3	0-10	5-40
Manufacturing	10,474	11.1	0-150	10,544	12.1	0-150	0-300
Manufacturing excluding food processing	9,605	8.8	0-60	9,574	9.2	0-100	0-150
By stage of processing							
First stage of processing	1,261	22.5	0-100	1,372	23.5	0-100	5-150
Semi-processed products	4,339	8.6	0-60	4,337	9.0	0-60	0-150
Fully-processed products	5,728	12.2	0-150	5,772	13.6	0-150	0-300

n.a. Not applicable.

a Tariff lines with applied rates at 70% are unbound.
b Tariff lines with applied rates at 60% are unbound.
c Tariff lines with applied rates at 100% are unbound.
d ISIC Rev.2 classification. Electricity, gas and water is excluded (1 tariff line).

Note: Calculations exclude specific rates and include the *ad valorem* part of alternate rates.

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

3.23. For several years the "peak" rate of tariff for non-agricultural products has been maintained at 10%, with successive Budgets declaring the intention to reduce peak rates. Tariffs on agricultural and processed products continue to be higher than for semi-manufactured products, reflecting the overall policy to continue to protect agricultural products and to encourage processing of final manufactured products. The wide range of end-user exemptions for industrial use granted in successive annual tariffs also reflects this general policy of encouraging the manufacturing sector. Further reductions to reduce the cost of raw materials were announced in the Budget for 2015-16, including chemicals, and rubber.[18] There is also concern about apparent "inverted" duties (tariffs for primary and intermediate products being higher than for final products) and the Tariff Commission has made a number of recommendations to rectify this inverted duty structure in several industries.[19] The authorities note that such corrections have been made for products like aluminium ingots, and back sheets in recent years. The Budget for

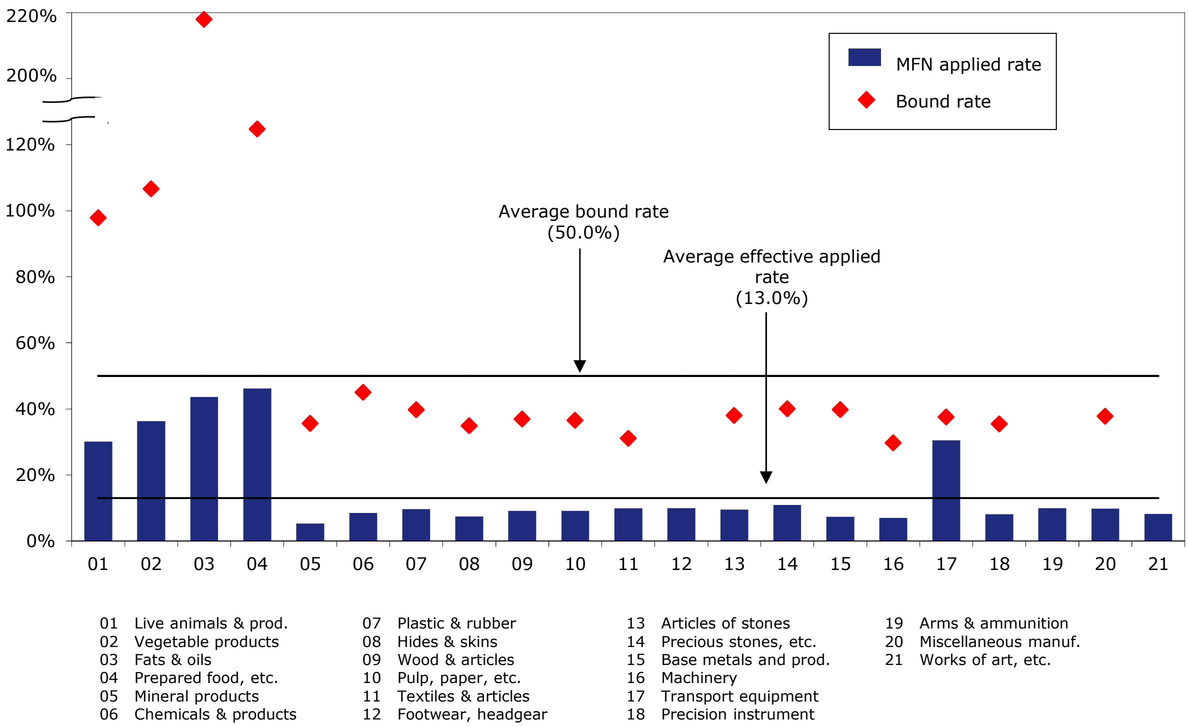
[18] Ministry of Finance (2015).
[19] According to the Tariff Commission, the latest studies include textiles machinery, plastic machinery, shipbuilding, PVC, rubber products, tubes and tyres etc. (Tariff Commission, viewed at: http://tc.nic.in/sectorwise%20list%20upto%202013-14(25th%20april).pdf on 16 January 2015).

2015-16 announces further reductions in duty on certain inputs to address the problem of duty inversion.[20]

3.1.4.2 Bound tariffs

3.24. India completed the implementation of its Uruguay Round tariff commitments in 2005. Around 75% of the tariff is bound, of which 100% for agricultural products and 71.1% for non-agricultural products. Bound tariffs in the main have *ad valorem* rates (90%), with non-*ad valorem* alternate rates found mainly in textiles and clothing, while 2 lines are subject to specific rates of duty. The overall average bound rate is 50% and, like the applied tariff, significantly higher for agricultural products (119.2%, WTO definition) than for non-agricultural products (35.5%) (Chart 3.2). The range of bound rates is also considerably higher for agriculture (10%-300%), compared to zero-150% for non-agricultural products, with the highest averages found in HS Sections I-IV.

Chart 3.2 Average effective applied MFN and bound tariff rates, by HS section, 2014-15



Note: Calculations exclude specific rates and include the *ad valorem* part of alternate rates. Only section 2 is fully bound; sections 12, 19 and 21 are fully unbound.

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

3.25. The considerable gap between applied and bound rates of tariff provides scope for the Government to raise applied tariffs within that margin. Thus the Government reacts to international price changes and domestic pressures to adjust the applied tariff accordingly.

3.26. 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.[21]

3.1.5 Other charges affecting imports

3.27. The AD and SAD continue to be applied to imports in lieu of excise (CENVAT) and local state taxes respectively. The AD, which was introduced in 1975 to offset domestic excise taxes, is currently charged at the general rate of 12.5%, raised from 10% at the time of previous Review.

[20] Ministry of Finance (2015).
[21] WTO document G/MA/307, 1 December 2014.

CENVAT rates range from zero to 14% and in the case of petroleum products have compound rates of duty (with an *ad valorem* rate of 16%). Like the tariff, the CENVAT rates are also changed from time to time through notifications issued by the Government. The SAD is applied at a general rate of 4% which applies to almost the whole tariff (around 90%). It was introduced in 2006 to partially compensate for a range of taxes applied by the States, including sales tax, State value added tax and other charges. These charges vary from State to State and from product to product, but since the SAD is charged on imports at a flat rate of 4% it may not always be equivalent to these charges. In 2007 the Government notified the possibility to refund the SAD paid on imports subsequently sold in India and for which the importer had thus paid the relevant state sales and/or value added taxes.[22] Imports that are exempt from customs duty, either through an exemption notification or by the tariff and the AD, are exempt from payment of the SAD as well.

3.28. In addition, India charges an Education Cess of 2% as well as a Higher Education Cess of 1% on the aggregate of customs duty on all imports. There is also a charge for the National Calamity Fund for goods falling under the Seventh Schedule, which includes tobacco and its products (specific duties or *ad valorem* duties of between 1% and 45%), petroleum oils and motor vehicles (1%) and a Clean Energy Cess on coal, lignite and peat of Rs 200/metric tonne as of 1 March 2015 (originally introduced at Rs 50/MT in 2010/11, and raised to Rs 100/MT in 2013/14); the charge on these products is exempted from the equivalent of the additional duty payable.

3.29. The addition of these duties and charges to the applied tariff raises the actual duty paid by the importer significantly above the effective applied tariff rate. All imports, unless exempt, must pay the effective rate of customs duty, plus the AD, plus any cess applicable, and the Education and Higher Education Cess; the 4% SAD is then calculated as a share of this final value. As a result, the overall average applied tariff including such charges rises from 13% to 28.3%, with the final duty charged for agricultural products (WTO definition) rising from 36.4% to 46.1% and for non-agricultural products from 9.5% to 25.6%. The highest overall averages are found in beverages (alcohol), spirits and tobacco (99.4%), coffee and tea (88%), and transport equipment (58.9%) (Table 3.5). Nevertheless, the authorities note that the final burden of duties borne by imported goods is considerably reduced if imported for further manufacture or provision of services. This is because the credit of these additional duties and charges is available to be set-off against domestic taxes such as Central Excise Duty and Service Tax under the CENVAT Credit Rules. Likewise, a full refund of the SAD can be claimed by an importer once the imported goods are sold in the domestic market on payment of State VAT.

Table 3.5 Summary analysis of India's import charges, 2014-15

		Effective applied rates (MFN)		Total duty rate, incl. extra charges[a]	
	No. of lines	Average (%)	Range (%)	Average (%)	Range (%)
Total	**11,481**	**13.0**	**0-150**	**28.3**	**0-537.5**
HS 01-24	1,609	37.7	0-150	46.2	0-537.5
HS 25-97	9,872	9.0	0-100	25.3	0-186.1
By WTO definition					
Agricultural products	1,496	36.4	0-150	46.1	0-537.5
Animals and products thereof	124	30.4	5-100	36.3	9.4-124
Dairy products	33	34.2	30-60	39.6	30.9-68.3
Fruit, vegetables and plants	376	29.0	0-100	36.8	0-111.1
Coffee and tea	75	74.8	30-100	88.0	36.1-111.1
Cereals and preparations	142	40.9	0-150	52.1	0-191.2
Oils seeds, fats, oil and their products	208	33.2	0-100	39.3	0-115.4
Sugars and confectionary	41	35.4	10-60	56.0	14.7-88.8
Beverages, spirits and tobacco	126	77.5	5-150	99.4	22.9-537.5
Cotton	11	2.7	0-30	3.3	0-36.1
Other agricultural products, n.e.s.	360	25.2	0-70	33.9	0-79
Non-agricultural products	9,985	9.5	0-100	25.6	0-186.1

[22] Customs notification No. 102/2007, 14 September 2007.

	No. of lines	Effective applied rates (MFN) Average (%)	Effective applied rates (MFN) Range (%)	Total duty rate, incl. extra charges[a] Average (%)	Total duty rate, incl. extra charges[a] Range (%)
Fish and fishery products	287	29.6	0-30	35.1	0-44.5
Minerals and metals	1,920	7.4	0-15	23.1	0-31.2
Chemicals and photographic supplies	2,452	8.2	0-10	25.6	0-28.9
Wood, pulp, paper and furniture	500	9.2	0-10	22.7	0-28.9
Textiles	1,522	10.0	5-10	25.7	9.4-28.9
Clothing	396	10.0	10-10	28.6	21.8-28.9
Leather, rubber, footwear, travel goods	329	10.3	0-70[a]	27.0	10.3-79
Non-electric machinery	1,094	7.0	0-10	22.2	9.4-28.9
Electric machinery	541	7.0	0-10	22.8	6-28.9
Transport equipment	244	32.1	0-100	58.9	0-186.1
Non-agricultural products, n.e.s.	681	8.8	0-10	24.3	0-28.9
Petroleum	19	4.6	0-10	11.4	0-26.2
By sector[b]					
Agriculture, forestry and fisheries	696	29.6	0-100	37.0	0-112.7
Mining	240	5.3	0-10	11.1	0-23.9
Manufacturing	10,544	12.1	0-150	28.1	0-537.5
Manufacturing excluding food processing	9,574	9.2	0-100	25.9	0-186.1

a Calculation for averages with extra charges include landing charges, effective customs duty, additional duty, special additional duty, and education cess.
b ISIC Rev.2 classification. Electricity, gas and water are excluded (1 tariff line).

Note: Calculations exclude specific rates and include the *ad valorem* part of alternate rates.

Source: WTO calculations, based on data provided by the Indian authorities; and Big's Easy Reference Customs Tariff, 2014 (35th edition).

3.30. Some of these taxes, such as the AD and SAD, are expected to be subsumed into a single levy once the Goods and Services Tax (GST), which the Government expects to begin implementing in 2016, is adopted by all States.

3.1.6 Tariff concessions

3.31. Under Section 25 of the Customs Act, 1962, the central Government may, by notification in the *Official Gazette*, exempt generally or absolutely or subject to any stated conditions, imports from the whole or part of the customs duty leviable. The majority of such tariff concessions are announced with the Annual Budget through a notification by the Ministry of Finance (Department of Revenue) and are provided under the various schemes to encourage exports and investment (Section 3.3.1). However, tariff concessions and exemptions may also be announced throughout the year through notifications issued in The Gazette of India. The concessions can be either product- and tariff-line-specific but many are also based on end-or industrial-use and therefore difficult to include in the overall analysis of the tariff.

3.32. According to data provided by the authorities and available in the Budget, total customs revenue forgone as a result of tariff concessions is around 25% of total revenue; it has been falling from 39% at the time of the previous Review in 2009-10 to 25.3% expected for 2013-14.

3.1.7 Tariff rate quotas

3.33. India scheduled tariff rate quotas (TRQs) on five lines at the HS six-digit level: skimmed milk powder and whole milk powder, granules or other solid forms (HS 0402.10 and 0402.21), maize (HS 1005.90), sunflower-seed or safflower seed oil and fractions thereof, crude oil (HS 1512.11), and rape, colza or mustard oil and fractions thereof (HS 1514.90).[23] These are

[23] India's Schedule of Tariff Concessions—Schedule XII (WTO document WT/LET/440, 4 April 2003).

equivalent to 12 tariff lines at the eight digit level (Table 3.6). The quotas are allocated by the DGFT and the eligible importers are state-trading companies including the National Dairy Development Board (NDDB), the National Agricultural Cooperative Marketing Federation of India (NAFED), State-Trading Corporation (STC), Minerals and Metals Trading Corporation (MMTC), the Projects and Equipment Corporation of India (PEC), Spices Trading Corporation Limited (STCL) and State Cooperative Marketing Federations, depending on the product. Imports by these importers may only take place on behalf of actual users and must be cleared by customs before 31 March of each financial year.[24]

Table 3.6 Products subject to tariff rate quotas, 2010-14

Description	Code	In quota rate	Out of quota (MFN) rate	Annual quota quantity (in-quota imports) (metric tonnes)			
				2010-11	2011-12	2012-13	2013-14
MFN TRQs							
Skimmed milk and cream in powder or granules or other solid forms	0402.10 0402.21	15%	60%	30,000 (raised to 50,000)	50,000	10,000	10,000
Maize (corn), other than seed quality	1005.90	zero	50%	450,000	450,000	500,000	500,000
Crude sunflower or safflower seed oil	1512.11	50%	2.5% for sunflower and 75% for safflower	150,000	150,000	150,000	150,000
Rape, colza or mustard oil and fractions thereof	1514.90	45%	75% for crude and 10% for refined.	150,000	150,000	150,000	150,000
Natural rubber	4001.21 4001.22 4001.29	7.5%	20% or Rs 30, whichever is lower	40,000	40,000	n.a.	n.a.
Butter and other fats	0405.10 0405.90.10 0405.90.20	zero	30%	15,000	15,000	15,000	15,000
Preferential TRQs							
India-Sri Lanka FTA							
Textiles and clothing	HS 61 and HS 62	5%	10%	8 million pieces (at least 6 million from fabrics of Indian origin)	8 million pieces (at least 6 million from fabrics of Indian origin)	8 million pieces (at least 6 million from fabrics of Indian origin)	8 million pieces (at least 6 million from fabrics of Indian origin)
Tea	2101	15%	30%	15 million kg	15 million kg	15 million kg	15 million kg
Bangladesh (SAFTA)							
Textiles and clothing	HS 61 and HS 62	zero	10%	8 million pieces	10 million pieces	n.a.	n.a.
Dessicated coconut	08011100	30%	70%	500	500	500	500

[24] WTO document G/AG/N/IND/4, 7 March 2011.

Description	Code	In quota rate	Out of quota (MFN) rate	Annual quota quantity (in-quota imports) (metric tonnes)			
				2010-11	2011-12	2012-13	2013-14
Pepper	0904	zero	zero	2,500	2,500	2,500	2,500
Vanaspati, bakery shortening and margarine	1516, 1517, or 1518	zero	zero	250,000	250,000	250,000	250,000

n.a. Not applicable.

Source: WTO Secretariat, based on WT/LET/440, 4 April 2003; WTO document G/AG/N/IND/5, 7 March 2011; and Notifications 59/2012 – Customs, 21 November 2012; 78/2011 – Customs, 19 August 2011; 51/2013 – Customs, 20 December 2013; 26/2000 – Customs, 1 March 2000; 2/2007 – Customs, 5 January 2007; 42/2011 – Customs.

3.34. In addition to these scheduled TRQs, India has had TRQs in place for rubber (HS 4001.21, 4001.22 and 4001.29, equivalent to seven lines at the eight-digit level) since 2010; according to the authorities, the TRQs were removed on 1 March 2012. In-quota duties for these products were 7.5% compared to the current applied MFN rate of the lower of 20% or Rs 30/kg.[25]

3.35. India last notified its imports under TRQs to the WTO in 2011 for the marketing years 2003-2004 to 2009-2010.

3.36. India also maintains bilateral TRQs under its regional trade agreements. TRQs for imports of clothing and tea and also dessicated coconut, pepper and vanaspati are maintained under its FTA with Sri Lanka. Imports of textiles and clothing from Bangladesh under the South Asian Free Trade Area (SAFTA) were subject to TRQs whose quantity was raised from 8 million pieces to 10 million in 2011; the TRQ was removed on 9 November 2011.[26]

3.1.8 Preferential tariffs

3.37. India grants preferences under its reciprocal regional trade agreements and also under the duty-free quota-free programme for LDCs. In comparison with the overall applied MFN tariff of 13%, average preferential tariffs under its regional trade agreement range from 0.8% for the least developed country members of the SAFTA – Bangladesh, Bhutan, Maldives, Nepal and Afghanistan to 13% for MERCOSUR. Preferences granted especially to Chile and MERCOSUR as well as Thailand, with which India has a framework agreement, are minimal. In its other agreements India provides preferences currently ranging from between 42.8% for Singapore and 88.6% for Sri Lanka and 96.4%, with the share of duty free tariffs between 8% for The Republic of Korea and 79.9% for Sri Lanka; LDCs under SAFTA are also given greater preferences, covering 96.4% of the tariff, with 99.1% of India's tariff duty free for imports from these partners (Table 3.7).

Table 3.7 Summary analysis of India's preferential tariffs, 2014-15

	Preferential lines[a] (% of all tariff lines)	Total		WTO agriculture		WTO non-agriculture	
		Average (%)	Duty free rates (%)	Average (%)	Duty free rates (%)	Average (%)	Duty free rates (%)
MFN		**13.0**	**2.7**	**36.4**	**4.5**	**9.5**	**2.4**
RTAs							
SAFTA 1	73.3	6.9	2.7	15.9	4.5	5.5	2.4
SAFTA 2	96.4	0.8	99.1	6.2	92.9	0.0	100.0
ASEAN	85.5	5.2	65.2	23.9	41.6	2.4	68.7
Philippines	85.2	8.5	3.3	30.0	4.5	5.3	3.1
APTA	9.8[b]	12.4	4.4	36.3	4.5	8.8	4.4

[25] Notification 128/2010 – Customs, on 22 December 2010. The alternate rate (out of quota) was raised from the lower of 20% or Rs 20 to the lower of 20% or Rs 30 in 2013 under Notification 51/2013 – Customs, dated 20 December 2013.

[26] Notification 51/2008 – Customs, 42/2011 – Customs and 99/2011 – Customs.

	Preferential lines[a] (% of all tariff lines)	Total		WTO agriculture		WTO non-agriculture	
		Average (%)	Duty free rates (%)	Average (%)	Duty free rates (%)	Average (%)	Duty free rates (%)
Mercosur	3.2	13.0	2.7	36.4	4.5	9.5	2.4
Chile	2.0	12.9	2.7	36.3	4.5	9.4	2.4
Japan	79.5	8.8	18.2	30.7	6.0	5.5	20.0
Korea, Rep. of	77.8	7.7	8.0	28.8	4.5	4.5	8.6
Malaysia	86.1	5.1	65.2	23.7	41.6	2.4	68.7
Singapore	42.8	9.6	24.4	33.9	11.3	5.9	26.4
Sri Lanka	88.6	2.4	79.9	5.6	94.1	1.9	77.8
Thailand	2.4	12.8	5.1	36.1	5.6	9.3	5.0
LDCs	94.7	1.9	94.1	13.4	77.1	0.2	96.7

a The percentage of preferential lines includes only lines on which the rates are lower than the corresponding MFN applied rate and fully applied at the 8-digit level. The 2014-15 effective MFN tariff consists of 11,481tariff lines out of which 305 lines bear a duty free rate.
b For Bangladesh, the %age of preferential lines equals 10.2%.

Note: LDC: Notification Nos. 08/2014, 56/2012. Preferential Tariffs applied to 31 countries: Cambodia, Tanzania, Ethiopia, Mozambique, Samoa, Malawi, Lao PDR, Uganda, Rwanda, Madagascar, Benin, Myanmar, Burkina Faso, Eritrea, Gambia, Sudan, Senegal, Lesotho, Mali, Somalia, Maldives, Bangladesh, Burundi, East Timor, Zambia, Central African Republic, Afghanistan, Liberia, Comoros, Yemen and Haiti.
SAFTA 1: Notification No. 68/2012. Applied to Pakistan and Sri Lanka.
SAFTA 2: Notification No. 99/2011. Applied to Bangladesh, Bhutan, Maldives, Nepal, Afghanistan (LDC countries).
APTA: Notification Nos. 134/2006, 89/2006. Applied to Bangladesh, China, Rep. of Korea, Sri Lanka.
Mercosur: Notification Nos. 121/2011 and 57/2009.
Chile: Notification No.116/2011.
Japan: Notification Nos. 36/2014, 09/2014.
Korea, Rep. of: Notification Nos. 35/2014, 151/2009.
Malaysia: Notification No. 37/2014.
Singapore: Notification Nos. 01/2015, 35/2012, 34/2012, 33/2012, and 69/2009.
Sri Lanka: Notification Nos. 121/2011, 52/2008, 3/2007, 2/2007, 128/2006, 57/2005, 43/2003, 126/2002, 20/2001, 26/2000.
Thailand: Notification Nos. 38/201, 115/2011, 131/2006, 86/2006, 285/2004.
ASEAN: Notification No. 38/2014. Preferentials applied to Brunei, Malaysia, Singapore, Thailand, Viet Nam, Myanmar, Indonesia, Lao PDR, and the Philippines.

Source: WTO Secretariat calculations, based on information provided by the Indian authorities and CBEC notifications.

3.38. In comparison, under the Duty Free Tariff Preference (DFTP) scheme, India grants unilateral preferences to 31 LDCs, with 94.7% of the tariff subject to preferential reductions, with the resulting overall average tariff applied to imports from these LDCs at 1.9%.

3.1.9 Import prohibitions, restrictions, and licensing

3.39. Import restrictions may be imposed under Section 3 of the Foreign Trade (Development and Regulation) Act 1992 and through notifications in the *Official Gazette*, under Section 11 of the Customs Act 1962, declaring the importation or exportation of any good as prohibited or restricted. Import restrictions may be imposed for security, self-sufficiency, balance-of-payments, health, and moral reasons.

3.1.9.1 Import prohibitions

3.40. Import prohibitions are mainly for health and safety reasons and include a range of products such as meat and offal of most wild animals, animal fats, and ivory and ivory powder. During the period under review, fatty liver (foie gras) (under HS02074300) was added to the list of goods subject to import prohibition (on 3 July 2014) in view of animal welfare (Table 3.8).[27]

[27] Department of Commerce, Notification No. 87 (RE-2013)/2009-2014, 3 July 2014.

3.41. Imports of some products from the Democratic People's Republic of Korea, Iran, Iraq, and Somalia are prohibited under UN resolutions.[28] Imports of rough diamonds from Venezuela are prohibited. For sanitary reasons, India has continued to ban imports of milk and milk products from China.[29]

Table 3.8 Import prohibitions, 2014

Exim Code	Item 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	Of pigs
0209 90 00	Other
0410 00 10	Edible products of animal origin, not elsewhere specified or included 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 castings of wild animals
0504 00 51	Bladders & stomachs of wild animals
0505 10 10	Feathers of a kind used for stuffing; down of wild birds
0505 90 21	Other feather (excluding for stuffing purpose): 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 & 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, whether or not dried; 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 embryo - of wildlife
1501 10 10	Lard
1501 20 00	Other pig fat
1501 90 00	Other
1502 10 10	Mutton tallow
1502 10 90	Other
1502 90 10	Unrendered fats
1502 90 20	Rendered fats or solvent extraction facts
1502 90 90	Other
1502 00 30	Rendered or solvent extraction fats
1502 00 90	Other fats of bovine animals, sheep or goats, other than those of Heading 1503
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	Neats foot oil and fats from bone or waste
1506 00 90	Other animal fats and oils and their fractions, whether or not refined, but 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 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 this Chapter, not elsewhere specified or included -Other
1522 00 10	Degras[a]
1522 00 20	Soap stocks
1522 00 90	Other
3507 10 11	Microbial rennet: animal rennet

[28] Department of Commerce (2012), Foreign Trade Policy with effect from 5 June 2012.
[29] DFGT Notification No. 84 (RE-2013)/2009-2014, 23 June 2014.

Exim Code	Item description
3507 10 19	Other enzymes; prepared enzymes not elsewhere specified or included
3507 10 91	Animal rennet
3507 10 99	Other animal rennet
4302 19 40	Tiger-cat skins
4303 10 10	Articles of apparel and clothing accessories of wild animals covered under Wildlife Protection Act, 1972
4303 90 10	Other articles of fur skin of wild animals covered under Wildlife Protection Act, 1972
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

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

Source: Department of Commerce (2010), Schedule 1: Import Policy, Foreign Trade Policy 2009-2014, incorporating Annual Supplement, 23 August. Viewed at: http://dgft.gov.in; and DGFT online information, "Notifications". Viewed at: http://dgft.gov.in, and information provided by the Indian authorities.

3.1.9.2 Import licensing and restrictions

3.42. India applies import licensing requirements in accordance with the Foreign Trade (Development and Regulation) Act 1992 and Foreign Trade (Regulation) Rules 1993. Licensing requirements may be eliminated without legislative approval.

3.43. The Import Policy Schedule list items that are restricted and items that are restricted with a condition. Restricted items require a specific import licence issued by the DGFT. Restricted items subject to conditions require import permits (e.g. sanitary and phytosanitary permits) in addition to the specific import licence. All licence requirements are non-automatic. Under the current Import Policy Schedule (Foreign Trade Policy 2009-14), including supplements, some 445 tariff lines at the HS eight-digit level are subject to import restrictions. They represent around 3.9% of total tariff lines. Some 347 tariff lines are restricted while some 98 are restricted subject to conditions (Chart 3.3).

3.44. All importers holding a valid IEC number may apply for a licence. Applications for import licences are made to the DGFT or to the regional licensing authority of the DGFT.[30] The requirements for filing applications for import licences are published in the Handbook of Procedures.[31]

3.45. Licences are valid for 18 months and may be revalidated for six months by the licensing authority on merit; the imported material must be used by the importer and cannot be sold.

3.46. The DGFT or an authorized office may, in writing, refuse to grant, renew, or suspend a licence to import (or export) on specific grounds.[32]

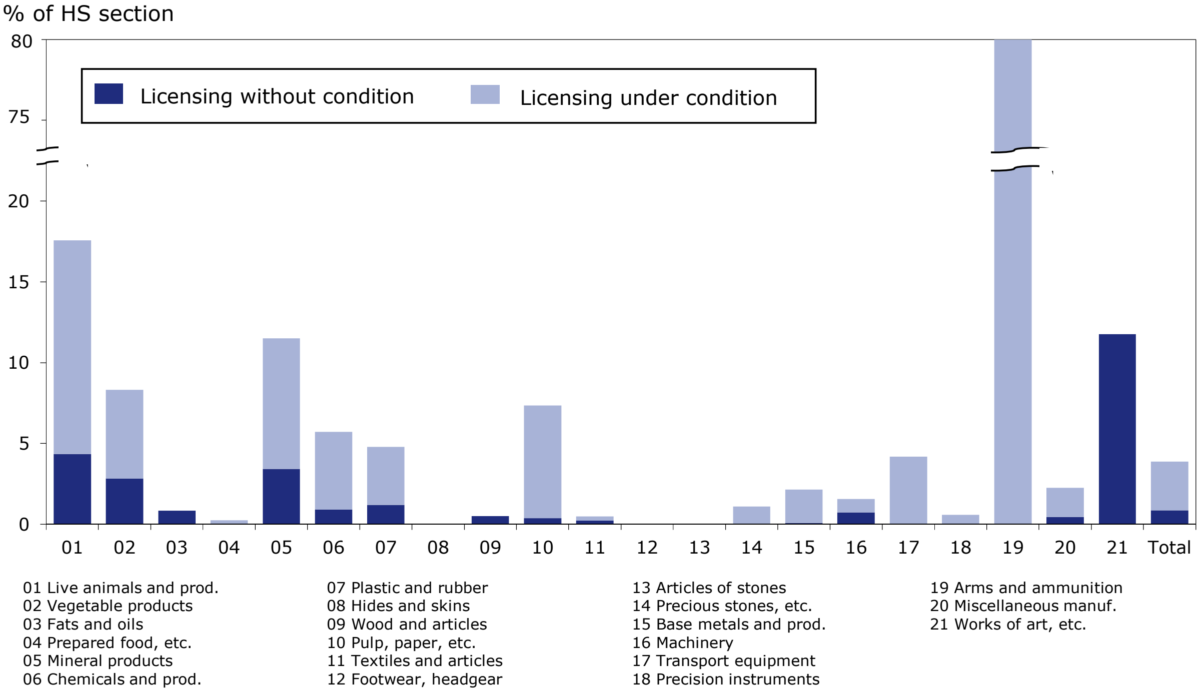
3.47. Licence application fees vary according to the c.i.f. value of imports.[33] Fees are not refundable. The goods imported under a licence cannot be exported without the written permission of the DGFT.

3.48. On 28 November 2014, India eliminated import restrictions on gold (implemented in June and July 2013), which involved a requirement that 20% of imported gold be held in a bonded

[30] The licensing authority may refer the application to the EXIM Facilitation Committee, which consists of technical authorities, for assistance to approve a licence.
[31] Department of Commerce (2012).
[32] See Box III.1, WTO (2011), for details.
[33] As a general rule, fees are Rs 2 per shipment of a c.i.f. value of Rs 1,000, subject to a minimum fee of Rs 200 and a maximum of Rs 150,000; for electronically-filed applications, the fee was Rs 1 per shipment for a c.i.f. value of Rs 1,000 with a minimum of Rs 100 and maximum of Rs 75,000. Appendix 21 B to the Import Policy. Viewed at: http://dgft.gov.in/exim/2000/download/Appe&ANF/21B.pdf.

warehouse for export purposes (20:80 scheme), and that gold imports be allowed only to meet the genuine needs of the exporters of gold jewellery.[34]

Chart 3.3 Import licensing by HS section, 2014-15



Source: WTO Secretariat calculations, based on online information taken from the Directorate of Foreign Trade, Ministry of Commerce and Industry, Government of India.

3.49. Imports of certain goods such as cashew kernel (HS 08013210 and 08013230)[35], areca nuts (HS 0802 80)), and marbles (HS 25151100 and 25151210 – from 20 November 2014)[36] are subject to import restrictions depending on their import price (Table 3.9). These imports are restricted (i.e. subject to a licence) when the c.i.f. price is lower than the minimum import price.

Table 3.9 Items whose import is free, subject to minimum import price, 2014-15

HS code	Description	Minimum import price
0801.32.10	Cashew kernel, broken	Rs 288/kg
0801.32.20	Cashew kernel, whole	Rs 400/kg
0802.90.11	Betel nuts: whole	Rs 110/kg
0802.90.12	Betel nuts: split	Rs 110/kg
0802.90.13	Betel nuts: ground	Rs 110/kg
0802.90.19	Betel nuts: other than above	Rs 110/kg
2515.11.00	Crude or roughly trimmed marbles	Import policy of rough marbles and travertine blocks for the year 2014-15 has been notified with a quota of 0.8 million tonne and a minimum import price of US$325 per tonne.
2515.12.10	Marbles - merely cut, by sawing or otherwise, into blocks of a rectangular (including square) shape	
4012.11.00	Retreaded tyres, of a kind used on motor cars, lorries, bigger size	US$175/unit
4012.12.00	Retreaded tyres: of a kind used on buses or lorries, vehicles and light commercial vehicles	US $175/unit
4012.13.00	Retreaded tyres: of a kind used on aircraft	US $175/unit
4012.20.10	Used pneumatic tyres: for buses, lorries, and earth moving equipment	US$175/unit

[34] Reserve Bank of India online information. Viewed at: http://rbi.org.in/scripts/NotificationUser.aspx?Id=9370&Mode=0.
[35] DGFT Notification No. 53 (RE-2013)/2009-2014.
[36] DGFT Notification No. 99 (RE-2013)/2009-2014, 20 November 2014.

HS code	Description	Minimum import price
4012.20.20	Used pneumatic tyres: for passenger automobile vehicles	US$25/unit
6802.10.00 6802.21.10 6802.21.20 6802.21.90 6802.91.00 6802.92.00	Tiles, cubes, and similar articles Marble tiles Marble tiles Marble monumental or building stone Marble, travertine, and alabaster Other calcareous stone	Import permitted freely (maximum thickness of slab 20mm) provided c.i.f. value is US$60 and above per square metre
6802.23.10 6802.23.90 6802.29.00 6802.93.00	Granite blocks or tiles Other Other stone Granite	Import is free if c.i.f. value is US$80 and above per square metre
6810.11.10 6810.11.90 6810.19.10 6810.19.90 6810.91.00 6810.99.10 6810.99.90	Cement bricks Other building blocks and bricks Cement tiles for mosaic Other articles of cement Articles of cement: prefabricated structural components for building or civil engineering Concrete boulder Other articles of cement	US$50/kg

Source*:* Department of Commerce (2010), Schedule 1: Import Policy, Foreign Trade Policy 2009-2014, incorporating Annual Supplement, 23 August. Viewed at: http://dgft.gov.in/ and information provided by the Indian authorities.

3.1.9.3 Import surveillance

3.50. India does not maintain any mechanism to monitor imports of items that are considered to be sensitive; such a mechanism was discontinued by April 2012.[37]

3.1.9.4 Import quotas

3.51. India maintains import quotas for marble and similar stones (HS 25151100 and 25151210)[38] and for sandalwood (HS 44039922). Quotas are established annually and administered on an MFN basis. There is no maximum limit to be allocated per applicant. Applications are examined upon receipt and assessed according to the criteria stated in the notifications and circulars issued by DGFT on a yearly basis.

3.52. India may impose quantitative restrictions by notification in the Gazette of India on imports of goods that are deemed to cause serious injury to domestic industry, as a result of a safeguard investigation (section 3.1.8.2).[39] The authorities indicate that there were no such instances during 2011-14.

3.1.9.5 Other import restrictions

3.53. Certain items, including new motor vehicles and second-hand cars (less than three- years old[40]) must be imported through specified ports (Chennai, Kolkata, and Mumbai for new vehicles and Mumbai for second-hand cars). Imported cars must meet certain technical regulations.[41]

[37] At the end of March 2012, there were 415 sensitive items (based on HS eight-digit classifications). These included milk and milk products, fruits and vegetables, pulses, poultry, tea and coffee, spices, food grains, edible oils, cotton and silk, marble and granite, automobiles, parts and accessories of motor vehicles, products produced by small-scale industries, and other products (bamboos, cocoa, copra, and sugar).

[38] DGFT Notifications No. 99(RE-2013)/2009-2014, 20 November 2014. Imports of marble (classified under HS 25 and 68) from Bhutan are subject to a quota of 5,882 tonnes per financial year. Monitoring and allocation of the quota is done by the Government of Bhutan. (Schedule I: Import Policy, Foreign Trade Policy 2009-2014, incorporating Annual supplement, 5 June 2012. Viewed at: http://dgft.gov.in/).

[39] WTO document G/SG/N/1/IND/3, 23 September 2011.

[40] Imports of second-hand cars over three-years old are prohibited.

[41] The details are specified in Schedule 1 of Import Policy 2012. Viewed at: http://dgftcom.nic.in//licasp/itchs2012/87foot.pdf.

3.1.10 State trading

3.54. India maintains state trading for certain agricultural goods, urea, and petroleum oils under the provisions of the Foreign Trade Policy 2009-14 (paragraph 2.11).[42]

3.55. On 29 September 2014, exclusive rights accorded to import 11 agricultural products (i.e. meslin, rye, oats, maize, grain sorghum, buckwheat, millet and canary seeds, jawar, bajra, ragi, and other cerials) were removed from the Food Corporation of India.[43] India's last notification to the WTO on state trading was made in November 2012.[44]

3.56. India's reason and purpose for introducing and maintaining STEs has not changed since its previous Review.[45]

Table 3.10 Value of imports subject to state trading, 2011-14

State-trading enterprises	Product	HS code	Import value (US$ million)		
			2011-12	2012-13	2013-14
Food Corporation of India (FCI) (no longer an STE as at 29 September 2014)	Wheat	1001.10.90, 1001.90.20, 1001.90.39	Nil	Nil	Nil
	Rye	1002.00.90	Nil	Nil	Nil
	Oats	1004.00.90	Nil	Nil	Nil
	Rice	1006.10.90, 1006.20.00, 1006.30.10, 1006.30.20, 1006.30.90, 1006.40.00	Nil	Nil	Nil
	Grain sorghum	1007.00.90	Nil	Nil	Nil
	Buckwheat, millet, canary seed, jawar, bajra, ragi, other cereals	1008.10.90, 1008.20.19, 1008.20.29, 1008.20.39, 1008.30.90, 1008.90.90	..	..	..
State-Trading Corporation (STC)	Coconut oil (copra) and its fractions	1203.00.00, 1513.11.00, 1513.19.00	7.05	0.80	0.67
STC, Indian Potash Ltd., Minerals and Metals Trading Corporation	Urea	3102.10.00	2,688.11	2,434.84	1,187.09

[42] Under the Foreign Trade Policy, all STEs granted special privileges to import (export) must make such purchases (sales) in accordance with commercial considerations including price, quality, availability, marketability, and transportation. STE must act in a non-discriminatory manner (WTO document WT/TPR/M/249/Add.1, 14 October 2011).

[43] DGFT Notification No. 93 (RE-2013)/2009-2014.

[44] WTO document G/STR/N/14/IND, 30 November 2012.

[45] State trading of imports has the stated purpose of ensuring, *inter alia*: a "fair" return to farmers as well as food security; the supply of fertilizer to farmers; and that the domestic support price system for kerosene and LPG are properly implemented through the importation by a single operator. The Government procures food-grains and certain select agricultural items from farmers at a remunerative minimum support price with a view to ensuring India's small and marginal farmers a fair return on their investment. The procured food-grains and agricultural items are then supplied through the public distribution system at variable prices, some of it at market prices and some at subsidized rates for those living below the poverty line. The STEs domestically procure and import, depending on the market supply situation and the demand. Such operations by the STEs are deemed to enable effective monitoring of the supply situation which, in turn, can ensure that concerns relating to food security are appropriately addressed. In the case of petroleum products, imports/exports are undertaken at market determined prices. Regarding domestic pricing, a system of domestic support for kerosene and LPG (used as domestic fuel), is in place. In the context of fertilizers, state trading is intended to properly implement and manage supplies to the farmers.

State-trading entreprises	Product	HS code	Import value (US$ million)		
			2011-12	2012-13	2013-14
Indian Oil Corporation Ltd. (IOCL); Bharat Petroleum Corporation Ltd. (BPCL); Hindustan Petroleum Corporation Ltd. (HPCL)	Motor spirit	2710.11.11, 2710.12.12, 2710.12.13, 2710.12.19	407.63	170.47	287.34
	Aviation turbine fuel	2710.19.20	51.37	Nil	Nil
	Superior kerosene oil	2710.19.10	331.25[a]	Nil	Nil
	High speed diesel	2710.19.30	1,021.29	445.29	Nil
Indian Oil Corporation	Natural gasoline liquid and others	2710.11.20, 2710.11.90	Nil	Nil	Nil
	Light diesel oil	2710.19.40	Nil	Nil	Nil

.. Not available.

a In addition, HPCL imported 249,370 tonnes of superior kerosene oil in 2011-12 (the total value of imports was not available).

Source: WTO document G/STR/N/14/IND, 30 November 2012; and information provided by the Indian authorities.

3.1.11 Anti-dumping, countervailing, and safeguard measures

3.1.11.1 Anti-dumping and countervailing measures

3.57. As at the time of the previous review, India is one of the most active users of anti-dumping measures among WTO Members; between 2011 and 2014, India initiated 82 anti-dumping investigations against 23 trading partners (Chart 3.4). The authorities state that anti-dumping investigations are initiated and conducted in accordance with the established rules under relevant legislation.

3.58. India's anti-dumping legislation is contained in the Customs Tariff Act 1975, as amended by the Customs Tariff (Amendment) Act 1995, and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995.[46]

3.59. During the period under review, significant changes were made to India's anti-dumping legislation. These changes include: (i) adjustments to the rules governing mid-term and sunset reviews; (ii) changes to the definition of domestic industry to bring in flexibility[47]; (iii) new rules defining situations that are considered to represent the circumvention of anti-dumping duties, and providing for anti-circumvention investigations to address such circumvention; and (iv) elaboration of a refund procedure applicable where an importer considers that the amount the duty paid is in excess of actual margin of dumping. The authorities state that these changes were adopted mainly to bring clarity and to align them with provisions of the WTO Agreement. These involved amendments to the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995 in March 2011[48] and in January 2012.[49]

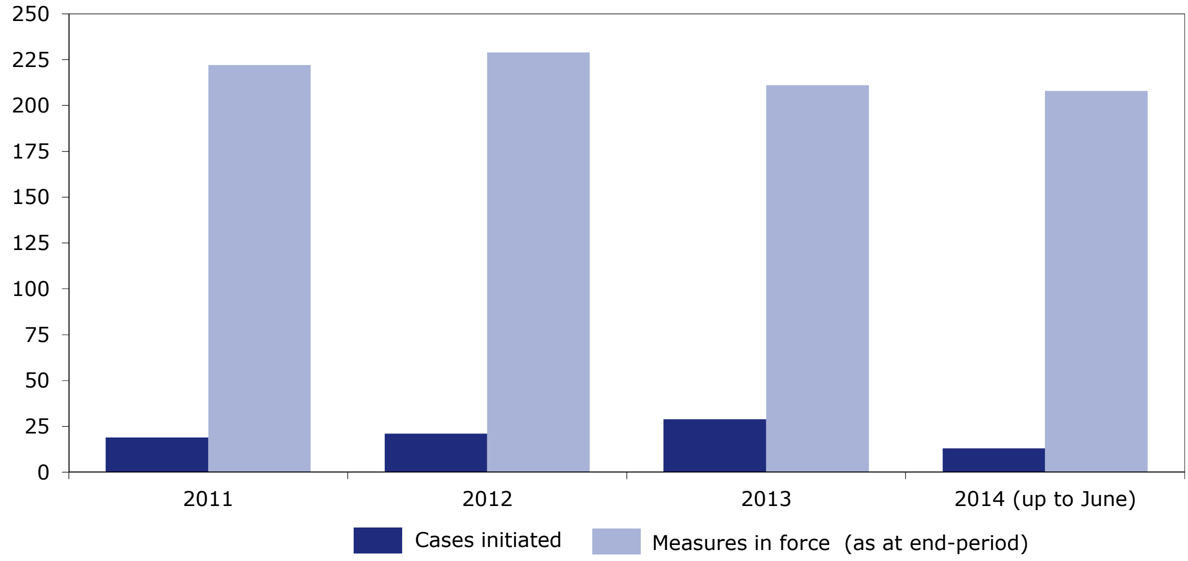
3.60. On 1 March 2011, rules regarding the principles for determination of non-injurious price as well as mid-term and sunset reviews were notified.[50] On non-injurious price, the rules stipulate, *inter alia,* that to work out the non-injurious price, utilisation of raw materials, utilities, and production capacities by the constituents of domestic industry over a certain period of time must be considered, and the cost of production must not include any extra-ordinary or non-recurring expenses and salary and wages paid per employee and per month must be reconciled with the financial and cost records of the company. On mid-term and sunset reviews, the rules stipulate that: (1) the authority must review the need for the continued imposition of anti-dumping duty on

[46] WTO documents G/ADP/N/1/IND/1, 15 August 1995; G/ADP/N/1/IND/2/Corr.1, 9 January 1996; and G/ADP/N/1/IND/2/Suppl.1, 23 December 1996.
[47] Customs Notification (non-tariff) No. 86/2011, 1 December 2011.
[48] WTO document G/ADP/N/1/IND/3, 19 October 2011.
[49] WTO document G/ADP/N/1/IND/4, 1 March 2012.
[50] Customs Notification (non-tariff) No. 15/2011, 1 March 2011.

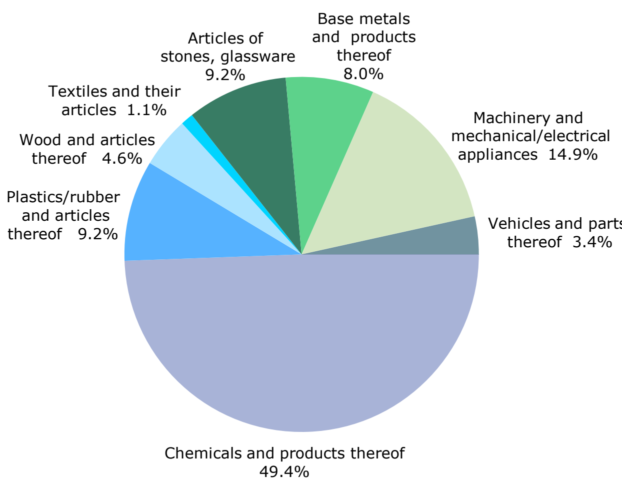
its own initiative or upon request by any interested party who submits positive information substantiating the need for such review, and a reasonable period of time has elapsed since the imposition of the definitive anti-dumping duty and upon such review, the authority must recommend to the central Government for its withdrawal, where it comes to a conclusion that the injury to the domestic industry is not likely to continue or recur, if the anti-dumping duty is removed or varied and is therefore no longer warranted; and (2) any definitive anti-dumping duty must be effective for a period not exceeding five years from the date of its imposition, unless the designated authority comes to a conclusion on a review initiated before the end of that period that the expiry of the anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.

Chart 3.4 Anti-dumping measures, 2011 to June 2014

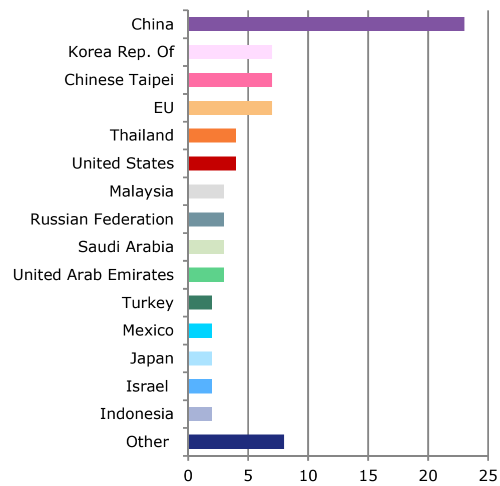
(Number of cases initiated and measures in force)



Initiations by product



Number of initiations by origin



Source: Notifications to the WTO.

3.61. On 19 January 2012, rules regarding the determination of the amount paid in excess of the actual margin of dumping and circumvention of anti-dumping duty were issued.[51] The rules stipulate *inter alia* that if an importer considers that he/she has paid any anti-dumping duty imposed in excess of the actual margin of dumping, he/she may file an application for

[51] Customs Notification (non-tariff) No. 6/2012, 19 January 2012.

determination of the actual margin of dumping before the authority; various specific procedural rules and principles concerning the calculation of such margin are also stipulated. The rules also provide definitions of circumvention of anti-dumping duty. In addition, rules regarding refund of anti-dumping duties paid in excess of actual margin of dumping were issued on the same date. Under the rules, an importer who has paid any anti-dumping duty in excess of the actual margin of dumping in relation to any imported goods may submit an application to the authorities to claim refund. The application will be scrutinized by the authorities for a refund, which must be made within 90 days of the receipt of the application if the authorities find the application satisfactory.[52]

3.62. Under Article 5 of the Customs Tariff Rules, anti-dumping investigations can be initiated by the Directorate General of Anti-Dumping and Allied Duties (DGAD), in the Department of Commerce, upon a written application by or on behalf of domestic industry, or on its own initiative if there is justification to launch an investigation. The authorities state that, during the review period, no anti-dumping investigations were initiated by the DGAD *suo moto*; all investigations were initiated based on applications by or on behalf of domestic industries. An application is scrutinized by the DGAD to ensure it is adequately documented and provides sufficient evidence for initiation. If the evidence is not adequate, a "deficiency letter" is issued. For an investigation to be initiated the petitioners must account for at least 25% of total domestic production of the like article; and the domestic producers expressly supporting the application must account for more than 50% of the total production of the like article by those expressly supporting and opposing the application. Dumping *per se* is not actionable. For a petition to proceed, the DGAD must examine the accuracy and adequacy of the evidence provided and determine that there is sufficient evidence of dumping, injury, and causal link between the dumped imports and alleged injury, before initiating an investigation. In addition, other injury causes have to be investigated so that they are not attributed to dumping.

3.63. The DGAD informs the government of the exporting country, and issues a public notice with details of the initiation and the time-limits for interested parties to provide comments. The public notice is usually issued within 45 days of receipt of documentation, and the time limit for interested parties to express their views is a further 40 days. A preliminary finding regarding export price, normal value, and margin of dumping is normally issued in a public notice within 150 days of initiation, following which the Department of Revenue in the Ministry of Finance may decide to impose a provisional duty not exceeding the margin of dumping. The provisional duty may be imposed after the expiry of 60 days from the date of initiation of the investigation. It may remain in force for a period not exceeding six months, extendable to nine months upon the request of exporters representing a significant percentage of trade. The final determination is normally made within 150 days of the date of the preliminary determination, and within one year from the initiation of the investigation. This period may be extended by the central Government by a maximum of six months under special circumstances, which include the complexity of the case and judicial intervention by courts.

3.64. The dumping margin for each exporter or producer is determined by the DGAD. Following this, the Department of Revenue may, within three months of publication of the final findings, impose the anti-dumping duty by notifying it in the *Official Gazette*. Under the law, the Government is obliged to restrict the anti-dumping duty to the lower of the margin of dumping or the margin of injury.

3.65. Indian legislation provides for levying anti-dumping duty retrospectively, where it is deemed that there is a history of dumping that caused the injury or when the injury is caused by massive dumping, in a relatively short time. The retrospective application may not go beyond 90 days of the date of imposition of a provisional duty. No retrospective application prior to the date of initiation of an investigation is allowed. The authorities state that no retrospective application of duties took place during the period under review.

3.66. An investigation may be terminated by the DGAD at any time if: there is a written request from or on behalf of the domestic industry[53]; there is insufficient evidence of dumping or injury;

[52] Customs Notification (non-tariff), No. 5/2012, 19 January 2012.

[53] Rule 14 of the Customs Tariff (Identification, Assessment and Collection of Antidumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 contains provisions regarding termination of anti-dumping investigations. Department of Commerce online information. Viewed at: http://commerce.nic.in/traderemedies/compendium/comp2.pdf.

the injury is negligible; the margin of dumping is less than 2% of the export price; or the volume of the dumped imports is less than 3% of imports of the like product, unless the countries accounting for less than 3% individually account for over 7% collectively of imports of the like product.

3.67. Rules to initiate and conduct a sunset review (SSR) are contained in Trade Notice No. 1/2008 of 10 March 2008 as modified by Customs (non-tariff) Notification No. 15/2011 of 1 March 2011. An SSR may be initiated upon petition of the domestic industry or may be self-initiated by the DGAD. Under the new rules of 1 March 2011, an SSR must be initiated within a "reasonable period of time" prior to the expiry of the five-year period from the date of its imposition. In accordance with trade notice No. 2/2011 of 6 June 2011, the domestic industry must submit an application on the need to keep the anti-dumping measures in force; the application must be received by the DGAD at least 90 days before the date of expiry of the anti-dumping measures. The DGAD may then initiate the SSR on the basis of the domestic industry's application. If the DGAD decides to self-initiate the investigation, it must issue a questionnaire to the domestic industry; comments must be received by the DGAD within the following 40 days substantiating the need for the continued imposition of the anti-dumping measures. After receipt of the questionnaire, the DGAD may issue a letter to other interested parties regarding the need to continue or otherwise the AD measures; comments must be received by the DGAD within 40 days of the date of issuance of the letter. If there is sufficient ground for continuation of the anti-dumping measures (with or without modification) after receipt of information from various parties, the DGAD may recommend this to the central Government. The investigation is closed if there is insufficient ground for continuation of the measure in force. The new procedures superseded all previous instructions or trade notices issued by the DGAD with regard to sunset reviews.

3.68. The DGAD conducts mid-term reviews in accordance with Section 9A of the Customs Tariff Act and Rule 23 of the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as modified by Customs (non-tariff) Notification No. 15/2011 of 1 March 2011, to assess the need for continued imposition of anti-dumping duties. These reviews may be self-initiated or on request from an interested party who submits positive information substantiating the need for such review, and a reasonable period of time has elapsed since the imposition of the definitive anti-dumping duty. The review follows the same procedures prescribed for an investigation to the extent that they are applicable. An application for initiation of a mid-term review of an anti-dumping duty in force may be made to the DGAD by an interested party including exporters, importers, domestic producers, trade representative bodies, firms or institutions, which are representative of the domestic industry.[54] The applicant must submit positive information substantiating the need for a review. The application for a mid-term review may be accepted by the DGAD provided that a reasonable period of time, i.e. at least one year, has elapsed since the imposition of the definitive anti-dumping duty. However, the DGAD may review the need for the continued imposition of the duty, where warranted, on its own initiative.

3.69. The DGAD is required to carry out a review for determining margins of dumping for any new exporter or producer from a country that is subject to anti-dumping, provided that exporters or producers are new and not related to any of the other exporters.

3.70. The authorities may suspend or terminate an investigation if the exporter concerned accepts an undertaking to revise prices in order to remove the dumping or the injurious effect of dumping. No undertaking is accepted before a preliminary determination is made. The authorities indicate that no request for price undertaking was accepted by Designated Authority during the period under review.

3.71. Anti-dumping duty is not payable on products imported by units in special economic zones (SEZs) or export-oriented units (EOUs), or on products imported under the Advance Authorization Scheme. The final anti-dumping duty paid on imported goods used in the manufacture of export goods may be refunded as brand rate of duty drawback in accordance with the drawback rules.[55]

[54] Department of Commerce, Trade Notice No. 1/2010, 17 May 2010.
[55] WTO (2011), Chapter III(2)(viii).

3.72. There has been no change in India's legislation regarding countervailing measures since its previous Review. Countervailing measures may be imposed under the Customs Tariff Act 1975 (Part 9) and the Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules 1995. Investigations can be initiated only after an application is submitted before the authority, and in the event the authority finds *prima facie* evidence of subsidy, injury and a causal link between the subsidized imports and alleged injury to the domestic industry.

3.73. Appeals against anti-dumping and countervailing measures imposed by the central Government can be made under Chapter XV (Section 129) of the Customs Act 1962 to the Customs, Excise and Service Tax Appellate Tribunal (CESTAT). To date, 126 appeals have been filed against anti-dumping measures imposed by the Government.

3.74. As at 31 December 2014, the average length of an anti-dumping measure applied by India was 73.3 months (out of 208 definitive measures in force).

3.75. Between 2011 and 2014, 14 mid-term reviews and 55 sunset reviews were initiated. Out of the 14 mid-term review investigations, measures were eliminated in 3 cases, measures were re-imposed in 9 cases, and measures are still under investigation in 2 cases. Out of the 55 sunset reviews, measures were eliminated in 5 cases, measures were re-imposed in 24 cases, measures are still under investigation in 23 cases, and imposition of measures recommended is awaited in 3 cases.

3.76. No definitive countervailing measure is currently in place (December 2014). During the period under review, one countervailing investigation was initiated on casting of wind operated electricity generators from China.[56]

3.1.11.2 Safeguards

3.77. Since its previous Review, the main changes brought into India's legislation regarding safeguard measures included clarification concerning the application of safeguard duties when goods with injurious prices are brought into the domestic area from SEZs or EOUs.[57]

3.78. Safeguard legislation is contained in Section 8B of the Customs Tariff Act 1975. The Customs Tariff (Identification and Assessment of Safeguard Duty) Rules 1997, and the Customs Tariff (Transitional Products Specific Safeguard Duty) Rules 2002 describe the procedures for the application of safeguard measures.

3.79. The Director General (Safeguards) in the Department of Revenue is responsible for hearing the petitions and conducting investigations on safeguards.[58] A request for a safeguard investigation must be made in writing to the Director General, by or on behalf of the domestic industry. The Director General may also self-initiate an investigation upon information received from any Commissioner of Customs. If the safeguard measures are requested to be imposed for more than a year, details of efforts made or planned in order to adjust positively to import competition, including details of progressive liberalization, must be provided, under the Customs Tariff (Identification and Assessment of Safeguard Duty) Rules 1997. Thereafter, the Director General may initiate an investigation to determine the existence of serious injury or threat thereof to the domestic industry, caused by the import of an article in such increased quantities, absolute or relative to domestic production. A safeguard investigation must be completed and notified publicly within eight months of initiation of the investigation (or within the period allowed by the central Government). Recommendations of the Director General (Safeguards) are examined by an inter-ministerial body (i.e. Standing Board on Safeguards) chaired by the Commerce Secretary. The proceedings of the Standing Board on Safeguards are not open to the public. Its views are

[56] WTO document G/SCM/N/274/IND, 10 September 2014.

[57] The Finance (No. 2) Bill, 2014. Viewed at: http://indiabudget.nic.in/ub2014-15/fb/bill1.pdf. The amendment was made with a view, *inter alia,* to clarifying that safeguard duties generally do not apply to articles imported by a 100% EOU or a unit in a special economic zone; however, if goods imported are either brought into the domestic tariff area or used in the manufacture of goods brought into the domestic tariff, safeguard duties apply.

[58] The Director General is also responsible for carrying out recommendations under the Indo-Singapore Trade Agreement (Safeguard Measures) Rules 2009.

placed before the Finance Minister for approval in respect of safeguard duties and before the Commerce Minister for imposition of quantitative restrictions. If the central Government, after conducting a safeguard investigation, is satisfied that any article is imported into India in such increased quantities and under such conditions as to cause or threaten to cause serious injury to domestic industry, it may, by notification in the *Official Gazette*, impose a safeguard duty on that article. The central Government may exempt any article from payment of the whole or part of the safeguard duty upon notification in the *Official Gazette*. The notification must include the article exempted, the quantity exempted, and the article's origin. Matters related to quantitative restrictions are conducted by the authorized officer in the DGFT in accordance with the Safeguard Measures (Quantitative Restrictions) Rules 2012.[59]

3.80. If a request is made for provisional safeguard measures, full and detailed information regarding the existence of critical circumstances and how a delay in applying the measures would cause damage difficult to repair needs to be considered. The Director General may record preliminary findings in such cases and issue a public notice. These preliminary findings are placed before the central Government through the Standing Board on Safeguards. Provisional measures may be imposed by the central Government for up to 200 days.

3.81. The duty is levied only during the period necessary to prevent or remedy serious injury and to facilitate positive adjustment. It ceases to have effect four years after the date of imposition, or for a lesser time-period as recommended. However, if the central Government is of the opinion that the domestic industry has taken measures to adjust to the injury or threat thereof and that the safeguard duty remains necessary, it may extend the period of imposition, up to a maximum of ten years from first imposition of the duty. A safeguard measure in place for more than one year must be liberalized progressively at regular intervals.

3.82. In accordance with the Foreign Trade (Development and Regulation) Amendment Act 2010 (No. 25 of 2010), safeguard measures can take the form of duty surcharges or quantitative restrictions.[60] Such quantitative restrictions may not be applied on imports of goods originating from a developing country if the share of imports does not exceed 3%, or on imports of goods originating from more than one developing country so long as the aggregate of imports from all countries does not exceed 9% of the total imports of such goods into India. The public notice recording the final findings under Rule 9(3) of the Act is published in the *Official Gazette*.

3.83. The authorities state that India notifies the WTO Committee on Safeguards as per Article 12.1 of the WTO Agreement on Safeguards regarding the initiation of safeguard investigation, making a finding of serious injury or threat thereof and of taking a decision to apply or extend a safeguard quantitative measure under the 2012 Rules.[61]

3.84. The Director General's (Safeguards) and Directorate General of Foreign Trade's decisions on safeguards cannot be appealed under the legislation, but appeals may be made to the High Court and the Supreme Court. If the period of imposition of a safeguard duty exceeds three years, the Director General must review the situation not later than the mid-term of such imposition.[62].

3.85. Over 2011-14, 18 safeguard investigations were initiated (Table A3.2). In nine of these cases, the Director General (Safeguards) recommended the application of measures. Of the nine cases, final decisions were made to impose safeguard measures consisting of an increase in tariffs at the same or lower rates than those recommended by the Director General; no safeguard measures were applied in the remaining one case.

3.1.12 Standards and other technical requirements

3.1.12.1 Standards

3.86. Since 2011, the legal framework for standardization in India has remained largely unchanged except for the full implementation of the Food Safety and Standards Act 2006 on 5 August 2011 by way of the adoption of 6 regulations i.e. Food Safety and Standards (Licensing

[59] WTO document G/SG/N/1/IND/3/Suppl.1, 25 September 2012.
[60] WTO document G/SG/N/1/IND/3, 23 September 2011.
[61] WTO document G/SG/Q1/IND/12, 24 April 2013.
[62] WTO (2011).

and Registration of Food Businesses) Regulation 2011, Food Safety and standards (Packaging and Labelling) Regulation 2011, Food Safety and Standards (Food Products Standards and Food Additives) Regulation 2011, Food Safety and Standards (Prohibition and Restriction on Sales) Regulation 2011, Food Safety and Standards (Contaminants, Toxins and Residues) Regulation 2011, and Food Safety and Standards (Laboratory and Sampling Analysis) Regulation 2011.

3.87. Standards in India are established based on the provisions of the Bureau of Indian Standards (BIS) Act 1986 and BIS Rules 1987. The BIS is responsible for formulating and enforcing standards for 14 sectors[63], and development of activities relating to certification of product and quality systems, testing and calibration, enforcement, international cooperation, and creating awareness among consumers; other agencies are responsible for enforcement of standards (and technical regulations) in other areas (Table A3.3). Sectoral coordination committees have been established for food processing, power, steel, automotives, textiles, and information technology, in order to develop harmonized standards at the national level. International standards are often adopted as Indian standards under the numbering system of ISO/IEC, or are harmonized with international standards in areas of India's trade interests.

3.88. There were around 19,313 Indian standards as at 25 December 2014 (compared with 18,592 as at 31 March 2010). According to the authorities, for 5,862 standards that have corresponding international standards, 5,238 (approximately 89.4%) were harmonized (i.e. aligned or identical) with corresponding international standards (compared with 84% as at 31 March 2010).

3.89. The BIS is a member of the International Organization for Standardization (ISO) and participates in ISO technical and policy-making committees. It is also a member of the International Electrotechnical Commission (IEC) and participates in IEC technical and policy-making committees. The BIS has bilateral cooperation memoranda of understanding with the national standards bodies of Afghanistan, Bangladesh, Brazil, Egypt, France, Fiji, Germany, Ghana, Greece, Iran, Japan, Mauritius, Nigeria, Oman, the Russian Federation, Slovenia, South Africa, Suriname, the United Arab Emirates, the United States, Ukraine, and Uzbekistan. It also has bilateral cooperation agreements (BCAs) on conformity assessment with the national standards body of Israel, Pakistan and Sri Lanka. BIS is a member of the South Asian Regional Standards Organization (SARSO), which was established in order to strengthen cooperation in areas of standardization and conformity assessment among the members of the South Asian Association for Regional Cooperation (SAARC). BIS is also a member of Pacific Area Standards Congress (PASC), which aims at improving the quality and capacity of standardization in economies of the pacific region and to support development of the region through the promotion of standardization.

3.90. Indian standards are formulated according to the procedures stipulated in the BIS Rules 1987 under the BIS Act 1986. A preliminary draft standard prepared by committee members is considered by the respective technical committee. Once the draft is approved by the technical committee, it is circulated among the various stakeholders and posted on the BIS website for comments. Comments should be provided within sixty days. The technical committee finalizes the draft standard taking into account these comments. The finalized standard, its revisions, amendments, and cancellation are published in the *Official Gazette*.

3.1.12.2 Technical regulations

3.91. Various laws and regulations stipulate technical regulations in India (Table A3.3).

3.92. Responsibility for the formulation of technical regulations is with the agency in charge of the respective area. The formulation of a technical regulation follows a similar process to the formulation of a standard. A draft technical regulation is sent out for comments prior to its adoption by the concerned ministry/department/organization and publication in the *Official Gazette*. Comments must be provided within 60 days of the publication of the notice. The draft technical regulations are also notified to WTO Members for comments. Comments received

[63] These are: production and general engineering; civil engineering; chemicals; electro-technical; food and agriculture; electronics and information technology; mechanical engineering; management and systems; metallurgical engineering; petroleum, coal and related products; transport engineering; textile; water resources; and medical equipment and hospital planning.

on the draft are examined by the ministry concerned. If divergent comments are received, an expert group examines and considers the comments and their incorporation in the final version. The process of finalization of draft regulations takes 6 to 12 months, including approval of the competent authority, vetting, and translation into Hindi. The final regulation (via a notification) is published in the *Official Gazette* giving its date of implementation; according to the authorities, it is simultaneously notified to the WTO. Amendments to technical regulations are made through a similar process, from time to time, based on industry needs or due to new scientific developments, new sanitary and environmental circumstances, and harmonization with international standards.

3.93. Under the WTO Agreement on Technical Barriers to Trade, the International Relations and Technical Information Services Department of the BIS is the national WTO-TBT enquiry point for disseminating information on standards, technical regulations, and certification. The Ministry of Commerce and Industry is responsible for implementing the Agreement.

3.94. Between 2011 and 2014, India made 11 notifications to the WTO TBT Committee.[64] In the TBT Committee concerns were raised regarding, *inter alia*, food labelling requirements, toys and toy products, e-waste, electronics and information technology goods, and hazardous waste, and labelling requirements for Canola oil.[65]

3.1.12.3 Certification and conformity assessment

3.95. Conformity assessment procedures in India have largely remained unchanged since its previous Review; a major exception is the adoption of a new set of rules stipulating a compulsory registration scheme under the BIS for various electronic and information technology goods under Electronics and Information Technology Goods (Requirements for Compulsory Registration) Order 2012, dated 7 September 2012 (Department of Electronics and Information Technology, Ministry of Communication and Information Technology). In addition, regulations stipulating mandatory BIS certification on various products have been introduced; these included the Steel and Steel Products (Quality Control) Order 2012 (Ministry of Steel), Pneumatic Tyres and Tubes for Automotive Vehicles (Quality Control) Order 2009[66] (Department of Industrial Policy and Promotion, Ministry of Commerce and Industry), and Food Safety and Standards (Licensing and Registration on Food Business) Regulation 2011 (Department of Health, Ministry of Health and Family Welfare).[67]

3.96. The BIS is the national certifying body. Conformity assessment procedures are regulated by the BIS Act 1986, the BIS Rules 1987, and BIS (Certification) Regulations 1988. The central Government, on grounds of public interest, notifies which articles or processes should conform to an Indian standard and should bear the BIS certification mark under a licence from BIS.[68] Some 92 products are subject to the mandatory BIS certification mark.[69] As at 1 January 2015, there were 842 products under voluntary certification.[70] According to the authorities, the requirements for the use of the BIS certification mark are the same for domestic and imported products. Besides the normal product certification scheme, the BIS also grants licences to environment-friendly products under a special scheme and awards the ECO mark to such products.

3.97. Foreign producers who wish to export products subject to mandatory certification must obtain a licence from the BIS.[71] Foreign manufacturers must set up a liaison/branch office in India to obtain a licence if the BIS has not signed a MOU with the country where the manufactured

[64] WTO documents G/TBT/N/IND/32/Add.2, Add.3 and G/TBT/N/IND/42-46.
[65] WTO documents G/TBT/M/ series since 20 September 2011.
[66] Implemented since May 2011.
[67] Electronics and Information Technology Goods (Requirements for Compulsory Registration) Order, 2012, S.O. 2357 (E). Viewed at: http://deity.gov.in/content/gazettes.
[68] BIS Act, Section 14.
[69] This system is different from a new set of rules stipulating a compulsory registration scheme, mentioned in the previous paragraph. Compulsory registration scheme is for 30 electronic and information technology goods whereas the mandatory BIS certification is for 92 various other products. For items subject to mandatory certification, see BIS online information. Viewed at: http://www.bis.org.in/. The criteria for determining which products should carry the mandatory certification is based on an internal assessment of the central Government (WTO document WT/TPR/M/249/Add.1, 14 October 2011).
[70] Information provided by the authorities.
[71] Procedures for Grant and Operation of BIS Licence under Foreign Manufacturers Certification Scheme (FMCS). BIS online information. Viewed at: http://www.bis.org.in/cert/fm.htm.

goods originate. Otherwise, foreign manufacturers may nominate an authorized representative in India responsible for checking compliance with the provisions of the BIS Act 1986, and its Rules and Regulations. The applicant needs to supply the prescribed BIS application along with the application fees. Fees may be charged under the Foreign Manufacturers Certification Scheme, in place since 1999; the authorities state that fees are fixed based on the cost of operations, and locally-manufactured products are subject to the same application fee, annual fee and unit rates as imports.[72] Since April 2014, the renewal application fee to be paid after one year of the grant of the licence has been increased to Rs 1,000 (from Rs 500). The BIS licence is granted to the factory address at which the manufacturing takes place and the final product is tested to assess compliance with the relevant Indian standards. At the time of the grant of the licence, the user must pay an annual fee of Rs 1,000, as well as an advance minimum marking fee for the production likely to be marked. The minimum marking fee is fixed according to the product.

3.98. Licences are initially valid for one year. They can be renewed for one or two years upon application to the BIS and payment of the required fees. Products are not required to be tested at the time of renewing a licence. However, regular surveillance through random sampling is undertaken during the operation of the licence. The products are tested in BIS laboratories and in accredited laboratories, recognized by BIS, to ensure standard conformity of certified products to relevant Indian standards. If the product is found to be in non-compliance, a penalty is imposed, which may include stop-marking, deferment of licence or cancellation of licence. Once manufacturers (domestic or foreign) obtain a licence, they are allowed to self-mark their products. Products for which the BIS certification mark is mandatory may not be sold during the approval process for granting of the BIS licence.

3.99. In order to implement its certification schemes, the BIS conducts conformity testing through its central laboratory at Sahibabad (near Delhi), and four regional and three branch laboratories.[73] The major areas covered at the central laboratory are electrical, mechanical, microbiological, and chemical (testing), and electrical calibration. BIS laboratories have test facilities for most products under the Certification Marks Scheme. In addition to the BIS laboratories, services of 145 external laboratories recognized under the BIS Laboratory Recognition Scheme are utilized.

3.1.12.4 Accreditation

3.100. There have been no major changes to India's system of accreditation since its previous Review. The National Accreditation Board for Testing and Calibration Laboratories (NABL), an autonomous body under the Department of Science and Technology, is the sole accreditation body for testing and calibration laboratories in India.[74] NABL is a partner of the Asia Pacific Laboratory Accreditation Cooperation (APLAC) Mutual Recognition Arrangement and is signatory to the International Laboratory Accreditation Cooperation (ILAC). NABL's accreditation system is in accordance with ISO/IEC 17011:2004 (general requirements for accreditation of bodies accrediting conformity assessment bodies). NABL accredits laboratories that are performing tests/calibrations in accordance with ISO/IEC 17025:2005 (general requirements for the competence of testing and calibration laboratories), and ISO 15189:2007 (particular requirements for quality and competence of medical laboratories) in the case of medical laboratories. These services are accessible to all testing and calibration laboratories in India and abroad, regardless of their ownership, legal status, size, and degree of independence.

3.101. Laboratories seeking accreditation must comply with the relevant standards of accreditation as well as with NABL's specific requirements, such as successfully completing a proficiency testing programme.[75] The accreditation process consists of five stages[76]; and accreditation is valid for two years. NABL conducts annual surveillance visits of the accredited laboratories to verify their continued compliance with the requirements. As at December 2014, the NABL had granted 4,615 accreditation certificates; a different certificate is issued for each type of accreditation service or category. NABL accreditation covers accreditation of all branches of

[72] BIS online information. Viewed at: http://www.bis.org.in/cert/saarcfee.pdf.
[73] Except for two of the branch laboratories, all laboratories are accredited by NABL.
[74] National Accreditation Board for Testing and Calibration Laboratories online information, "Introduction". Viewed at: http://www.nabl-india.org/nabl/html/about-intro.asp.
[75] Information provided by the authorities.
[76] For more information, see National Accreditation Board for Testing and Calibration Laboratories online information, "Laboratory Accreditation". Viewed at: http://www.nabl-india.org/nabl/html/about-lab-acc.asp.

science, engineering and medical fields. Laboratories must apply for renewal of accreditation at least six months prior to the certificates' expiration date. Decision on accreditation may be appealed to the NABL, and may lead to an investigation; the NABL's decision is final.

3.102. The BIS runs a Laboratory Recognition Scheme for BIS product-testing needs for certification purposes in line with IS/ISO/IEC 17025:2005 (general requirements for the Competence of Testing and Calibration Laboratories). Once laboratories are recognized under this scheme, they are subject to audits to ensure continued compliance with requirements of IS/ISO/IEC 17025 and other terms and conditions. Recognition is granted for three years, renewable for similar periods, and there are two surveillance visits during this period. As at 22 January 2015, 14,570 laboratories had been recognized under this scheme. In addition, specialized test facilities available with 46 laboratories of national eminence are also utilized as and when required.

3.1.12.5 Labelling

3.103. The Legal Metrology Act 2009, the Legal Metrology (Packing Commodities) Rules 2011, and Food Safety and Standards (Packaging and Labelling) Regulations 2011 regulate labelling requirements in India.[77] There is no mandatory labelling requirement for genetically modified products. The Food Safety and Standards (Packaging and Labelling) Regulation 2011, notified on 10 July 2013, stipulates that domestic manufacturers are obliged to display the licence number and the FSSI logo on the label from 1 January 2015. The authorities state that the Regulations are not notified to the WTO since they are not intended to be applied to India's trading partners. If relevant products are imported, importers are allowed to affix labels with respect to the licence number and FSSI logo on the products.

3.1.13 Sanitary and phytosanitary requirements

3.104. The main changes to SPS measures in India since 2011 included the full implementation of the Food Safety and Standards Act 2006 on 5 August 2011 by way of, *inter alia,* adoption of four regulations related, for example, to Food Safety and Standards (Food Product Standards and Food Additives) Regulation 2011, Food Safety and Standards (Prohibition and Restriction on Sales) Regulation 2011, Food Safety and Standards (Contaminants, Toxins and Residues) Regulation 2011, and Food Safety and Standards (Laboratory and Sampling Analysis) Regulation 2011. In 2013, new standards on titanium dioxide in chewing gum, olive oil, and trans-fat acids in partially-hydrogenated vegetables oils were issued.[78]

3.105. The FSSA covers, *inter alia,* food standards, general procedures for sampling, analysis of food, powers of authorized officers, nature of penalties and other parameters related to food. It also deals with parameters relating to food additives, preservatives, colouring matters, packing and labelling of foods, prohibition and regulations of sales. In addition to FSSA, SPS matters are governed and enforced through the Livestock Importation Act 1898, Destructive Insects and Pests Act 1914, Plant Quarantine (Regulation of Import into India) Order 2003, and Standards on Weights and Measures (Packaged Commodities) Rules 1977.

3.106. The FSSA is intended to increase transparency of the scientific basis upon which India's SPS measures are adopted through, *inter alia,* harmonization with international standards. As Sections 16 and 18 of the Act prescribe, draft standards compiled by the FSSAI need to be reviewed by scientific panels. Currently, nine such panels are established, including panels on pesticide residues, contaminants, labelling, and fish and fish products, comprising experts not employed by the FSSAI. They review drafts and give opinions, which will then be reviewed by a scientific committee established under Section 8 of the Act, comprising chairs of the nine panels and other experts. The scientific committee is chaired by an eminent scientist (the current Chair is the ex-Director General of the Indian Council of Medical Research). After the scientific committee has given recommendations on the draft, the FSSAI authority (i.e. its board) gives approval to be sent to the Ministry of Health and Family Welfare for approval by the Minister. Then the draft will be sent for legal vetting by the legislative department to seek consistency with existing legislation and constitutional requirements. After the legal vetting, the draft will be sent for translation into

[77] See WTO (2011), Chapter III(2)(ix) for details.

[78] FSSAI Notifications Nos. 4/15015/30/2011, 7 June 2013; 5/15015/30/2012, 12 July 2013; and P.15014/1/2011, 27 June 2013.

English and Hindi. Then the draft will be notified for comments by the general public (and also notified to the Committee on SPS Measures of the WTO). Comments are considered by the FSSAI and if any changes based on scientific considerations are made, the draft will be returned to the panels and the scientific committee. Otherwise, the draft will go through ministerial approval and legislative vetting to be finalized and notified. The authorities state that, with the aim of aligning India's SPS-related standards with the Codex, the scientific review has been conducted and the formal adoption procedure of standards is continuing. In the Committee on SPS Measures, concerns were raised regarding, *inter alia*, import restrictions on apples, pears and citrus, import conditions for pork and pork products, and import requirements for blueberries and avocados during the period under review.[79]

3.107. The Food Safety and Standards Authority of India (FSSAI), established under FSSA, is mandated to establish standards for articles of food and to regulate their manufacture, storage, distribution, sale and import with a view to ensuring availability of safe and wholesome food for human consumption, and contributing to the development of international technical standards for food, sanitary and phytosanitary standards. Other main institutions involved in the establishment and implementation of SPS measures are the Ministry of Health and Family Welfare, the Department of Animal Husbandry, Dairying, and Fisheries in the Ministry of Agriculture; the Directorate of Plant Protection, Quarantine and Storage in the Ministry of Agriculture; the BIS; and other state government agencies. India's national enquiry points under the WTO SPS Agreement are: the Department of Animal Husbandry, Dairying, and Fisheries for animal health and related issues; the Ministry of Health and Family Welfare for food safety related issues; and the Department of Agriculture and Cooperation for plant health or phytosanitary issues. Between 2011 and 2014, India made 23 notifications to the Committee on SPS Measures.[80]

3.108. When FSSA is framing standards and procedures of an SPS nature, all regulations notified under FSS regulations are sent to the WTO and also published. A total of 60 days is provided to the WTO Members and all stakeholders for comments on draft notifications. After having considered comments and after having received the approval of the Food Authority, the Ministry of Health, and the Ministry of Law, the final notification is issued to the public.

3.109. Imports of animal products into India require sanitary import permits (SIPs) issued by the Department of Animal Husbandry, Dairying and Fisheries; permits must be obtained prior to shipping from the country of origin. The Department issues SIPs for livestock products based on an import risk analysis. Permits are valid for one year or six months depending on the nature of the products, and may be used for multiple consignments. A SIP is not a licence, but a certificate verifying that India's sanitary requirements are fulfilled. Imports of live animals and animal products falling under the restricted items as per Export-Import Policy require an import licence issued by the Director General of Foreign Trade after an import risk analysis is conducted by the Department of Animal Husbandry, Dairying and Fisheries for such import. Imports of 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 sea port of Vishakhapatnam (in the State of Andhra Pradesh), the sea port and airport of Kochi, and the land customs station at Petrapole (for imports from Bangladesh only).

3.110. Imports of plants and plant materials are regulated under the Destructive Insects and Pests Act 1914, the Plant Quarantine (PQ) (Regulation of Import into India) Order 2003, and international conventions. During the period under review, Plant Quarantine (Regulations of Import into India) (Second Amendment) Order 2014 and Plant Quarantine (Regulation of Import into India) (Third Amendment) Order 2014 were issued. The Directorate of Plant Protection, Quarantine & Storage is entrusted with the implementation of Plant Quarantine Regulations issued under the Act.

3.111. The authorities consider it imperative to conduct all plant quarantine inspections as per international standards/guidelines. Accordingly, the National Standards for Phytosanitary Measures for Important Activities have been developed and adopted to facilitate the export and import of agricultural commodities. To streamline plant quarantine activities, efforts have been made to fully computerize plant quarantine stations for speedy and transparent functioning. The web-based

[79] WTO documents G/SPS/R/ series since 8 May 2013.
[80] WTO documents G/SPS/N/IND/71-93.

Plant Quarantine Information System (PQIS) is operational and providing online plant quarantine services.[81] Plants and plant products may only enter Indian territory through designated ports and other border points, including 39 seaports, 15 airports, 11 post offices, and 14 land frontier stations. In addition, 63 inland container depots and container freight stations are designated for import of plants and plant products.

3.112. Inspection of agricultural commodities for exportation is carried out to meet the requirements of importing countries under the International Plant Protection Convention (IPPC) of FAO. As per the revised text of IPPC and the model certificate prescribed thereunder, phytosanitary certificates are issued. The Directorate has been working to develop the system of e-certification for phytosanitary requirements.

3.113. Plants and seeds that require post-entry quarantine are listed in Schedules V and VI of the PQ Order 2003. These plants and seeds must be grown in post-entry quarantine facilities established by and at the cost of the importer, and approved and certified by the inspection authority. The quarantine period is determined based on the type of plant material and time taken by the plant material to grow to the stage where symptoms of disease appear.

3.114. Sampling and testing of consignments to prevent the risk of exotic pests is undertaken according to the International Standards for Phytosanitary Measures No. 23 and 31.[82] If commodities are found free from pests, they are cleared for import. If not, they must undergo fumigation with the accredited fumigation operators according to Schedules V, VI, and VII of PQ Order 2003.[83] Fumigation is done at the importer's cost.[84]

3.115. Imports of GM food, feed, and organisms, and living modified organisms for R&D, food, feed, processing in bulk are governed by the Environment Protection Act 1986 and Rules 1989, unchanged since India's previous Review.

3.116. India regularly participates in the activities of Codex Alimentarius. The authorities state that India intends to recognize equivalence of its trading partners' SPS measures based on Codex Guidelines, provided that it receives proposals from them; no such proposals have been received by India to date.

3.2 Measures Directly Affecting Exports

3.2.1 Export procedures and requirements

3.117. As in the case of imports, since 2011 the main changes in India's customs procedures for exports have concerned *inter alia* the adoption in 2011 of self-assessment with a view to facilitating trade, and the adoption of a risk management system.[85] Under the self-assessment system, an exporter must assess the applicable customs duties, which may be verified by Customs. In addition, under a risk management system on exports introduced in 2013, the consignment may be examined, assessed or cleared without examination and assessment by Customs, based on associated risks. In the event the declaration by an exporter is found to be incorrect, it may be reassessed by Customs. The authorities indicate that currently around 80% of consignments are cleared without intervention by Customs.

[81] With a view to disseminating information on plant quarantine regulations, procedures and practices, a website (http//www.plantquarantineindia.nic.in) has been set up. All plant quarantine stations dealing with phytosanitary issues, have been linked through the website and relevant PQIS (Plant Quarantine Information System software) has been developed.

[82] Guidelines for Inspection (ISPM23)2005, and Methodologies for Sampling of Consignments (ISPM31)2009, International Plant Protection Convention. Viewed at: https://www.ippc.net/en/core-activities/standards/ispms/#588.

[83] There are 357 registered fumigation agencies for methyl bromide fumigation and 157 for aluminium phosphide fumigation.

[84] Fumigation generally takes 24 hours with methyl bromide, and 7 to 10 days with aluminium phosphide.

[85] Central Board of Excise & Customs (2011). Relevant changes have been made to Sections 17 and 50 of the Customs Act 1962. Shipping Bill (Regulations) 2011 concerning the introduction of self-assessment in Customs were issued.

3.118. Exporters must, in principle, register with the DGFT and obtain an importer-exporter code IEC number to be eligible to export.[86] Electronic submission of documents is, in principle, mandatory; an exception to this includes circumstances where electronic submission is not technically feasible. Around 98% of export documents are processed electronically.[87]

3.119. Regarding time required for export procedures, the mean evacuation time at Chennai Port for May 2014 was 4days and 6 hours, according to a study conducted by the Central Board of Excise and Customs.

3.120. India's quality control and preshipment inspection measures for exports have remained largely unchanged since its previous Review, except that additional products have been added to the list for mandatory preshipment inspection and certification. Under the Export (Quality Control and Inspection) Act of 1963, the EIC, together with export inspection agencies (EIC's field organizations), carries out quality control and preshipment inspection to ensure compliance with minimum standards for exports of notified products as per requirements of importing trading partners.[88] Currently, quality control and preshipment inspection are required, *inter alia,* for exports of animal casings, basmati rice, crushed bones, dairy products, egg products, feed additives and pre-mixtures, fish and fish products, honey, meat and meat products, ossein and gelatine, peanut and peanut products, and poultry and poultry meat. Since India's previous Review, feed additives and pre mixtures, peanut and peanut products (to the European Union and Malaysia), and crushed bones, and ossein and gelatine have been added to the list of exports requiring quality control and preshipment inspection. In the case of seeds and planting materials for propagation, export inspections involve sampling and laboratory tests; visual examination and washing test may be carried out in certain cases.

3.121. Export certification is conducted through consignment-wide inspection (CWI) as well as certification based on a food safety management system (FSMSC). Some of the key features of the FSMSC are approval of establishments (conditional and final), hazard analysis and critical control points (HACCP) audits, traceability mechanisms, enforcement control, three-tier monitoring systems to ensure compliance, and health certification as per requirements of importing trading partners; the authorities state that FSMSC is based on international standards and adopted by the EIC for export of notified products. The EIC charges 0.4% and 0.2% of the f.o.b. value of the export consignment for CWI and FSMSC-based certification respectively. On 10 March 2010, the Government amended the Export of Fresh, Frozen and Processed Fish and Fish Products (Quality Control and Inspection and Monitoring) Rules with a view to exercising better official control on primary production and taking necessary action to ensure safety throughout the food chain, including primary production. Under the amended Rules, the scope of official control has been broadened by covering establishment, landing centres, auction centres, factory vessels, freezer vessels, fishing vessels, aquaculture farms, hatcheries and feed mills. The EIC's other certification activities include health certificate, authenticity certificate (basmati rice), non-GMO certificate, and preferential certificates of origin (CoO) under 15 schemes/agreements. Certification is also carried out on a voluntary basis in respect of non-notified products on request from the exporter, importer or importing trading-partner based on their specific requirements. The EIC's certification has been recognized by India's trading partners including the European Union, China, Japan, the Russian Federation, Australia, Brazil, the Republic of Korea, Singapore, Viet Nam, Malaysia, Sri Lanka, Turkey, and the United States. Since its establishment as the official certification body of India the EIC has been promoting trade through its quality control and inspection activities by ensuring compliance with the requirements of importing trading partners.

3.2.2 Export taxes, charges, and levies

3.122. Since 2011, several changes have been made to the list of goods subject to export taxes. Currently, export taxes apply to bauxite, ilmenite, certain hides, skins and leathers, iron ore pellets, and ferrous waste and scrap (Table 3.11). The rates of export duty applicable to different products are specified in the Second Schedule of the Customs Tariff Act. As in the case of import

[86] In addition to the IEC, exporters also need to obtain a business identification number from the DGFT to be allowed to file the shipping bill. The shipping bill may be processed manually or through the electronic data interchange (EDI) system (WTO, 2011, Chapter III(3)(i)).

[87] Information provided by the authorities.

[88] The Act empowers the central Government to notify the commodities and specify the minimum standards related to exports of these commodities.

tariffs, changes in these rates are either implemented through the Finance Bill presented at the time of the annual budget or through notifications issued by the Government.[89] Export cesses are collected for development of a specific industry; they apply to certain spices, shellac and lac-based products, tobacco, manganese ore, chrome ore, mica products, and iron ore (Table 3.12).[90]

3.123. Valuation of exports is determined in accordance with Section 14 of the Customs Act 1962 and the Customs Valuation (Determination of Value of Export Goods) Rules 2007.

Table 3.11 Export taxes, 2014

Product	Rate (% on the f.o.b. value, unless otherwise specified)
Iron ore pellets	5
Bauxite	10
Ilmenite	10 (unprocessed), 5 (upgraded)
Tanned and untanned hides, skins and leathers	10-25
Ferrous waste and scrap, and remelting scrap ingots of iron or steel	15

Source: WTO Secretariat, based on information provided by the Indian authorities.

Table 3.12 Export cess, 2014

Product	Cess rate
Shellac and lac-based products	Rs 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	Rs 4 per tonne
Chrome ore	Rs 6 per tonne
Mica products	3.5% of the f.o.b. value
Iron ore	Rs 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: WTO Secretariat, based on information provided by the Indian authorities.

3.2.3 Minimum export prices

3.124. Under the Export Policy Schedule (Foreign Trade Policy 2009-14), India maintains minimum export prices (MEP) for exports of onions and edible oil with a view to ensuring adequate availability at reasonable prices of certain items considered essential for domestic consumption (Table 3.13).[91] The MEP and the items to be subject to it are decided by the Government after consultation with relevant ministries and departments, and the DGFT notifies these decisions. Changes since the previous Review include the elimination of minimum prices on exports of basmati rice on 4 July 2012[92], and adoption of MEPs on edible oil on 5 February 2013[93], and potatoes (fresh or chilled) on 26 June 2014. A notification concerning the introduction of minimum export prices on potatoes (fresh or chilled) was issued on 26 June 2014.[94] The minimum export prices on potatoes were removed on 20 February 2015.[95]

[89] Customs (tariff) Notifications No. 27/2011, 1 March 2011; No. 117/2011, 29 December 2011; No. 129/2011, 30 December 2011; No. 10/2012, 17 March 2012; No. 15/2016, 1 March 2013; No. 3/2014, 27 January 2014; No.15/2014, 11 July 2014.

[90] Central Board of Excise and Customs online information. Viewed at: http://www.cbec.gov.in/customs/cst2013-14/sch2-exptariff.pdf.

[91] The latest notification concerning the minimum export prices of onions was issued on 21 August 2014 (DGFT Notification No. 91 (RE-2013)/2009-2014. The MEP of onions was removed between 4 March 2014 and 16 June 2014 (DGFT notifications No. 73, 12 March 2014 and No. 82, 17 June 2014).

[92] DGFT Notification No. 6 (RE-2012)/2009-2014, 4 July 2012.

[93] MEP at US$1,100 per tonne.

[94] DGFT Notification No. 85 (RE-2013)/2009-2014.

[95] DGFT Notification No. 112 (RE-2013)/2009-2014.

Table 3.13 Goods subject to minimum export prices, December 2014

(US$)

Item	Minimum export price per tonne
Edible oil in branded consumer packs of up to 5 kg	900
General category onions	300
Bangalore rose and Krishnapuram onions	300

Source: WTO Secretariat, based on information provided by the Indian authorities.

3.2.4 Export prohibitions, restrictions, and licensing

3.2.4.1 Export prohibitions

3.125. Export prohibitions apply mainly for environmental, food-security, marketing, pricing, and domestic supply reasons, and to comply with international treaties. Since its previous Review, the list of products subject to export prohibitions in India has remained largely unchanged; on 9 September 2011, export prohibition on non-basmati rice and wheat was removed. (Table A3.4).

3.126. India bans exports of some products to the Republic of Korea, Iran and Iraq under UN Resolutions.[96] Export prohibition of wood charcoal to Bhutan was lifted on 23 December 2013.[97]

3.2.4.2 Export licensing and quotas

3.127. Some 196 lines at the HS eight-digit level are currently subject to export restrictions under the Export Policy Schedule. Such products may be exported only if a licence is issued by the DGFT.

3.128. On 8 December 2014, the previous requirement that exports of cotton and cotton yarn required an export authorization registration certificate (EARCs) issued by the DGFT was abolished.[98]

3.129. Exports of milk powder, wheat, edible oil, pulses, and non-basmati rice were subject to quantitative restrictions between 5 December 2011 and 13 June 2014.[99] Exports of sugar (by state-trading enterprises) are subject to quota under preferential regimes with the United States and the European Union and exports of stone aggregates to the Maldives were made subject to export quotas on 1 January 2014.[100] On 4 July 2014, quantitative export restrictions on organic sugar were eliminated.[101] Exports of brown seaweeds and sandalwood oil are subject to export quotas set by the DGFT.

3.2.5 State trading enterprises

3.130. State-trading export privileges for some agricultural and forest produce, including sugar (for exports under preferential regime), onions, and gum karaya, have been accorded to STEs with a view to enabling better marketing, realization of better prices, ensuring a steady domestic supply and preventing wide domestic price fluctuations.[102] Similarly, with a view to ensuring a reliable supply of kerosene and liquefied petroleum gas (LPG), which are used as household fuels, exports are allowed only through STEs. Further, exports by STEs are deemed necessary for conservation and proper utilization of some ores of metals.

3.131. On 26 September 2014, exclusive rights to export iron ore pellets accorded to KIOCL Limited (formerly known as Kudremukh Iron Ore Company Limited) were modified; KIOCL Limited

[96] Department of Commerce (2010).
[97] DGFT Notification No. 60 (RE-2013)/2009-2014.
[98] DGFT Notifications Nos. 102 and 103, 8 December 2014.
[99] DGFT Notifications Nos. 87 (RE-2010)/2009-2014, 104 (RE-2010)2009-2014, and 81 (RE-2013)/2009-2014, 5 December 2011, 5 March 2012, and 13 June 2014.
[100] DGFT Notification No. 62 (RE-2013)/2009-2014.
[101] DGFT Notification No. 88 (RE-2013)/2009-2014, 4 July 2014.
[102] WTO document G/STR/N/14/IND, 30 November 2012.

can now export its own manufactured iron ore pellets either alone or through any entity it authorizes.[103]

3.2.6 Export support and promotion

3.132. India's most recent notification on export subsidy commitments was made in July 2012, and covers 2004-05 to 2009-10.[104] According to the notification, export subsidies were provided to sugar, tea, processed fruits and vegetables, fresh fruits and vegetables, plants and flowers, and animal products during 2009-10.

3.133. India's latest notification to the WTO Committee on Subsidies and Countervailing Measures concerned fisheries' subsidies at the state, union territories and central government levels.[105] Its latest notification on other subsidy programmes (at the central government level) covers the period 2011-12.[106]

3.134. India is an Annex VII(b) member under the SCM Agreement and as such may maintain export promotion schemes until its per capita gross national product (GNP) reaches US$1,000 in constant 1990 dollars for three consecutive years. In the last three years for which data are available (2010-12), the country's per capita gross national income (GNI)[107] has remained below US$1,000 in constant 1990 dollars.[108]

3.2.6.1 Special economic zones (SEZs)

3.135. Since its previous Review, there have been no major changes to the legal framework and regulations concerning the operation of SEZs. They may be established by the central or state governments or by private developers (including foreigners) as joint ventures with the State or fully private. Legislation regulating SEZs at the central government level is the SEZ Act 2005 and Rules 2006. In addition, some States have enacted their own laws and rules to regulate SEZs. State SEZ legislation follows the lines of the SEZ Act 2005.[109] All SEZs are under the administrative control of the SEZ Development Commissioner.

3.136. Benefits accorded to firms established in a SEZ have remained largely unchanged since India's previous Review, except that the exemption from dividend distribution tax accorded to them was eliminated in 2011, and the exemption from minimum alternate tax was eliminated on 1 April 2012. Such firms are required to generate net foreign exchange earnings within five years of operation (Table 3.4). SEZ units are exempt from various taxes, including income tax, central sales tax, service tax, and from a series of state taxes (i.e. sales tax, stamp duty, and electricity duty). SEZ units may import all types of goods (including new and second-hand capital goods) duty free both from abroad and from the domestic tariff area (DTA).[110] Imports and exports into/from the SEZ are not subject to routine customs examination; for example, "let export" orders are granted on the basis of self-certification by the SEZ.[111] Exports of products manufactured in SEZs are not subject to compulsory preshipment inspection. State-trading requirements do not apply to SEZs (except for iron ore). Other export measures may apply to exports from the SEZs;

[103] DGFT Notification No. 92 (RE-2013)/2009-2014, 26 September 2014.
[104] WTO document G/AG/N/IND/9, 30 July 2012.
[105] WTO document G/SCM/N/253/IND/Suppl.1, 21 November 2014.
[106] WTO document G/SCM/N/220/IND/Suppl.1, 14 November 2014.
[107] The World Bank data series formerly identified as GNP is now published as GNI. This change reflects the implementation of the System of National Accounts 1993 ("SNA 93"). Although the underlying concepts are different (GNP being a measure of product, and GNI being a measure of income), the values calculated are the same.
[108] WTO document G/SCM/110/Add.11, 23 June 2014.
[109] The States that have enacted SEZ Acts are Gujarat, Himachal Pradesh, Tamil Nadu, Uttar Pradesh, Haryana, and Punjab.
[110] DTA means an area within India that is outside SEZs, EOUs, electronic hardware technology parks, software technology parks, and bio-technology parks.
[111] Self-certification refers to certification regarding the sealing of containers or packages of goods for export. The certificate stipulates that the containers or packages have been sealed in the presence of a person authorized on behalf of the unit (SEZ Rules 2006, as amended, Chapter IV).

for example, minimum export prices apply to exports from SEZs only when raw materials procured indigenously are exported unprocessed.[112]

3.137. There is no quantitative limit on the amount of SEZs exports into the DTA. However, sales into the DTA attract the same duties and charges as any other import.

3.138. At the end of 2014, India had 352 SEZs. During the period under review, exports from SEZs increased from some US$81.0 billion in 2011-12 to US$82.4 billion in 2013-14, accounting for 25.9% of total exports in 2013-14, compared with 24.9% in 2011-12.

3.139. Major exports from SEZs include chemicals and pharmaceuticals, computer and electronic software, and gems and jewellery (Table 3.14). Tax revenue forgone as a result of the benefits granted to SEZs amounted (provisionally) to Rs 62.0 billion in 2013-14, compared with Rs 45.6 billion in 2011-12.[113]

Table 3.14 Incentives granted to SEZ units, 2014

Incentives
100% income tax exemption for SEZ units for the first five years, 50% for the next five years, and 50% of the ploughed-back export profit for the next five years
Exemption from the central sales tax
Exemption from the service tax
Exemption from the state sales tax and other levies (e.g. stamp duty and electricity duty) as extended by the respective state governments
External commercial borrowing by SEZ units up to US$500 million in one year without any maturity restriction through recognized banking channels
100% FDI investment through automatic route
Single-window clearance for central and state level approval procedures

Source: WTO document G/SCM/N/220/IND/Suppl.1, 14 November 2014; and information provided by the Indian authorities.

Table 3.15 Exports from SEZs, 2011-14

(US$ billion)

Sector	**2011-12**	**2012-13**	**2013-14**
Biotech	0.29	0.36	0.23
Computer/electronic software	18.00	25.98	30.68
Electronics hardware	4.55	3.88	2.74
Electronics	0.17	0.23	0.06
Engineering	0.57	0.89	1.35
Gems and jewellery	16.58	13.13	7.89
Chemicals and pharmaceuticals	33.89	33.13	33.27
Handicrafts	0.04	0.06	0.09
Plastic and rubber	0.36	0.33	0.24
Leather, footwear, and sports goods	0.11	0.17	0.28
Food and agro-industry	0.16	0.15	0.15
Non-conventional energy	0.07	0.04	0.11
Textiles and garments	0.65	0.80	0.70
Trading and services	4.70	8.30	3.33
Miscellaneous	0.84	0.74	1.23
Total	**81.00**	**88.18**	**82.35**
Percentage share of SEZs exports of India's total exports	24.86	29.14	25.94

Source: WTO Secretariat, based on information provided by the Indian authorities.

[112] SEZ Rules 2006, as amended, Chapter IV.
[113] Information provided by the authorities.

3.2.6.2 Export-oriented units

3.140. The export-oriented units (EOUs) scheme complements the SEZ scheme. EOUs are regulated by the Foreign Trade Policy. As in the case of the SEZs, the main objectives of the EOU scheme are to increase exports and foreign exchange revenues, promote the transfer of latest technologies, stimulate foreign direct investment, and generate additional employment. EOUs are similar to SEZs but may be located anywhere in the country.

3.141. The minimum investment in an EOU is Rs 10 million. EOUs are licensed to manufacture or provide services for export for an initial period of five years (which may be extended). EOUs may benefit from tax and other incentives, subject to export performance. Since its previous Review, there has been no change to incentives granted to EOUs, except that Section 10B of the Income Tax Act was withdrawn on 1 April 2011. Sector-specific requirements are stipulated in the provisions of the EXIM policy, and vary from sector to sector. EOUs must also generate net foreign exchange earnings within five years of starting operations.[114]

3.142. EOUs are exempt from various taxes, including central excise duty, when procuring capital goods, raw-materials, consumable spares from the domestic market, customs duty on import of capital goods, raw materials, consumable spares. Central sales tax (CST) paid on domestic purchases or duty paid on furnace oil, procured from domestic oil, is reimbursed (Table 3.16). EOUs may import all types of goods (including new and second-hand capital goods) duty free from the DTA and abroad, and are exempt from routine customs procedures both when importing and exporting. Manufacturing EOUs are exempt from the state-trading regime with the exception of chrome ore/chrome concentrate.

3.143. In principle, EOUs are established to export their entire production; however, subject to certain conditions, a specific percentage may be sold in the DTA upon payment of duties (including anti-dumping duties) and taxes, with some exceptions. In general, EOUs may sell in the DTA goods and services for up to 50% of the f.o.b. value of exports, with the exception of producers of gems and jewellery who may sell up to 10% of the f.o.b. value of exports. Sales into the DTA are allowed only with the approval of the Development Commissioner; if similar goods are exported; and if the net foreign exchange earnings (NFEE) conditions have been fulfilled. Unless manufactured wholly out of indigenous raw materials, sales into the DTA are subject to the payment of 50% of the applicable basic customs duty and the 100% additional duty; the exceptions are pepper and marble, which may not be exported to the DTA even upon payment of full duty. Goods made of indigenous raw materials are subject to the payment of excise duties.

Table 3.16 Incentives granted to EOUs, 2014

Incentives
Exemption from customs and central excise duties on import/local procurement of capital goods, raw materials, consumables, spares, packing material, etc.
Reimbursement of central sales tax
Reimbursement of duty paid on fuels procured from domestic oil companies as per the rate of drawback
No import licences are required
Import of second-hand capital goods are allowed
CENVAT credit on the goods and service and refund thereof
Fast track clearance facilities
Exemption from industrial licensing for manufacture of items reserved for small-scale industry sector
Supplies from the DTA to EOUs are deemed exports and are exempt from payment of the excise duty
50% of production may be sold in the domestic market on payment of duty, generally 25%, plus a 100% additional customs duty
100% FDI investment through automatic route

Source: Central Board of Excise and Customs, Customs Manual 2014. Viewed at: http://www.cbec.gov.in/deptt_offcr/cs-manual2014.pdf; and information provided by the Indian authorities.

[114] If the unit has not generated net foreign exchange earning, the Development Commissioner is required to inform the Central Excise authorities for recovery of the proportionate duty.

3.144. A special licence granted by the Board of Approvals is necessary to set up an EOU to manufacture arms and ammunition, explosives and defence equipment, atomic substances, narcotics and psychotropic substances and hazardous chemicals, distillation and brewing of alcoholic drinks, cigarettes/cigars and manufactured tobacco substitutes. Up to 100% of FDI is allowed in EOUs under the automatic route in areas where no FDI prohibition applies.[115]

3.145. In 2013-14, India had around 3,000 EOUs, manufacturing goods and providing services, excluding trading, which is not allowed.[116] During the period under review, exports from EOUs decreased in value from some US$20.4 billion in 2011-12 to US$14.6 billion in 2013-14, accounting for 4.6% of total exports in 2013-14, compared with 6.3% in 2011-12 (Table 3.17).[117] Tax revenue forgone as a result of the EOU scheme in 2013-14 was Rs 58.4 billion compared with Rs 58.8 billion in 2012-13.

Table 3.17 Exports from EOUs, 2011-14

(US$ billion)

Sectors	2011-12	2012-13	2013-14
Textiles and garments, yarn	0.82	0.70	0.61
Computer software	1.08	1.20	1.06
Electronics hardware	1.28	0.76	0.58
Engineering goods	4.55	3.24	2.64
Chemicals and pharmaceuticals	6.48	6.67	5.50
Leather and sports goods	0.17	0.11	0.08
Gems and jewellery	0.45	0.21	0.21
Plastic, rubber, and synthetic	0.44	0.39	0.37
Foods and agri and forest products	1.59	1.60	1.12
Miscellaneous	3.55	2.78	2.44
Total	**20.42**	**17.66**	**14.62**
Percentage share of EOUs exports of India's total exports	6.27	5.83	4.60

Source: WTO Secretariat, based on information provided by the Indian authorities; and IMF (2014).

3.2.6.3 Drawback schemes

3.146. Since its last Review, there have been no major changes to the framework of drawback schemes used by India; its drawback system consists of two types of drawback: the "all industry rate" and the "brand rate" for which the refund may be negotiated.

3.147. The Customs Act 1962 (Sections 74-76), and the Customs and Central Excise Duties and Service Tax Drawback Rules 1995 regulate the drawback system in India. Under the drawback system, exporters are entitled to a refund of: the customs duties (including additional duties) on imported goods that are exported without transformation (Section 74); or customs duties, central excise duties, and the service tax levied on materials imported or produced locally to manufacture export products (Section 75). In addition, Re-export of Imported Goods (Drawback of Customs Duties) Rules 1995 regulate drawback on imported goods re-exported from India.

3.148. All industry rates of duty drawback have been notified every year.[118] In 2013-14, the amount of drawback under the brand rate scheme amounted to Rs 3.2 billion, compared with Rs 2.2 billion in 2011-12.[119] Drawbacks are not allowed on certain specific products. These include commodities or products that are: (i) manufactured partly or wholly in a warehouse under Section 65 of the Customs Act 1962; (ii) manufactured or exported in discharge of export obligations against an advance licence or advance authorization or duty free import authorization

[115] FDI is prohibited in the manufacture of arms and ammunition, explosives, atomic substances, narcotics and hazardous chemicals, distillation and brewing of alcoholic drinks, and cigarettes, cigars, and manufactured tobacco substitutes.

[116] Export Promotion Council for EOUs and SEZs online information, "How to set-up an Export Oriented Unit". Viewed at: http://www.eouindia.gov.in/eou_settingup.htm.

[117] Information provided by the authorities.

[118] Customs Notifications (non-tariff) No. 68/2011, No.75/2011, No. 92/2012, No. 4/2013, No. 98/2013, No. 05/2014, No. 110/2014, and No. 21/2015.

[119] Information provided by the Indian authorities.

issued under the Foreign Trade Policy; (iii) manufactured or exported by a unit licensed as 100% export-oriented unit in terms of the provisions of the Foreign Trade Policy; (iv) manufactured or exported by any of the units situated in, *inter alia,* special economic zones; or (v) manufactured or exported availing of the benefit of the notification No.32/1997 – Customs, issued on 1 April 1997.[120]

3.149. The amount of duty drawback is based on likely duty imposed on the inputs and input services used in the manufacture of export goods. There is a cap or maximum amount for certain specified goods to discourage over-valuation of the goods exported.[121] The duty drawback refunded amounted to Rs 123.3 billion in 2011-12, Rs 174.2 billion in 2012-13, and Rs 218.0 billion in 2013-14.

3.2.6.4 Other duty and tax concessions

3.150. In addition to the SEZs and EOUs regimes and the duty drawback system, India has a number of export incentive schemes, some of which are contingent on value addition and export obligations (Table A3.5). During the review period, duty entitlement passbook schemes and status-holder incentive schemes were abolished. Income forgone as a result of these schemes totalled Rs 481,290 million in 2013-14 (Table A3.6).

3.2.6.5 Export promotion and marketing assistance

3.151. The structure of export promotion and marketing assistance schemes adopted by India has remained largely unchanged since its previous Review. The Department of Commerce encourages exports indirectly through a number of schemes including the Marketing Development Assistance (MDA) Scheme[122] and Market Access Initiative (MAI) Scheme[123] through export promotion councils (EPCs).[124] Currently, there are 29 EPCs compared with 20 in 2011 and five commodity boards which promote exports of specific products.

3.2.7 Export finance, insurance and guarantees

3.152. Export finance is provided by commercial banks (including foreign banks) and the Export-Import Bank of India (Exim Bank). Export financing programmes by commercial banks were first introduced in 1967 with a view to making short-term working capital finance available to exporters at internationally-comparable interest rates; export credit is available in rupees as well as in foreign currencies. Export credit in rupees is subject to a "base rate" system, available since July 2010, under which interest rates applicable are at or above base rate. Banks grant export credit to eligible exporters as per their loan policy approved by the board of directors.[125] Banks can grant export credit in foreign currencies at internationally-competitive rates under the programmes of "pre-shipment credit in foreign currency" (PCFC) and "rediscounting of export bills abroad" (EBR). Up to 4 May 2012, banks were allowed to decide the interest rate on exports within the ceiling rate linked to LIBOR as prescribed by the Reserve Bank of India (RBI). With effect from 5 May 2012, banks are free to determine the interest rate on export credit in foreign currencies. Export credit, in rupees or in foreign currencies, is available for a maximum period of 360 days. Export credit is under the overall regulation and supervision of the RBI.

3.153. With a view to promoting trade and investment, the Exim Bank provides Indian exporters with export credits on a cost-plus basis at market-related interest rates. The Exim Bank also provides finance and export support to EOUs (in the form of loans, working capital marketing

[120] Further restrictions apply in accordance with Rules 3 and 8 of the Customs, Central Excise Duties and Service Tax Drawback Rules 1995.
[121] WTO document WT/TPR/M/249/Add.1, 14 October 2011.
[122] Department of Commerce online information. Viewed at: http://commerce.nic.in/trade/mda-guidelines01-06-2013.pdf.
[123] Department of Commerce online information. Viewed at: http://commerce.nic.in/trade/Revised_MAI_Guidelines_W_E_F_04_08_2014.pdf.
[124] EPCs promote, for example, exports of textiles; pharmaceuticals, chemicals, and cosmetics; leather; gems and jewellery; engineering goods and civil construction projects; plastics; cashews; shellac; and sports goods. Department of Commerce online information. Viewed at: http://commerce.nic.in/epc.htm
[125] Loan policies should lay down, *inter alia*: exposure limits to individual/group borrowers, documentation standards, margin, security, sectoral exposure limits, delegation of powers, maturity and pricing policies, and factors taken into consideration for deciding interest rates.

support, export product development, export facilitation, and import finance) and value-added services (e.g. advice and marketing services aimed at evaluating international risks and export opportunities). The Exim Bank may also provide lines of credit to governments and to overseas financial institutions to enable buyers in those countries to purchase goods and services from India; the terms of these credits are negotiated between the Exim Bank and the overseas agency, based on market interest rates that are usually linked to the LIBOR.

3.154. The Exim Bank also provides various export guarantee schemes and fee-based services to support international trade and investment, and conducts related research.

3.155. During 2013-14, the Exim Bank approved loans amounting to Rs 482.6 billion, up from Rs 388.4 billion in 2009-10. For the year 2013-14, the Bank registered a post-tax profit of Rs 7.1 billion and paid a return on investment capital to the Government amounting to Rs 3.39 billion. The Bank has been making a profit since its inception and pays a return on capital every year to the Government. The main industrial sectors to which the Bank has exposure are ferrous metal and metal-processing, EPC (engineering, procurement and construction) services, textiles and garments, oil and gas, and drugs and pharmaceuticals.

3.156. Under the current guidelines on lending to priority sectors, export credit extended by foreign banks with fewer than 20 branches will be counted towards the total priority sector lending target (32% of adjusted net bank credit (ANBC) or credit equivalent of off-balance sheet exposure, whichever is higher). For domestic banks and foreign banks with no fewer than 20 branches, export credit is counted towards the total priority sector target (40% of ANBC or credit equivalent of off-balance sheet exposure, whichever is higher), and export credit extended to certain specified categories (e.g. agriculture) will be counted towards the lending target for respective categories.[126]

3.157. Insurance against export credit risk is provided by the ECGC Limited (formerly known as the Export Credit Guarantee Corporation of India Ltd.). ECGC is a 100% state-owned company, under the administrative control of the Ministry of Commerce and Industry, registered as a non-life insurance company under the Insurance Regulatory and Development Authority (IRDA) as per the IRDA Act 1999. ECGC provides insurance against commercial or country risks; it also grants insurance coverage to banks or financial institutions, which allows them to offer export credit facilities to exporters. ECGC also provides overseas investment insurance to Indian companies investing in joint ventures abroad through equity or loans. ECGC's short-term business covered 6.9% of India's total exports in 2013-14 and 64% of Indian banks total short-term export credit outstanding as of March 2014. ECGC's share is over 90% of the export credit insurance market in India. The National Export Insurance Account (NEIA), operated by ECGC, covers export credit risk for large, medium- and long-term overseas projects that are deemed commercially viable and strategically important from an economic and political point of view, but fall beyond ECGC's underwriting capacity and are not backed by reinsurance. Under the NEIA scheme, 22 projects with a value of around Rs 170.7 billion were covered.

3.3 Measures Affecting Production and Trade

3.3.1 Incentives

3.3.1.1 Tax incentives

3.158. India provides various tax incentives to promote selected economic activities. For example, under the Income Tax Act 1961, tax incentives are provided to: shipping companies (Section 33AC of the Act); revenue and capital expenditure on scientific research (Section 35); specified business (Section 35AD), and certain industrial undertakings (Sections 80IB and 80IC). India publishes statements of revenue forgone in its annual central government budgets.[127]

[126] RBI online information. Viewed at: http://www.rbi.org.in/scripts/FAQView.aspx?Id=87.

[127] Details of revenue forgone for, for example, 2012-13 and 2013-14, are made available at the Government of India online information. Viewed at: http://indiabudget.nic.in/ub2014-15/statrevfor/annex12.pdf.

3.3.1.2 Explicit subsidies

3.159. Direct or explicit subsidies as reported in the Central Government's Annual Budget amounted to Rs 2,667.0 billion (2.1% of GDP) (Table 3.18). The bulk of India's explicit subsidies continue to be aimed at supporting agriculture, promoting food security and reducing poverty. Most of the outlays are allocated to food, fertilizers and petroleum. Food subsidies are provided by the Department of Food and Public Distribution to meet the difference between actual prices and the central-issue prices fixed under the Targeted Public Distribution System (TPDS) and other welfare schemes. The central Government also provides a subsidy to the Food Corporation of India to keep buffer stocks of wheat and rice as a food-security measure.

Table 3.18 Explicit subsidies, 2012-16

(Rs billion and %)

	2012-13[a]	2013-14[a]	2014-15[b]	2015-16[c]
Total	2,570.8	2,546.3	2,667.0	2,438.1
Fertilizer subsidy	25.5	26.4	26.6	29.9
Imported (urea) fertilizers	5.9	4.5	4.5	5.0
Indigenous (urea) fertilizers	7.8	10.4	14.3	15.7
Decontrolled fertilizers	12.0	11.5	7.7	9.2
Food subsidy	33.1	36.1	46.0	51.0
Petroleum subsidy	37.7	33.5	22.6	12.3
Interest subsidies	2.8	3.2	4.2	6.1
Other subsidies	0.9	0.7	0.6	0.6

a Actual expenditures.
b Revised budget.
c Budget.

Source: Government of India online information. Expenditure Budget Vol.1 2013-14 and Expenditure Budget Vol.1 2014-15. Viewed at: http://indiabudget.nic.in/budget2013-2014/ub2013-14/eb/stat04.pdf, and http://www.indiabudget.nic.in/ub2015-16/eb/stat04.pdf.

3.160. India's latest notification on fisheries subsidies covering the information for 2010-11 to 2013-14 was submitted to the WTO in November 2014.[128] The authorities state that various subsidies under the centrally-sponsored scheme for development of marine fisheries are mainly aimed at improving socio-economic conditions of poor and traditional coastal fishermen by way of upgrading their skills with improved craft and gear and ensuring safety at sea; these subsidies are provided to upgrade fishing capacity for optimum utilization of available fisheries resources, rather than creating overcapacity, as well as ensuring the sustainable livelihood of poor and traditional fishermen, enabling/encouraging them to decongest coastal waters by moving from near-shore to deep sea to unexploited or underexploited fishery resources. The authorities consider that the amount of subsidies provided to the sector is very small compared to most other countries.

3.161. India submitted 35 notifications regarding subsidies to the Committee on Subsidies and Countervailing Measures. These include India's responses[129] to questions raised by other Members.[130]

3.162. India adopted the National Food Security Act 2013 in September 2013 with a view to providing subsidized food grains to around two-thirds of its population (Section 4.1.1.3).

3.3.1.3 Credit policies

3.163. The central Government allocates funds to subsidize interest rates, including for exporters (Table 3.19).[131] Under these schemes, which are managed by different ministries (e.g. Ministry of Finance, and of Heavy Industries and Public Enterprises), central public sector enterprises (CPSEs) also have access to credit at preferential rates.

[128] WTO document G/SCM/N/253/IND/Suppl.1, 21 November 2014.
[129] WTO document G/SCM/Q2/IND/40, 27 October 2014.
[130] These include WTO documents G/SCM/Q2/IND/20, 35, and 40, 10 October 2011, 31 July 2014, and 27 October 2014.
[131] Fibre2fashion.com online information. Viewed at: http://www.fibre2fashion.com/news/textile-news/newsdetails.aspx?news_id=119355.

Table 3.19 Preferential interest rates to exporters, 2014

Period	Sector	Interest rate	
		Subsidy	Floor rate
1 December 2008 to 31 March 2014	Textiles (including handloom), handicrafts, carpets, leather, gems and jewellery, marine products, and SMEs	2 percentage points	7%
1 April 2010 to 31 March 2011	Handicrafts, carpets, handlooms and SMEs. From 1 August 2010, leather and leather manufacturers, jute manufacturing including floor coverings, engineering goods and textiles	2 percentage points	7%
1 April 2011 to 31 March 2012	Handicrafts, handlooms, carpet and SMEs	2 percentage points	7%
1 April 2012 to 31 March 2013	Handicrafts, carpets, handlooms, SMEs, readymade garments, processed agriculture products, sports goods, toys	2 percentage points	7%
1 April 2013 to 31 March 2014	Handicrafts, carpets, handlooms, SMEs, ready-made garments, processed agriculture products, sports goods, toys, certain ITC and textile goods, and 235 tariff lines on engineering goods	Up to 31 July 2013, 2 percentage points. From 1 August 2013, 3 percentage points.	7%

Source: WTO Secretariat, based on information provided by the Indian authorities.

3.164. India sets targets for priority-sector lending to ensure that banks provide credit to specific sectors.[132] Domestic and foreign commercial banks are required to reserve a percentage of their adjusted net bank credit (ANBC) or credit equivalent amount of off-balance-sheet exposure (OBSE), whichever is higher, for priority sectors. Domestic banks and foreign banks with at least 20 branches must reserve 40% of their ANBC/OBSE for lending to priority sectors, and foreign banks with less than 20 branches 32% of their ANBC/credit equivalent of OBSE (Table 3.20). In 2013-14, 16 of the 26 public banks, 16 of the 20 private domestic banks, and 38 of the 39 foreign banks met the target.[133]

Table 3.20 Targets for lending to priority sectors, 2014

Priority sectors	Domestic commercial banks/foreign banks with at least 20 branches	Foreign banks with less than 20 branches
Total priority sectors	40% of the adjusted net bank credit (ANBC) or credit equivalent amount of off-balance-sheet exposure (OBSE), whichever is higher	32% of ANBC or credit equivalent amount of OBSE, whichever is higher
Agriculture	18% of ANBC or credit equivalent amount of off-balance-sheet exposure, whichever is higher[a]	No specific target
Micro- and small enterprises (MSEs)	Advances to MSEs sector will be reckoned in computing achievement under the overall priority sector target of 40% of ANBC or credit equivalent amount of off-balance-sheet exposure, whichever is higher	No specific target
Weaker sections[b]	10% of ANBC or credit equivalent amount of off-balance sheet exposure, whichever is higher	No specific target

a Indirect lending in excess of 4.5% of ANBC or credit equivalent amount of off-balance sheet exposure, whichever is higher, will not be reckoned for computing achievement under the 18% target. However, all agricultural loans under the categories "direct" and "indirect" will be reckoned in computing achievement under the overall priority sector target of 40% of ANBC or credit equivalent amount of off-balance-sheet exposure, whichever is higher.

b Weaker sections include, *inter alia*, small and marginal farmers; artisans, and village and cottage industries; scheduled castes/scheduled tribes; and beneficiaries of the Differential Rate of Interest (DRI) Scheme.

Source: WTO Secretariat, based on information provided by the Indian authorities.

[132] The general categories of priority sectors are: agriculture, micro- and small enterprises, education, housing, and export credit (Reserve Bank of India, Master Circular No. RBI/2014-15/95, 1 July 2014).

[133] Reserve Bank of India (2014b).

3.165. Subsidies are also provided to regional rural banks, cooperative banks, and public sector banks to provide short-term credit to farmers at preferential rates. Apart from this subsidy granted by the central Government, farmers may benefit from other subsidized interest rates at the State level.

3.3.1.4 Micro- and small enterprises

3.166. India provides support to micro- and small enterprises (MSEs) through various means, for example, by reserving some products for exclusive manufacturing by MSEs. Products are eligible for reservation if manufacturing by MSEs is economically viable and technically feasible.[134] The reservation/de-reservation of products is reviewed regularly by the Advisory Committee on Reservation, under the Ministry of Micro, Small, and Medium Enterprises (MSMEs). Currently, 20 products are in the reserved category (unchanged since India's previous Review).[135]

3.167. The Government provides a number of other assistance schemes to MSEs; these schemes are managed by the Ministry of MSEs and supporting institutions (e.g. the Office of the Development Commissioner and the National Small Industries Corporation). They aim to assist MSEs in the promotion and marketing of exports, product certification, technology upgrading, and human resources development (Table A3.1). MSEs are also granted preferences in government procurement (Section 3.3.4).

3.168. Within the policy on lending to priority sectors, advances by domestic commercial banks or foreign banks with no fewer than 20 branches to micro- and small enterprises will be counted towards the overall priority sector target of 40% of ANBC or credit equivalent amount of off-balance-sheet exposure, whichever is higher.

3.169. At the State level, other schemes also implemented to support the development of MSEs include: the development of industrial estate, tax incentives, and subsidies for electricity and capital.[136] Under the General Excise Exemption Scheme, MSEs with annual turnover of up to Rs 40 million are granted full excise exemption up to Rs 15 million[137]; MSEs may also benefit from excise duty exemptions.[138]

3.3.2 Competition policy and price controls

3.3.2.1 Competition policy

3.170. The Competition Commission of India (CCI), established under the CCI Act 2002, is responsible for preventing practices having an adverse effect on competition, promoting and sustaining competition in markets, protecting the interests of consumers and ensuring freedom of trade carried out by other participants in the markets in India.[139] It has powers of inquiry and enforcement, and may impose penalties for non-compliance with its procedures. The CCI may also take remedial actions to deal with anti-competitive agreements and abuse of dominant position, and impose penalties of up to 10% of the average turnover of an enterprise for the three preceding financial years. In the case of a cartel, the CCI may impose on each member a penalty of up to three times the profit or up to 10% of turnover, whichever is higher, for each year of the continuation of the agreement. After the inquiry, the CCI may issue a cease-and-desist order directing a delinquent enterprise to discontinue and not to re-enter into an anti-competitive

[134] Department of Industrial Policy and Promotion (2009a); and Development Commissioner online information, "List of items reserved for exclusive manufacture in micro and small enterprises". Viewed at: http://www.dcmsme.gov.in/publications/reserveditems/resvex.htm.

[135] They are: pickles and chutneys, bread, mustard oil (except solvent extracted), groundnut oil (except solvent extracted), wooden furniture and fixtures, exercise books and registers, wax candles, laundry soap, safety matches, fireworks, and agarbatties, glass bangles, steel almirah, rolling shutters, steel chairs (all types), steel tables (all other types), steel furniture (all other types), padlocks, stainless steel utensils, and domestic utensils (aluminium). Ministry of Micro, Small and Medium Enterprises online information. Viewed at: http://www.dcmsme.gov.in/publications/reserveditems/reserved2010.pdf.

[136] Development Commissioner online information, "SSI Registration". Viewed at: http://www.dcmsme.gov.in/howtosetup/grgxx01x.htm.

[137] Information provided by the authorities.

[138] Development Commissioner online information, "Excise and SSI". Viewed at: http://dcmsme.gov.in/policies/central/t-ed.htm.

[139] See WTO (2011), Chapter III(4)(iii) for details.

agreement or abuse its dominant position. The CCI may self-initiate investigations. The CCI provides *ex ante* merger consultation free of charge. The CCI also has a role in competition advocacy; the authorities consider it necessity to develop "competition culture" in the economy, and enhance competition compliance by stakeholders. The CCI has organized various workshops, conferences, seminars, used electronic media and undertaken studies in pursuance of the advocacy mandate. The orders, directions or decisions made by the CCI may be appealed before the Competition Appellate Tribunal (CAT). The authorities state that the CCI is an independent body; it has full functional autonomy as a competition regulator in India, furnishes its annual report which provides a full account of its activities to the Government, and is subsequently placed before the Parliament. The chairperson and members are appointed by the Government from a panel of names recommended by a selection committee headed by the Chief Justice of India or his/her nominee. The appointments are subject to their satisfying the qualifications and experience requirements stipulated in the Competition Act 2002.

3.171. Legislation dealing with competition issues in India includes the Competition Act 2002, the Competition (Amendment) Act 2007, the Competition (Amendment) Act 2009, and various regulations issued by the CCI.[140] Sector-specific regulations exist in many sectors, such as capital markets, insurance, telecommunications, electricity, petroleum and natural gas, and civil aviation. The Competition Act does not distinguish between private and government enterprises except for limited exemptions relating to sovereign functions of government (including activity relating to energy, currency, defence and space). The Competition Act stipulates mandatory prior approval of combinations above the notified thresholds.[141] The CCI must decide within 210 days to finalize and notify the decision on a combination filing. In this context, the CCI has a self-imposed limit to clear cases within 180 days on best-endeavour basis. As per provisions in "Combinations Regulations", the authorities consider that most filings are likely to be approved within 30 days and only those with serious competition concerns are likely to go beyond this period to the second stage of investigation.

3.172. In June 2011, two new regulations concerning combinations (mergers) and recovery of monetary penalty, respectively, entered into force.[142] The purpose of the CCI (Procedure in Regard to the Transaction of Business Relating to Combinations) Regulations 2011 is to provide detailed procedures to be followed in case of combination matters (e.g. merger review). The Regulations deal with, *inter alia,* the form of notice to be given, timelines, filing fees, procedure for filing notice. Combinations require filing notices within 30 days of: (i) approval of the proposal relating to merger or amalgamation; or (ii) execution of any agreement or other documents of acquisition. The CCI (Manner of Recovery of Monetary Penalty) Regulations 2011 contains, *inter alia,* detailed provisions with regard to issuance of demand notices, modes of recovery, reference to income tax authorities, and interest on penalties. The purpose of the Regulation is to enforce penalty recovery in an effective and pre-determined manner.

3.173. The authorities state that CCI has kept the Combination Regulations aligned with international best practices, such as mandatory filing, clearly defining threshold for notification requirements, and timing of notices to be submitted. From this perspective, CCI amended the Combination Regulations on 23 February 2012, 4 April 2013 and 28 March 2014, respectively, with a view, *inter alia,* to simplifying filing requirements for combinations.[143].

[140] See WTO (2011), Chapter III(4)(iii) for details.

[141] The thresholds are: (i) for an individual in India, Rs 15 billion (assets) and Rs 45 billion (turnover); (ii) for a group in India, Rs 60 billion (assets) and Rs 180 billion (turnover); (iii) for individual parties in India and outside, US$750 million in which minimum Indian component is Rs 7.5 billion (assets) and US$2.25 billion in which minimum Indian component is Rs 22.5 billion (turnover); and (iv) for a group in India and outside, US$3 billion in which minimum Indian component is Rs 7.5 billion (assets) and US$9 billion in which minimum Indian component is Rs 22.5 billion (turnover).

[142] The CCI (Procedure in Regard to the Transaction of Business Relating to Combinations) Regulations 2011, and the CCI (Manner of Recovery of Monetary Penalty) Regulations 2011. Viewed at: http://www.cci.gov.in/index.php?option=com_content&task=view&id=62.

[143] The main changes stipulated in the February 2012 amendment included inter alia that filing of notice is not generally required in the event of: (i) acquisitions that are less than 25% of the shares or voting rights of a company on a cumulative basis; (ii) intra-group mergers or amalgamations involving enterprises wholly-owned by the group companies; (iii) acquisitions of shares or voting rights pursuant to buy-backs or subscription of rights issues not leading to acquisition of control. The April 2013 amendment involved inter alia: (i) allowing a "creeping" of acquisitions up to 5% per financial year, where the acquirer already holds 25% or more but does not hold 50% or more of the shares or voting rights of the enterprise, under certain conditions;

3.174. In addition, in accordance with clause (a) of Section 54 of the Competition Act, the Government exempted: (i) an enterprise, whose control, shares, voting rights or assets are being acquired has either assets of the value of not more than Rs 2.5 billion in India or turnover of not more than Rs 7.5 billion in India from the provisions of Section 5 of the Act for a period of five years from 4 March 2011; (ii) a banking company, to which the Government has issued a notification under Section 45 of the Banking Regulation Act 1949, from the application of provisions of Section 5 and 6 of the Competition Act for five years from 8 January 2013[144]; and (iii) the Vessel Sharing Agreements of Liner Shipping Industry from the provisions of Section 3 of the Competition Act (Anti-Competitive Agreements) for a period of one year as from 11 December 2013.

3.175. Between May 2009 and December 2014, the CCI received 557 cases (excluding combination filings as described in the next paragraph). As at 31 December 2014, 283 cases (out of 557 cases) were closed at the *prima facie* stage, 144 cases decided/disposed of after the report of the Director General (DG) of Investigation, 55 cases under consideration before the CCI, and 75 cases under investigation before the DG. The CCI has issued cease-and-desist orders in various cases as well as ordered modification of agreements; between 2011 and 2014, 77 cease-and-desist orders were issued. Penalties have been imposed in some cases (e.g. a cartel involving cement)[145]; in the same period, there were 58 cases (including combination cases) where penalties were imposed, the total amount of the penalty amounting to Rs 124.7 billion.

3.176. On merger review, between June 2011 and March 2014, the CCI received more than 150 combination filings, all of which being cleared by the Commission at the first phase of scrutiny within 30 days of filing in accordance with the provisions of the Combination Regulations.

3.177. The CCI identifies the Memorandum of Understanding (MOU) as a potent tool to enhance international cooperation in competition policies. It has signed MOUs with: the Federal Antimonopoly Service (Russia) in 2011; the Federal Trade Commission and the Department of Justice (the United States) in 2012; the Australian Competition and Consumer Commission in 2013; the DG Competition, European Commission in 2013; and Competition Bureau, Canada in 2014. In various regional trade agreements that India has signed (e.g. with Japan, and the Republic of Korea), competition chapters are included; the authorities state that all RTAs to be concluded by India are likely to have a chapter on competition.

3.178. The authorities are currently formulating a National Competition Policy.[146]

3.3.2.2 Price controls

3.179. The Government maintains various price support schemes for agricultural commodities. These include minimum support prices (MSPs) for major agricultural commodities, price support schemes (PSS) involving procurement, the market intervention scheme (MIS) covering agricultural commodities that are not covered by MSPs, the fair and remunerative price (FRP) and the state advisory price (SAP) schemes for sugarcane. There is also a new pricing scheme (NPS) for urea.[147] These schemes have remained largely unchanged since 2011.[148]

3.180. Under the targeted public distribution system (TPDS), the prices of certain essential commodities (i.e. wheat, rice, coarse grains, sugar and kerosene) continue to be subsidized for a targeted population living below the poverty line.

3.181. In addition, the prices of LPG for domestic use are controlled with the provision of subsidies. LPG for domestic use is made available at subsidized prices up to 12 cylinders per year

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(ii) eliminating notification requirements for combinations involving subsidiaries of a group under certain conditions. Further, in the March 2014 amendment, *inter alia*, filing fees were increased to Rs 1.5 million for Form I and Rs 5 million for Form II.

[144] Ministry of Corporate Affairs, Notification No.5 63/2011-CS, 8 January 2011.

[145] See, for example, CCI online information at: http://www.cci.gov.in/May2011/PressRelease/PressReleaseSuoMoto052013.pdf.

[146] Ministry of Corporate Affairs (2014).

[147] Department of Chemicals and Fertilizers online information. Viewed at: http://fert.nic.in/page/fertilizer-policy.

[148] See WTO (2011) for details.

per household. Price controls on petrol and diesel were abolished on 26 June 2010, and 19 October 2014, respectively.

3.182. A two-price regime system continues to exist for natural gas: gas priced under the administered pricing mechanism (APM) and non-APM gas. The APM applies to gas produced in fields awarded to India's national oil companies (ONGL and OIL) prior to the implementation of the New Exploration Licensing Policy (NELP) in 1999. The non-APM applies to: (i) gas produced in fields awarded under the NELP for which the price is determined by the production sharing contract (PSC) between the Government and the private contractor; and (ii) to imports of LNG for which the price is determined by an agreement between buyer and seller. The price formula used to determine the prices under the PSC must be approved by the Government. APM gas may only be used by priority sectors, i.e. fertilizers (urea), LPG plants (owned by GAIL and ONGC), power, city gas distribution, steel plants, refineries, and petrochemicals. Other consumers are not allowed to use subsidized gas and must buy it from private companies or LNG importers. The price of gas produced by ONGC and OIL under the APM was US$4.2/MMBTU prior to 1 November 2014, when it was increased to US$5.61/MMBTU (on net calorific value) to be valid until 31 March 2015, as per the prescribed formula reflecting international gas markets. Prices are to be revised every six months.

3.183. The Government closely monitors the price of certain sensitive hydrocarbons. In case of high price volatility in the international market, the Government will intervene to stabilize prices.

3.184. On 7 December 2012, the Government introduced the National Pharmaceutical Pricing Policy 2012, and subsequently the Drugs (Price Control) Order, reflecting the Policy, was issued on 15 May 2013.[149] The objective of the Policy is to introduce a pricing framework for drugs to ensure availability of "essential medicines" specified in the National List of Essential Medicines at reasonable prices while providing sufficient opportunity for innovation and competition. Under the Policy, prices of some 348 essential medicines are regulated on the basis of formulations through "market-based pricing", which takes the simple averages of retail prices of all brands having a market share of no less than 1% of total market turnover.[150] The ceiling price of scheduled formulations will be revised as per the annual wholesale price index (WPI) for the preceding calendar year on or before the first day of April every year and will be notified on the first day of April every year.

3.3.3 State-owned enterprises, and privatization

3.3.3.1 Role of state-owned enterprises (other than state-trading companies), and disinvestment

3.185. Central public sector enterprises (CPSEs) continue to play an active role in the economy, holding significant market-share in several sectors/subsectors, e.g. petroleum and mining, power transmission and generation, nuclear energy, heavy engineering, the aviation industry, storage and public distribution system, shipping, insurance, and telecommunications.

3.186. India's disinvestment policy is aimed at encouraging people-ownership of CPSEs while ensuring that the Government's equity does not fall below 51%, hence maintaining control of the enterprise. The Government's disinvestment programme in listed, profit-making CPSEs is governed by the Disinvestment Policy of November 2009, which aims to bring transparency and accountability in the day-to-day functioning of CPSEs and also to introduce market discipline. On 22 August 2014, the minimum public shareholding norm of CPSEs was raised from 10% to 25% to be achieved by end August 2017. In addition, the disinvestment programme envisages listing all unlisted profit-making CPSEs on stock exchanges; this will be achieved with the issue of fresh equity by the CPSE, or by the Government offloading its share in the stock market, or a combination of both.

3.187. Since India's last Review, disinvestment of CPSEs has continued; a few CPSEs were recently approved for disinvestment (Table 3.21). Annual plans for disinvestment are approved by

[149] Department of Pharmaceuticals online information. Viewed at: http://pharmaceuticals.gov.in.

[150] Previously, under the provisions of the Drugs (Prices Control) Order, 1995 (DPCO, 1995) prices of 74 bulk drugs and the formulations containing any of these scheduled drugs were controlled (WTO, 2011).

the Cabinet and included in annual budgets. Details of those companies to be disinvested and by how much are not published.

3.188. At end-March 2014, 229 of India's 277 CPSEs were in operation.[151]

Table 3.21 Overview of disinvestment, 2011-15

CPSEs	Scenario	Year	Government's share (%)
CPSEs disinvested			
Power Finance Corporation of India Ltd. (PFC)	Follow-on Public Offer (FPO). 5% along with 15% fresh equity raised by the company	2011-12	89.78
Oil & Natural Gas Corporation of India Ltd (ONGC)	Offer for sale of 4.91% of the Government's paid-up capital	2011-12	74.14
National Building Construction Corporation (NBCC)	Offer for sale of 10% of the Government's paid-up capital	2012-13	100
Hindustan Copper Ltd. (HCL)	Offer for sale of 5.58% of the Government's paid-up capital	2012-13	99.59
National Mineral Development Corporation (NMDC) Ltd.	Offer for sale of 10% of the Government's paid-up capital	2012-13	90
Oil India Ltd.	Offer for sale of 10% of the Government's paid-up capital	2012-13	78.43
National Thermal Power Corporation (NTPC) Ltd.	Offer for sale of 9.50% of the Government's paid-up capital	2012-13	84.50
Rashtriya Chemical and Fertilizers Ltd (RCF)	Offer for sale of 12.5% of the Government's paid-up capital	2012-13	92.5
National Aluminium Company Ltd (NALCO)	Offer for sale of 6.09% of the Government's paid-up capital	2012-13	87.15
Steel Authority of India Ltd (SAIL)	Offer for sale of 5.82% of the Government's paid-up capital	2012-13	85.82
Hindustan Copper Ltd (HCL)	Offer for sale of 4.01% of the Government's paid-up capital	2013-14	94.01
ITDC Ltd	Offer for sale of 5% of the Government's paid-up capital	2013-14	92.11
MMTC Ltd	Offer for sale of 9.33% of the Government's paid-up capital	2013-14	99.33
National Fertilizer Ltd (NFL)	Offer for sale of 7.64% of the Government's paid-up capital	2013-14	97.6
State-Trading Corporation Ltd (STC)	Offer for sale of 1.02% of the Government's paid-up capital	2013-14	91.02
Neyveli Lignite Corporation Ltd (NLC)	Offer for sale of 3.56% of the Government's paid-up capital	2013-14	93.56
Engineers India Ltd (EIL)	Offer for sale of 10% of the Government's paid-up capital	2013-14	80.40
Indian Oil Corporation Ltd (IOCL)	Offer for sale of 10% the Government's paid-up capital	2013-14	78.92
National Hydroelectric Power Corporation (NHPC)	Buy-back of 10% by the Company	2013-14	86.36
Power Grid Corporation of India Ltd (PGCIL)	4% FPO and 13% of fresh equity raised by the Company	2013-14	69.42
Bharat Heavy Electric Ltd (BHEL)	Offer for sale of 4.66% of the Government's paid-up capital	2013-14	67.72
Steel Authority of India Ltd (SAIL)	Offer for Sale of 5% of paid-up equity capital of SAIL out of the Government's shareholding of 80%	2014-15	80
Coal India Ltd. (CIL)	Offer for sale of 10% of the Government's paid-up capital	2014-15	89.65

[151] A list of CPSEs can be obtained online. Department of Public Enterprises online information: Viewed at: http://dpe.nic.in/sites/upload_files/dpe/files/survey1213/survey01/APENDIX1.pdf.

CPSEs	Scenario	Year	Government's share (%)
CPSEs to be disinvested			
Oil & Natural Gas Corporation of India Ltd (ONGC)	Offer for sale of 5% of the Government's paid-up capital	2014-15	68.94
National Hydroelectric Power Corporation (NHPC)	Offer for sale of 11.36% of the Government's paid-up capital	2014-15	85.96
Power Finance Corporation (PFC)	Offer for sale of 5% of the Government's paid-up capital	2014-15	72.80
Rural Electrification Corporation (REC)	Offer for sale of 5% of the Government's paid-up capital	2014-15	65.64

Source: WTO Secretariat, based on information provided by the Indian authorities.

3.189. Proceeds from disinvestment are placed in the National Investment Fund (NIF).[152] In principle, 75% of the proceeds are allocated to the funding of selected social programmes and the remainder is invested in the modernization or expansion of profitable or revivable CPSEs.[153] On 17-January 2013, the Government approved restructuring of the NIF and decided that with effect from 2013-14 the disinvestment proceeds will be credited to the existing "Public Account" under the NIF and they would remain there until withdrawn/invested for the approved purpose. The allocations from the NIF will be decided in the annual Government budget. For 2013-14, the Government approved allocations from the NIF towards spending on recapitalization of public sector banks and capital expenditure of Indian railways.

3.3.4 Government procurement

3.3.4.1 Overview

3.190. Since 2012, the use of e-procurement has become the norm in government procurement in India. All ministries/departments of the central government must use e-procurement to publish all tender enquiries (from 1 January 2012), CPSEs from 1 February 2012, and autonomous/statutory bodies from 1 April 2012.[154] On 5 October 2012, the Department of Telecommunications issued a notification concerning its policy for according preference to domestically-manufactured telecom products in procurement due to security considerations.[155]

3.191. India is an observer to the WTO Agreement on Government Procurement. Its procurement system continues to be decentralized, comprising an array of entities at various levels of government (central, state and local) in addition to numerous CPSEs. There is no central agency responsible for regulating public procurement at a national level and no common legislation governing procurement at different levels of government and by CPSEs. Consolidated data are not available on the economic significance of government procurement, including a breakdown of the value of contracts by the tendering method. The authorities state that India is in the process of formulating a comprehensive government procurement legislation that is applicable to all parts of the central Government; the legislation is also intended to accommodate requirements of the WTO-Agreement on Government Procurement.

3.192. Whereas the central Government has reservations and price preferences as part of the procurement system, competition from foreign suppliers is ordinarily allowed in tenders advertised in India. If procurement is restricted to domestic manufacturers/suppliers, it is clearly indicated in the tender notification.

3.193. Certain control and oversight functions are carried out by central authorities, such as the Comptroller and Auditor General and the Central Vigilance Commission. Procurement decisions at

[152] Department of Disinvestment online information. Viewed at: http://divest.nic.in/Nat_inves_fund.asp.

[153] Nonetheless, due to the economic slowdown over 2008-09 and a recent drought, the Government decided that, between April 2009 and March 2012, proceeds would be fully used to finance social sector programmes; this was also extended by another year (April 2012-March 2013) in view of the persistent difficult economic conditions.

[154] Department of Expenditure, Public Procurement Cell online information, Office Memorandum No. 10/1/2011, 30 November 2011. Viewed at: http://eprocure.gov.in/cppp/rulesandprocs.

[155] DOT notification, 5 October 2012. Viewed at: http://www.dot.gov.in/sites/default/files/5-10-12.PDF.

the central level are subject to audit by the Comptroller, and to legislative review and judicial scrutiny. There is a similar system at the state level. Public procurement carried out at state level is also subject to audit and oversight by the respective state vigilance departments, auditors, and judiciary. Some States (Karnataka, Rajasthan, and Tamil Nadu) have also passed laws to regulate public procurement.

3.194. Disputes regarding procurement should be resolved in the first instance through consultation. If the parties fail to resolve the dispute within 21 days, either party may give notice to the other of its intention to commence arbitration. For contracts with domestic suppliers, the applicable arbitration procedure is under the Indian Arbitration and Conciliation Act 1996. If the contract is with a foreign supplier, the supplier may chose arbitration either through the Indian Arbitration and Conciliation Act 1996 or the United Nations Commission on International Trade Law (UNCITRAL).[156] Remedies regarding public procurement contracts may also be sought under the provisions of the Indian Contract Act 1872, the Specific Relief Act 1963, and the Sale of Goods Act 1930. A public procurement process may be subject to judicial review before a High Court in India on grounds of, *inter alia*, arbitrariness, fairness in action, bad faith or violation of a fundamental or legal right enshrined in the Constitution of India.[157]

3.195. Under India's competition law, collusive bidding or bid-rigging in the context of government procurement is one of the horizontal agreements that is considered to have an adverse effect on competition. The CCI has the competence to determine whether collusive bidding or bid-rigging is anti-competitive. However, the CCI only makes an enquiry if there are complaints of an alleged contravention. After the enquiry the CCI might direct the parties to review the agreement and may impose a penalty if it deems necessary.

3.3.4.2 Regulatory framework

3.196. The current regulatory framework for India's public procurement includes the General Financial Rules (GFRs), 2005; the Delegation of Financial Powers Rules (DFPR); the *Manual on Policies and Procedures for Purchase of Goods* issued by the Ministry of Finance; Government orders regarding price or purchase preference or other facilities to sellers in the handloom sector, cottage and small-scale industries and to CPSEs; and the guidelines issued by the Central Vigilance Commission to increase transparency and objectivity in public procurement. There are also sectoral laws such as the Telecom Regulatory Authority Act 2000, the Electricity Act 2003, and the Petroleum and Natural Gas Board Act 2006, which also regulate public procurement. In addition, various Government instruments and agencies including ministries and departments (e.g. the Public Works Department and the National Highways Authority of India) have their own public procurement system.[158]

3.197. The various ministries or departments have full powers to make their own arrangements for the procurement of goods. However, if they do not have the required expertise to procure goods, procurement may be carried out through the Directorate General of Supplies and Disposal (DGS&D), the central purchase organization, with the approval of the competent authority.[159] The DGS&D keeps a registry of manufacturers/suppliers and Indian agents of foreign manufacturers, and arranges the clearance of imported goods purchased by central Government departments.

3.198. The applicable procurement method depends on the value of the contract to be awarded and other factors (e.g. emergency situations) as stipulated in the GFRs 2005. The splitting of purchases into contracts of smaller value is explicitly forbidden. The procurement methods are: invitation to tender; limited-tender enquiry; single-tender enquiry; purchase of goods by purchase committee; purchase of goods without quotation; and purchase of goods directly under rate contract.

3.199. The DGS&D concludes "rate contracts" for goods identified as "common use items" and needed on a recurring basis by various central Government ministries or departments. The ministries or departments must follow those rate contracts to the maximum extent possible. A rate contract is an agreement between the purchaser and supplier to supply stores (i.e. goods) at

[156] Global Legal Group (2010).
[157] Global Legal Group (2010).
[158] Global Legal Group (2010).
[159] General Financial Rules 2005.

specified prices during the period covered by the contract. However, no quantities or minimum purchase requirements are mentioned in the contract. Supply orders may be placed with any of the firms holding a "rate contract" directly by the authorized officers of the central Government ministries/departments or by the DGS&D.

3.200. The DGS&D prepares lists of eligible and capable suppliers of commonly purchased goods. The National Small Industries Corporation (NSIC) also registers MSEs, under the single point registration scheme; this is considered equivalent to DGS&D registration. MSEs registered under the scheme are exempt from payment of fees related to the issue of the tender and of earnest money and security deposit; they also benefit from the preferences reserved for MSEs (see below). Registration is granted for a fixed period depending on the nature of the goods, and may be renewed upon application.

3.3.4.3 Preferential policies at the central Government level

3.201. India retains preferential treatment in government procurement from MSEs. On 23 March 2012, the Government announced that the central Government ministries, departments and public sector undertakings will be obliged to procure a minimum of 20% of their annual procurement in value from MSEs starting as from 1 April 2015.[160] The order also earmarked a sub-target 4% procurement of goods and services, out of the 20% from MSEs owned by Scheduled Caste or Scheduled Tribe entrepreneurs.[161]

3.202. Reservations exist for MSEs and for certain products. MSEs receive purchase and price preferences in procurement by central Government ministries/departments and CPSEs. Under the purchase-preference system, 358 items have been reserved for exclusive procurement from MSEs (Table A3.1) and 20 items for exclusive manufacturing in the micro- and small sectors. The purchase-preference system offers price preferences of up to 15% to MSEs over the quotations provided by large-scale industries. MSEs are also assisted through the: (i) issue of tender sets free of cost; (ii) exemption from payment of "earnest money" (deposits) and transparent criteria. Under the present Government purchase and price policy for MSEs, the Government has been extending various facilities to the MSEs registered with the NSICI under its Single Point Registration Scheme.

3.203. The central Government has reserved all items of handspun and hand-woven textiles (khadi goods) for exclusive purchase from the Khadi and Village Industries Commission (KVIC). The central Government purchases all items of handloom textiles exclusively from the KVIC and/or the Association of Corporations and Apex Societies of Handloom, and coir products from the Coir Board.

3.3.4.4 Procurement of services

3.204. When outsourcing services, a limited tender enquiry is used if the estimated value of the work or service is Rs 1 million or less. Eligible bidders are on the ministry/department's list of potential contractors. This list is prepared through formal or informal enquiries with other ministries and organizations involved in similar activities and research in trade journals. At least three contractors must be identified for issuing a limited tender enquiry. If the estimated value of the work or service is more than Rs 1 million, an advertised tender enquiry must be published in at least one popular largely circulated national newspaper and on the ministry/department's website.

3.3.4.5 Procurement at the state level

3.205. Some states (e.g. Tamil Nadu and Karnataka) have enacted a law exclusively governing public procurement of goods. Nonetheless, in most states the GFRs govern procurement and are based on the central Government GFRs.

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[160] Ministry of Micro, Small and Medium Enterprises, Order S.O.581(E), 23 March 2012.
[161] Ministry of Micro, Small and Medium Enterprises (2012).

3.3.4.6 Procurement in the railway and other specialized sectors

3.206. Since India's previous Review, there have been no major changes to procurement in the railway, postal system, telegraph, and defence industries, which is subject to specialized procedures developed by the ministries responsible, within the overall framework of the GFRs 2005. In general, competition from foreign suppliers is allowed in respect of high technology or high-value items. For procurement in railways, foreign firms are free to participate in tenders advertised in India only, but payment against such contracts must be received in Indian rupees on par with indigenous suppliers. Global tendering is frequently used in procurement of rolling stock, wheels, machinery and plant equipment, including technology transfer. Indian Railways evaluates all offers based on the total destination cost. Domestic goods bids are evaluated based on freight up to destination including all taxes and levies. Offers from abroad are evaluated based on the c.i.f. value of imports and customs duties, but inland freight is not taken into account.

3.3.5 Intellectual property rights

3.3.5.1 Introduction

3.207. India has an important economic interest in protecting the intellectual property rights (IPRs) of its creators and inventors, particularly in the creative and knowledge-based industries. It is an active stakeholder in the international intellectual property community, and party to key WIPO treaties.[162] Since the last Review, India has in its 2012 telecommunications policy favoured "Indian" IPRs[163] in line with other policies favouring local manufacture. India's National Manufacturing Policy, while defining the functions of the Technology Acquisition and Development Fund, has stated that the Fund will have the option to approach the Government for issue of a Compulsory Licence for the technology which is not being provided by the patent-holder at reasonable rates or is not working in India to meet the domestic demand in a satisfactory manner. It is stated that such compulsory licences will be issued only within the provisions of the TRIPS.[164] In the Global Innovation Index 2014, India slipped ten positions to rank 76th in the world.[165]

3.208. With a view to designing an IPR policy that would stimulate innovation across sectors within the country, the Government constituted an "IPR Think Tank" with the mandate to prepare the draft national IPR policy. The Think Tank submitted its draft National IPR Policy on 19 December 2014.[166]

3.209. While India has laws covering different aspects of IPRs that have been amended from time to time, including in order to take into account its TRIPS obligations[167], only the Copyright Act, 1957 has been amended since 2011. India's WTO contact point for IPRs remains the Department of Commerce. The nodal department for industrial property such as patents, trademarks, industrial designs and geographical indications remains the Department of Industrial Policy and Promotion, which is part of the Ministry of Commerce and Industry. The nodal Ministry for copyright remains the Ministry of Human Resources Development, while that for the protection of new plant varieties remains the Ministry of Agriculture.

3.210. Appeals regarding administrative decisions relating to patents, trademarks and geographical indications fall to the Intellectual Property Appellate Board (IPAB) that has been in operation since 2007 with respect to patents, and since 2003 with respect to trademarks and geographical indications. It has not been decided whether to add plant variety protection to the jurisdiction of the IPAB.

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[162] See WT/TPR/S/249/Rev.1, p. 112, fn. 336, 20 October 2011.

[163] It is unclear whether "Indian" IPRs in the National Telecom Policy 2012 on pages 3, 10 and 17 refer only to IPRs granted to or generated by Indian national entities (even if filed first elsewhere) or to IPRs granted to or generated by any entity in India only. Viewed at: http://deity.gov.in/sites/upload_files/dit/files/National%20Telecom%20Policy%20(2012)%20(480%20KB).pdf)

[164] Department of Industrial Policy and Promotion (2011)

[165] World Intellectual Property Organization (WIPO) online information. Viewed at: http://www.wipo.int/pressroom/en/articles/2014/article_0010.html.

[166] Department of Industrial Policy and Promotion (2014c).

[167] See WT/TPR/S/249/Rev.1, p. 112, Table 3.29.

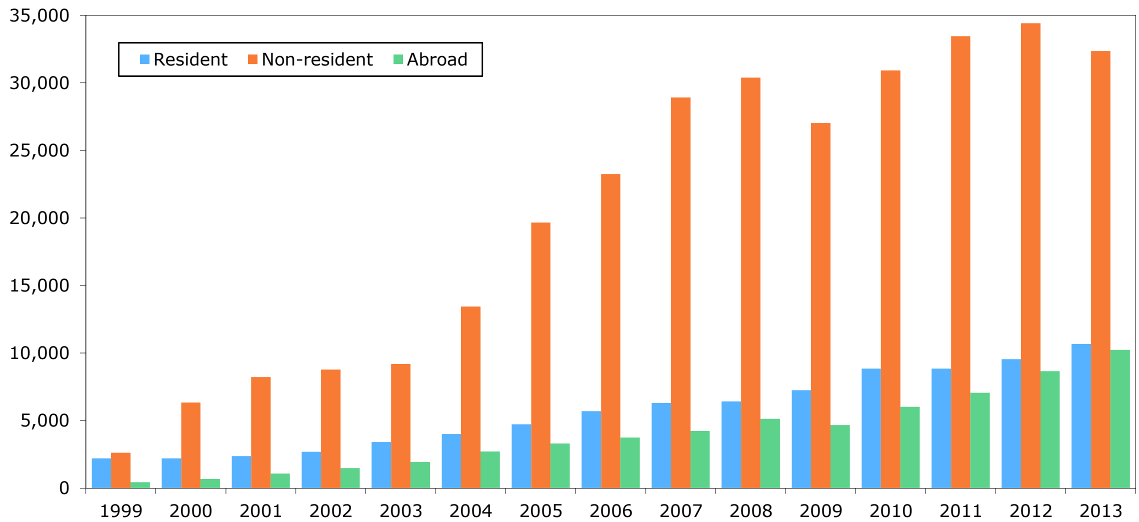
3.211. The following sections give an overview of each IPR law and its implementation, focusing particularly on developments since 2011.

3.3.5.2 Patents

3.212. India's current patent law was amended in 1999, 2002 and 2005 since the implementation of the TRIPS Agreement. The rules currently applicable are the Patents Rules 2003, as last amended by the Patents (Amendment) Rules 2014, effective 28 February 2014. The description of filing and other procedures in the last Review are still valid.[168]

3.213. India had over 40,000 patents in force as at end-2013. While the number of patent applications has been steadily increasing, the number of patents granted has decreased by one-third (Table 3.22). This may indicate that the backlog of patent applications is growing. On the resident and non-resident breakdown, Indian applicants hold less than one-fifth of the patents in force as at 2012-13. Moreover, while patent applications from residents and non-residents were about the same in 1999, in 2013 non-resident applications were three times higher than resident applications (Chart 3.5). Nevertheless, four Indian entities, including two in the public sector, figure among the top 20 applicants in India (Table A3.8).

Chart 3.5 Patent applications in India, 1999-2013



Source: WIPO Statistics database.

3.214. Sectors that have attracted the most patent applications in the period 1999-2013 are pharmaceuticals, organic fine chemistry and computer technology (Chart 3.6). A special effort was made between 2006-08 to speed up the granting of patents and reduce the backlog. This was subsequently followed by the implementation of a Plan Scheme for "Modernization & Strengthening" of IP Offices (2007-11). Under the scheme, new posts of patent examiners/controllers have been created. Procedures were also streamlined and at present the functioning of the IP Office is completely e-enabled. However, due to high attrition rates and the time-lag involved in recruitment, the situation of applications pending did not really improve. The scheme has been continued in the Twelfth Plan (2012-17). Additionally the strengthening of the functioning of the IP Offices will be continued through further modernization.

3.215. There have been several important developments in the period since the last Review in the implementation of India's patent law. An important provision, namely Section 3(d), was interpreted by the Supreme Court in April 2013 in the context of Novartis A.G. vs. Union of India and Others.[169]

[168] See WT/TPR/S/249/Rev.1, pp. 113-115.

[169] Section 3(d):"the mere discovery of a new form of a known substance which does not result in the enhancement of the known efficacy of that substance or the mere discovery of any new property or new use for a known substance or of the mere use of a known process, machine or apparatus unless such known

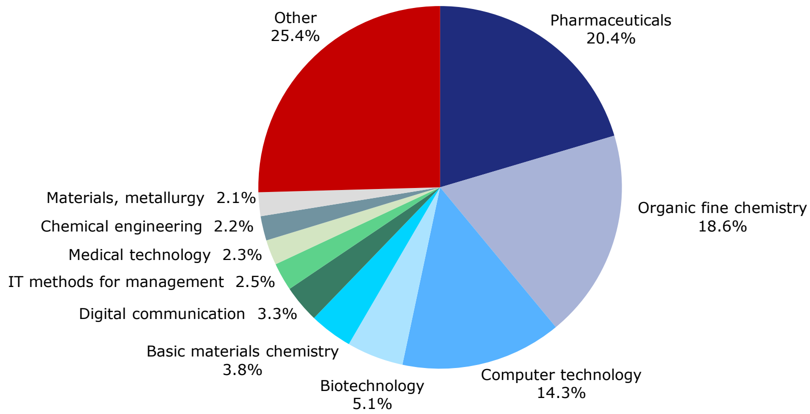
Table 3.22 Patents, 2009/13

(Fiscal year)

	2009/10	2010/11	2011/12	2012/13
Patents				
Filed	34,287	39,400	43,197	43,674
Examined	6,069	11,208	11,031	12,268
Granted	6,168	7,500	4,381	4,126
Residents	1,725	1,273	699	716
Non-residents	4,443	6,236	3,682	3,410
In force	37,354	39,554	39,989	43,920
Residents	6,781	7,301	7,545	8,308
Non-residents	30,553	32,293	32,444	35,612

Source: *Annual Report 2012-2013*. Viewed at: http://ipindia.nic.in/cgpdtm/AnnualReport_English_2012_2013.pdf and information from the Government of India.

Chart 3.6 Patent applications by top fields of technology, 1999-2013



Source: WIPO Statistics database.

3.216. The Supreme Court of India in its judgement said that there was no doubt that the amendment/addition made in Section 3(d) was meant especially to deal with chemical substances, and more particularly pharmaceutical products. "The amended portion of Section 3(d) clearly sets up a second tier of qualifying standards for chemical substances/pharmaceutical products in order to leave the door open for true and genuine inventions but, at the same time, to check any attempt at repetitive patenting or extension of the patent term on spurious grounds." Further it was said that "efficacy" should be understood as "therapeutic efficacy", which must be judged "strictly and narrowly". In paragraph 190 of the judgement, the Court held that "in whichever way Section 3(d) may be viewed, whether as setting up the standards of "patentability" or as an extension of the definition of "invention", it must be held that on the basis of the materials brought before this Court, the subject product, that is, the beta crystalline form of Imatinib Mesylate, fails the test of Section 3(d), too, of the Act." The Supreme Court has also clarified that the test of Section 3(d) of the Act does not bar patent protection for all incremental inventions of chemical and pharmaceutical substances.

3.217. It would appear that the recent rejection of one of the patent applications filed in India on a breakthrough innovative product to treat Hepatitis C, a disease that is widely prevalent in India, was on the grounds that, while the claims may be both novel and inventive, they do not prove

process results in a new product or employs at least one new reactant. Explanation. For the purposes of this clause, salts, esters, ethers, polymorphs, metabolites, pure form, particle size, isomers, mixtures of isomers, complexes, combinations and other derivatives of known substance shall be considered to be the same substance, unless they differ significantly in properties with regard to efficacy". See: http://supremecourtofindia.nic.in/outtoday/patent.pdf for full text of this judgement.

significant enhancement of "therapeutic" efficacy and hence are not in line with of Section 3(d) of the Indian patent law.[170]

3.218. Another important development in the area of patents since the last Review is the issuance in March 2012 of India's first and only compulsory licence so far. This was on a patented anti-cancer medicine called sorafenib Tosylate.[171] The Controller General of Patents, Designs and Trade Marks issued a compulsory licence under Section 84 of the Patents Act deciding that the reasonable requirements have not been satisfied with respect to the patented invention; the patented invention is not available to the public at a reasonable price; and that the patented invention has not been worked in the territory of India as required by the law. The compulsory licence was issued with 6% royalty to be paid to the patent owner. Upon appeal to the IPAB, the royalty was increased to 7% without changing either the decision to grant a compulsory licence or any other conditions of this licence.[172] In July 2014, the Mumbai High Court upheld the earlier order of the IPAB. In December 2014, the Supreme Court refused to admit the appellant's special leave petition.[173] India has not issued any other compulsory licence since even though two more applications for such licences have been received by the Controller General of Patents, Designs and Trademarks in the fiscal years 2011/12 and 2012/13.[174] The Controller General of Patents, Designs and Trademarks received another application filed by M/s. BDR Pharma seeking issue of a Compulsory Licence under Section 84 of the Patents Act; it was turned down on the grounds that sufficient efforts had not been made by the company to seek a voluntary licence from the patentee.

3.219. India has implemented the special compulsory licence regime for exports following the adoption of the Decision on the Implementation of Paragraph 6 of the Doha Declaration in August 2003. Section 92A of the Indian law states that a compulsory licence shall be available for manufacture and export of patented pharmaceutical products to any country having insufficient or no manufacturing capacity in the pharmaceutical sector that need them to address public health problems. One condition is that the importing country should have issued a compulsory licence or, by notification or otherwise, allowed the importation of these products from India. No special rules have been put into place to implement Section 92A. It is not entirely clear how India intends to address the issue of safeguards against diversion that are part of both the August 2003 decision and the subsequent Protocol Amending the TRIPS Agreement that proposes to transpose the decision into the text of TRIPS Agreement in a new provision, Article 31*bis*. However, Section 92A(2) states that the compulsory licence is to be granted solely for manufacture and export of the concerned pharmaceutical product, as per the terms and conditions specified by the Controller General of Patents, Designs and Trademarks in the decision granting the compulsory licence, which must be published. This may be viewed as ensuring transparency and appropriate safeguards.

3.220. The Indian patent office has issued patent examination guidelines to address a number of specific issues. However, while these guidelines provide guidance to patent examiners, they do not overrule the law, which would prevail in case of conflict between the guidelines and the Patents Act.

3.221. In December 2012, final Guidelines for the Processing of Patent Applications Relating to Traditional Knowledge and Biological Materials were released based on a draft version issued for comments a month earlier. Section 3(p) of the Patents Act states that "an invention which, in effect, is traditional knowledge or which is an aggregation or duplication of known properties of traditionally known component or components" is not an invention and hence, not patentable. Further with respect to biological materials, Section 6(1) of the Biological Diversity Act 2002 provides that "no person shall apply for any intellectual property right, by whatever name called, in or outside India for any invention based on any research or information on a biological resource

[170] Some academic research has shown that overall the rate of rejection of incremental inventions in the pharmaceutical sector is not higher than in other emerging markets or Europe (Sampat and Shadlen, 2014; and also Sampat and Amin, 2013).

[171] The full text of the order of the Controller General of Patents, Designs and Trademarks is available at: http://www.ipindia.nic.in/iponew/compulsory_license_12032012.pdf.

[172] See full text of IPAB Order available at: http://www.ipab.tn.nic.in/045-2013.htm.

[173] Full text of the Order can be viewed at: http://courtnic.nic.in/supremecourt/temp/sc%203014514p.txt.

[174] It is stated in the *Annual Reports 2012-13 and 2011-12* that one such application was received during the reporting period.

obtained from India without obtaining the previous approval of National Biodiversity Authority before making such application; provided that, if a person applies for a patent, permission of the National Biodiversity Authority may be obtained after the acceptance of the patent but before the sealing of the patent…"[175] The Biological Diversity Act 2002 provides that "whoever contravenes or attempts to contravene or abets the contravention of the provisions of the Section 3 or Section 4 or Section 6 shall be punishable.[176] Nondisclosure or false submission of the source or geographical origin of biological material used for an invention in the complete specification forms a ground for pre- and post-grant opposition under Clause (j) of Sections 25(1) and 25(2), respectively, of the Patents Act that could lead to revocation of the patent. The Guidelines state that exemption to medicinal plants from the provisions of the Biological Diversity Act, 2002 given by the notification issued by the Ministry of Environment and Forests Notification dated 26 October 2009 is available only if they are traded as commodities and the provisions are applicable if the biological resources are used as ingredients for medicine.[177]

3.222. In March 2013, final Guidelines for the Examination of Biotechnology Applications for Patent were issued based on comments received on a draft that was released in December 2012. The Guidelines have clarified that products such as microorganisms, nucleic acid sequences, proteins, enzymes, compounds, which are directly isolated from nature, are not patentable subject-matter. However, processes of isolation of these products can be considered subject to requirements of Section 2(1)(j) of the Act, namely inventive step. This is an interpretation of Section 3(c) of the Act, which states that the mere discovery of a scientific principle or the formulation of an abstract theory or discovery of any living thing or non-living substance occurring in nature is not a patentable invention.

3.223. In June 2013, the Office of the Controller General of Patents Designs and Trademarks issued draft Guidelines for the Examination of Computer-Related Inventions.[178] The law in Section 3(k) states that computer programs *per se* cannot be patented. These guidelines indicate that computer programs loaded on a general-purpose known computer or related devices cannot be held patentable. These guidelines go on to state that for considering the patentability of computer programs in combination with hardware features, the hardware portion has to be something more than a general-purpose machine.

3.224. In October 2014 Guidelines for Examination of Patent Applications in the Field of Pharmaceuticals were issued.[179] These guidelines were issued after wide consultation on a draft issued in August 2014 with stakeholders both online and otherwise. Several comments made were accepted. For example, the disclosure of the international non-proprietary names of medicines in patent applications is not mandatory as was initially proposed. Guidance on the interpretation of Section 3(d) merely quotes large excerpts from the Supreme Court judgement referred to above and the IPAB decision of 2013 and provides no further guidance.[180]

3.225. In the context of intellectual property and climate change, a subject under discussion in the TRIPS Council since March 2013, India's National Manufacturing Policy of 2012 states in paragraphs 4.4.1 to 4.4.3 that: on occasion, a company may be unable to access the latest patented green technology, which can substantially reduce its carbon footprint, because of its inability to obtain a voluntary licence from the patent holder. This could arise for two reasons. First, the cost of obtaining such voluntary licence could be a barrier for the company. Second, the patent holder could be unwilling to part with the licence, or it is not available at reasonable rates

[175] India's patent law and rules make it mandatory for the applicant for a patent to submit a declaration under Form-1 (Application for Grant of Patent) of the Patent Rules 2003 to the effect that "the invention as disclosed in the specification uses the biological material from India and the necessary permission from the Competent Authority shall be submitted by me/us before the grant of patent to me/us."

[176] The penalty may involve imprisonment for a term up to five years, or fine up to Rs 1 million. Where the damage caused exceeds Rs 1 million, such fine may commensurate with the damage caused, or with both.

[177] A list of traditional knowledge patents may be viewed at: http://ipindiaservices.gov.in/publicfieldofinvention/. The traditional knowledge patents have been classified into traditional knowledge (biotechnology), traditional knowledge (chemical), and traditional knowledge (mechanical).

[178] See full text available at: http://ipindia.nic.in/iponew/draft_Guidelines_CRIs_28June2013.pdf.

[179] Full text of these guidelines available at: http://www.ipindia.nic.in/iponew/Guidelines_for_Examination_of_Patent_applications_Pharmaceutical_29Oct2014.pdf.

[180] Fresenius Kabi Oncology Limited vs. Glaxo Group Limited ORA/17/2012/PT/KOL, Order No.162 of 2013.

or it is not being worked in India (Section 4.4.1); to address the first issue, the Technology Acquisition and Development Fund (TADF) will also function as an autonomous patent pool and licensing agency. It will purchase IP rights to inventions from patent holders. Any company that wants to use the IP to produce or develop products can seek a licence from the pool against the payment of royalties. This company may then produce the product for use in specified geographical areas subject to meeting agreed quality standards. The TADF would reserve the right to license more than one company for a particular patent (Section 4.4.2); and to address the second issue, the Fund will have the option to approach the Government for issue of a compulsory licence for the technology which is not being provided by the patent holder at reasonable rates or is not being worked in India to meet the domestic demand in a satisfactory manner. Such compulsory licences will be issued only within the provisions of TRIPS. Reasonable royalty will be paid to the patent holder (Section 4.4.3).

3.3.5.3 Trademarks

3.226. Trademarks are protected under the Trade Marks Act 1999, which was last amended in 2010, and entered into force on 8 July 2013. This amendment was to ensure compliance with the Madrid Protocol of WIPO, which India acceded to in April 2013. The Trade Marks Rules 2002 were amended in 2010 and 2013, the latter amendment being to implement the Madrid Protocol. The Madrid System provides a mechanism for domestic trademark holders to facilitate the protection of their trademarks in countries which have also acceded to the Protocol. It also allows foreign trademark-holders to protect their trademarks in India. India has subsequently issued guidelines for applicants.[181] The rules were further amended in 2014 to increase application and expedited examination fees. These rules came into force in August 2014.

3.227. The procedures for the filing and examination of trademarks described in the Secretariat report in the last Review remain valid.[182] India's amended law allows trademarks for shape of goods and packaging as well as for holograms, combinations of colours or colours if found to be distinctive. Sound marks are permitted if these are capable of being represented graphically and are found to be distinctive through use.[183]

3.228. The trends of trademarks' filing, examination and registration in India, as well as trademarks that remain in force show the reduction in registrations in 2011-12 and 2012-13 (Table 3.23).

Table 3.23 Trademarks 2009/13

(Fiscal year)

	2009/10	2010/11	2011/12	2012/13
Trademarks				
Filed	141,943	179,317	183,588	194,216
Examined	25,875	205,065	116,263	202,385
Registered	67,490	115,472	51,735	44,361
Residents	62,067	102,967	44,026	40,245
Non-residents	5,423	12,505	7,709	4,116
In force	67,490	115,472	51,735	44,361
Residents	62,067	102,967	44,026	40,245
Non-residents	5,423	12,505	7,709	4,116

Source: *Annual Report 2012-2013*. Viewed at: http://ipindia.nic.in/cgpdtm/AnnualReport_English_2012_2013.pdf; and information from the government of India.

3.229. Unlike patents, resident trademark applications and grants represent nearly ten times those of non-residents. Indeed, it is only in 2010-11 and 2011-12 that there has been a spurt in non-resident registrations as is apparent in the graph.

[181] Full text of guidelines available at: http://www.ipindia.nic.in/Whats_New/guidelines_MadridProtocol_17December2013.pdf.
[182] See WT/TPR/S/249/Rev.1, paragraphs 262 to 270.
[183] See Section 5.2 on on-conventional trademarks in the Manual for Trademark Practice and Procedure. Viewed at: http://ipindia.nic.in/tmr_new/TMR_Manual/DraftManual_TMR_23January2009.pdf. The authorities have clarified that India does not protect smell marks because of the difficulty in graphically representing them.

3.230. With regard to the question of parallel imports, it is clear that Section 30 of the Trademarks Act permits such imports of trademarked goods. Indian courts have upheld this provision several times but have clarified that the importer needs to prove that the initial purchase was legitimate and not of counterfeit goods.[184]

3.231. India protects well-known trademarks in its law and courts have upheld internationally-well-known marks.[185] Since 2011, India's Trademarks Registry has been publishing a list of well-known marks[186] and prohibited trademarks, including a specific list of International Non-Proprietary Names as established by the WHO. The draft Manual for Trademark Practice and Procedure[187] states that: sub-sections (6) to (10) of section 11 deal with matters concerning protection of well-known trademarks. Sub-section (6) lays down factors which the Registrar should take into account in determining whether the trademark is well-known. The onus is on the proprietor to establish by evidence that the mark is well-known. On the other hand, sub section (9) mandates that the Registrar shall not require as a condition for determining that a trademark is well-known any of the following factors: (i) that the trademark has been used in India; (ii) that the trademark has been registered; (iii) that the application for registration of the trademark has been filed in India; (iv) that the trademark is well-known, or has been registered, or in respect of which an application for registration has been filed in any jurisdiction other than India; or (v) that the trademark is well-known to the public at large in India.

3.232. Sub-section (10) obliges the Registrar to protect a well-known mark against identical or similar trademark and to take into account "the bad faith of either the applicant or the opponent in respect of the rights relating to the trademark".[188] Section 2(2) clarifies that any reference: (a) to "trademark" shall include reference to "collective mark" or "certification trade mark"; (b) to the use of a mark shall be construed as a reference to the use of printed or other visual representation of the mark; (c) to the use of a mark in relation to goods shall be construed as a reference to the use of the mark upon, or in any physical or in any other relation whatsoever, to such goods; (d) to the use of a mark in relation to services shall be construed as a reference to the use of the mark as or as part of any statement about the availability, provision or performance of such services; (e) to the Registrar shall be construed as including a reference to any officer when discharging the functions of the Registrar in pursuance of sub-section (2) of Section 3; (f) to the Trademarks Registry shall be construed as including a reference to any office of the Trademarks Registry.

3.233. On occasion, courts are said to have interpreted the language narrowly to exclude use of well-known trademarks as trade names and industry has called for an amendment to make it clear that well-known trademarks are not allowed to be used as trade names, as this may dilute the trademark.[189] However, while recognizing well-known marks, the Courts may have to take into account other considerations to reach a decision. The requirement that each individual case should be judged on its own facts is also stipulated in the WIPO joint recommendation on the well-known marks in Article 2 (1) (c) of the resolution. There have been many such cases where the Trademarks Registry or the courts have decided that the protection would apply to any other product. Cases in point are the Judgments on Sony, Bajaj Electrical Limited, Enfield Bullet, and Whirlpool Corporation in respect of protection of product and trade names.[190]

[184] Philip Morris Products S.A & Anr vs. Sameer & Ors. See full text of judgement delivered on 10 March 2014. Viewed at: http://indiankanoon.org/doc/190034581/?type=print.

[185] See N.R. Dongre and Others vs. Whirlpool Corporation ANR of 30 August 1996: 1996 SCR (5) SUPP 369. Full text available at: http://judis.nic.in/supremecourt/imgst.aspx?filename=19828.

[186] Latest list available at: http://ipindiaservices.gov.in/tmrpublicsearch/wellknownmarks.aspx with details of the decisions/court orders.

[187] Department of Industrial Policy and Promotion (2009b).

[188] "Well-known trademark" means a mark that has become well known to the substantial segment of the public which uses goods or receives services that the use of such a mark.

[189] See the Report on Counterfeiting, Piracy and Smuggling in India: Effects and Potential Solutions, authored by ICC, BSCAP and FICCI CASCADE. Viewed at: www.iccwbo.org.

[190] The list of well-known marks is available at: http://ipindiaservices.gov.in/tmrpublicsearch/wellknownmarks.aspx.

3.3.5.4 Industrial designs

3.234. Industrial design law in India has remained unchanged since the last Review.[191] Draft amendment rules were notified in October 2013 and have not yet been approved.

3.235. The rate of examination and registration of industrial designs in India shows hardly any backlog (Table 3.24). Since January 2011, 240 cancellation petitions are said to have been filed under Section 19 of the Designs Act 2000 and 51 designs have been cancelled by the Controller General of Patents, Designs and Trademarks. Fourteen appeals have been filed before the High Court, of which two have since been decided. Around 45,000 designs are said to be in force in India as of March 2014.

Table 3.24 Designs, 2009/14

(Fiscal year)

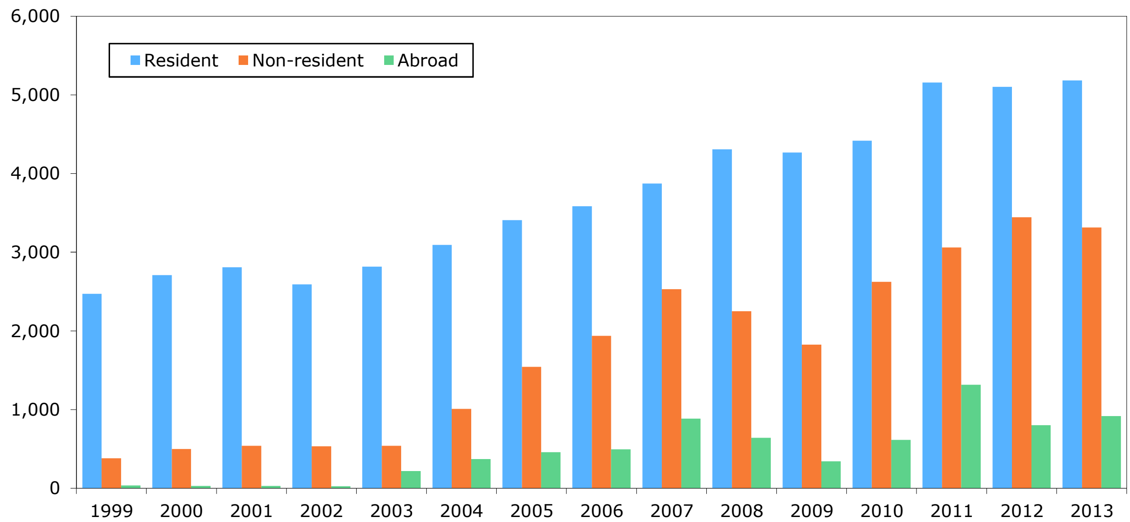
	2009/10	2010/11	2011/12	2012/13	2013/14
Designs					
Filed	6,092	7,589	8,373	8,337	8,533
Examined	6,266	6,277	6,511	6,776	7,281
Registered	6,025	9,206	6,590	7,252	7,178
Residents	3,552	6,369	4,162	4,662	4,330
Non-residents	2,473	2,837	2,428	2,590	2,848
In force	..	..	..	42,786	44,903
Residents	..	..	..	..	..
Non-residents	..	..	..	..	..

.. Not available.

Source: *Annual Report 2012-2013*. Viewed at: http://ipindia.nic.in/cgpdtm/AnnualReport_English_2012_2013.pdf and information from the Government of India.

3.236. Industrial design applications and registrations are dominated by residents, although to a lesser extent than in the case of trademarks. Foreign applications have been increasing at a particularly sharp rate since the last Review but the 20 top holders of industrial designs among Indian entities engaged in different commercial sectors such as apparel, electrical products, engineering, jewellery, shoes and consumer goods (Charts 3.7 and 3.8). The top 20 foreign holders of industrial designs in India are from sectors such as automobiles, electronics, consumer products and engineering.

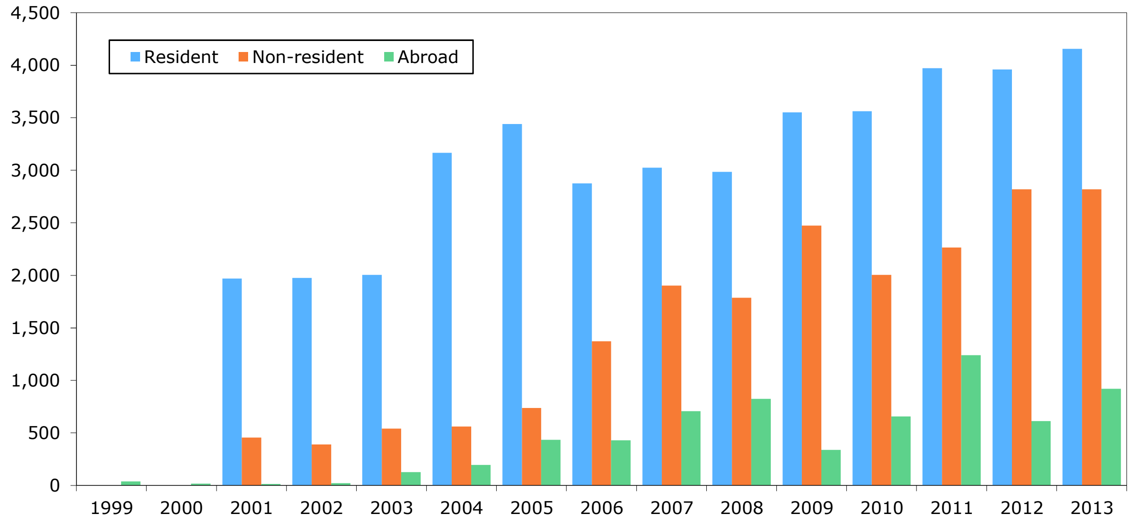
Chart 3.7 Industrial design applications, 1999-2013



Source: WIPO Statistics database.

[191] See WTO document WT/TPR/S/249/Rev.1, paragraphs 271 to 277.

Chart 3.8 Industrial design registrations, 1999-2013



Source: WIPO Statistics database.

3.237. Since the last Review, there have been a number of clarifications, including in cases litigated in India, that throw more light on the interface between design, patent and copyright law. Under India's Designs Act Section 2(d) design protection for designs that serve a particular function is excluded. Only non-functional designs are protected as patent law should be used to protect new, functional industrial designs. This is accepted and is also made clear in the TRIPS Agreement.[192]

3.238. Section 2(c) of the Designs Act also excludes designs that are artistic works as defined under the Copyright Act. Industrial products can be produced using artistic works protected under the Copyright Act; under Section 15(2), if these industrial processes are applied to a copyrighted work more than fifty times, copyright protection in the design, as applied in the industrial process but not in the original artistic work, ceases.[193] In this respect, the lines between copyright in three-dimensional forms of artistic works and industrial design protection are not clear. In cases where designs have not been protected and yet copyright protected works have been industrially reproduced more than fifty times, the IPR owner may lose copyright protection.[194]

3.3.5.5 Copyright

3.239. India is the world's largest producer of films and the total contribution of the Indian film and television industry to India's GDP is estimated at 0.5% or Rs 500 billion (or approximately US$8 billion).[195] This industry, in which copyright protection plays an important role, is projected to grow at a compound growth rate of 17% per annum up to 2017. The English and foreign films segment represents only around 6% of total revenues from films in India, but this is set to grow due to increasing use of dubbing of foreign films into Indian languages. The Government is also trying to attract foreign film production to India. India is already being increasingly used for visual effects and animation by the foreign film industry, especially Hollywood.[196]

[192] A case which discusses different aspects of novelty and functionality was decided in 2014. See Whirlpool of India Ltd. Vs. Videocon Industries Ltd. on 27 May 2014. Full text available at: http://indiankanoon.org/doc/188051985/. See also: http://spicyip.com/2012/10/novelty-of-design-tarun-sethi-v-vikas.html and Steelbird Hi-Tech India Ltd. vs. S.P.S. Gambhir and Others. Full text available at: http://lobis.nic.in/dhc/MAN/judgement/24-02-2014/MAN24022014S24072013.pdf.

[193] This was upheld in Microfibres Inc. vs. Girdhar & Co., (2009 (40) PTC 519 (Del.)). Full text available at: http://indiankanoon.org/doc/112937069/.

[194] This was the case in Standard Corporation India Ltd. vs. Tractors and Farm Equipment Ltd, which is analysed here at: http://spicyip.com/2014/04/standard-corporation-india-ltd-v-tractors-and-farm-equipment-ltd-the-copyright-design-conundrum.html.

[195] Deloitte (2014).

[196] Deloitte (2014), slide 42.

3.240. Similarly, the Indian music industry is reported to have had revenues of around US$150 million in 2013, of which over 50% was obtained through digital sales. Over 80% of music relates to film music in India; in some cases, over 10% of a producer's revenues could come from music. Digital sales and licensing revenues are expected to rise in the near future.

3.241. With regard to the publishing industry, it is believed to be growing at a compound annual growth rate of 30%. India is said to be the world's seventh largest book publishing country with over 16,000 publishers, the huge majority being small players and family-owned units.[197]

3.242. Procedures for obtaining copyright protection in India described in the last Review are still valid.[198] While India's Copyright Act 1957 required only minor changes in 1999 to bring it into compliance with the TRIPS Agreement, it was substantially amended in 2012, and entered into force on 21 June 2012[199], to *inter alia* implement the 1996 WIPO Copyright Treaty (WCT) and the WIPO Performers and Phonograms Treaty (WPPT). The Copyright Rules 2013 replaced the old Copyright Rules, 1958.[200] A handbook on copyright law in India is available online.[201]

3.243. A major change has been to ensure that copyright holders are protected against circumvention of effective technological measures and rights management devices, while maintaining an appropriate balance between the interests of the right-holders on the one hand and that of technology innovators, researchers and educational institutions, on the other. Moral rights have been extended to performers, which is in conformity with the WPPT. The right of reproduction of artistic works, cinematographic works and sound-recordings now includes storage of the protected work in any electronic or other media. In refining the rental right, the amended law defines commercial rental to exclude use for non-profit purposes besides protection of technological measures and protection of Right Management Information (RMI) in the digital network.

3.244. In the Copyright Act, exclusive rights in reproduction, circulation, communication to the public and rental rights have been provided. In particular, rights of performers have been clarified and consolidated, including in the context of cinematographic works and sound-recordings, without prejudice to the rights of authors, thus implementing Articles 6-10 of the WPPT. Rights of performers are now phrased as positive rights and have been extended, *inter alia,* to communication over the internet and to moral rights. The term of protection of photographs has been extended to 60 years after the death of the author, as in the case of other artistic and literary works.

3.245. A compulsory licence can be issued by the Copyright Board on any work withheld from the public. Special provisions have been inserted for works relevant to the disabled. In addition, access to copyright content has been improved to broadcasting organizations through non-voluntary licences where the terms are to be fixed by the Copyright Board.

3.246. Registration of copyright societies has been made mandatory and several provisions have been introduced to protect authors and improve transparency in the functioning of such societies.

3.247. Fair-use clauses have been extended to cinematographic works and sound-recordings. Importation of copies of any literary and artistic works such as labels, company logos or promotional or explanatory material that is purely incidental to other goods or products being imported lawfully has been clarified not to be an infringement. Parallel imports of copyrighted works are not permitted. Fair-use has been extended to the digital environment also where temporary storage (caching) is not an infringing act. Notice and take-down procedures have been introduced to make internet service providers otherwise liable (Section 52(c)). The WIPO Marrakesh Treaty for Visually Impaired Persons has been implemented through fair-use provision to access, for example, copyrighted works in a special format.

[197] KPM Basheer (2014).
[198] See WTO document WT/TPR/S/249/Rev.1, paragraphs 278-283.
[199] Full text of the amended law can be viewed at: http://www.wipo.int/edocs/lexdocs/laws/en/in/in066en.pdf.
[200] Copyright Office online information. Viewed at: http://copyright.gov.in/Documents/Copy-Right-Rules-2013.pdf.
[201] Copyright Office online information. Viewed at: http://copyright.gov.in/Documents/handbook.html.

3.3.5.6 Geographical indications

3.248. India has a strong interest in the protection of its geographical indications (GIs). India's Geographical Indications of Goods (Registration and Protection) Act, 1999 came into force on 15 September 2003. Registration of GIs in India began thereafter. Laws, regulations and rules remain unchanged since the last Review and thus procedures for the protection of GIs described therein remain unchanged.[202]

3.249. Table 3.26 shows the trend in the registration of geographical indications.[203] Darjeeling for tea from the Darjeeling district of India was the first GI registered in India. It is estimated that 10,000 million kg of "Darjeeling" tea are produced in India, but 30,000 million are sold under the same name around the world.[204] Among other agricultural products with export value[205], it must be noted that basmati for rice is not a registered GI in India, nor are alphonso mangoes from Maharashtra state, although Dusseheri mangoes from Uttar Pradesh state are registered as a GI.

3.250. The nine foreign GIs registered so far are: Pisco Sour from Peru, Champagne and Cognac from France, Napa Valley from the United States, Scotch Whiskey from the United Kingdom, Prosciutto di Parma from Italy, Porto and Duoro from Portugal, and Tequila from Mexico.[206] It would appear that certain European cheese GIs are being produced and sold by Indian manufacturers in India, although these are not being claimed to have originated in Europe, thus not resulting in confusion as to their origin.

Table 3.25 Geographical indications, 2009/14

(Fiscal year)

	2009/10	2010/11	2011/12	2012/13	2013/14
Geographical indications					
Filed	40	27	148	24	75
Examined	46	32	37	30	42
Registered	14	29	23	21	22
In force	120	149	172	193	215
Residents	119	114	164	184	206
Non-residents	1	5	8	9	9

Source: *Annual Report 2012-201.* Viewed at: http://ipindia.nic.in/cgpdtm/AnnualReport_English_2012_2013.pdf; and information from the Government of India.

3.3.5.7 Protection of new plant varieties

3.251. India enacted the Protection of Plant Varieties and Farmers' Rights (PPV&FR) Act in 2001 (53 of 2001) by opting for a sui-generis system. The PPV&FR Act provides for the establishment of an effective system for protection of plant varieties, the rights of farmers and plant breeders and to encourage the development of new varieties of plants of economic importance. It is said to be a unique Act, which fulfills the spirit of the International Treaty on Plant Genetic Resources for Food & Agriculture on one hand and conforms to the International Union for the Protection of New Varieties of Plants (UPOV), 1978 Convention on the other.[207] The PPV&FR Act, 2001 follows the internationally recognized criteria of distinctiveness, uniformity and stability (DUS) and novelty for a new variety. There have been ten amendments to the PPV&FR Rules, 2003, the last four during the term of this Review having taken place between December 2012 and February 2013 to deal with matters such as the production and sale of registered varieties, the notification of costs to be imposed by the Authority, the submission of the annual statement of accounts of the Authority and the form for the registration of farmers' varieties.

[202] See WTO document WT/TPR/S/249/Rev.1, paragraphs 284-287.
[203] Full list of GIs registered in India is available at: http://ipindia.nic.in/girindia/.
[204] European Commission (2003).
[205] APEDA AgriExchange online information. Viewed at: http://agriexchange.apeda.gov.in/product_profile/exp_f_india.aspx?categorycode=0601; and http://apeda.gov.in/agriexchange/market%20profile/one/mango.aspx.
[206] The information on pending GI application is available at: http://ipindiaservices.gov.in/GirPublic/detailsGIR.aspx.
[207] Ministry of Agriculture (2012).

3.252. Procedures for the protection of new plant varieties remain unchanged since the last Review.[208] The certificate of registration is issued for a term of nine years for trees and vines and six years for other crops and is renewable for a maximum of 18 years for trees and vines, or a total of 15 years for extant varieties (from the date of notification under the Seeds Act 1966) and other crops (from the date of registration of the variety). Registration of a variety is not allowed when the prevention of the commercial exploitation of such variety is necessary to protect public order or morality, following the wording of Article 27.2 of the TRIPS Agreement.

3.253. A certificate of registration for a variety confers an exclusive right on the breeder or his successor, his agent or licensee, to produce, sell, market, distribute, import or export the variety. However, farmers are entitled to save, use, sow, re-sow, exchange, share or sell their farm produce, including seed (except "branded seed")[209], of a variety protected by the Act.[210] Registration cannot prevent the use of any variety to conduct experiments or research, or for the purpose of creating other varieties. The authorization of the breeder of a registered variety is required if the repeated use of such variety as a parental line is necessary for commercial production of such other newly-developed variety. Section 47(1) provides that compulsory licences can be granted after three years from the date of the grant of a registration certificate. To date, no application for such licences are said to have been filed with the Authority.

3.254. The Act provides that a farmer means any person who (i) cultivates crops by cultivating the land himself, or (ii) cultivates crops by directly supervising the cultivation of land through any other person, or (iii) conserves and preserves, severally or jointly, with any person any wild species or traditional varieties, or (iv) adds value to such wild species or traditional varieties through selection and identification of their useful properties. Farmers' variety means a (i) variety which has been traditionally cultivated and evolved by the farmers in their fields, (ii) or is a wild relative or land race of a variety about which the farmers possess common knowledge.

3.255. India has so far notified 92 crop species under the PPV&FR Act for plant-variety registration. During 2014-15, the PPV&FR authority notified 35 crop species.

3.256. Out of the 2,032 application received in 2014-15, 834 certificates of registration were issued during the same year (extant varieties (265), new varieties (108), and farmer's varieties (461)).[211] The highest number of certificates was issued for rice (536), followed by sorghum (47), Indian mustard (40), sunflower (39), cotton (35), wheat (26), groundnut (21), and other crops (100).

3.257. The Government consults with the PPV&FR authority on various technical matters, including international issues relating to ITPGRFA, CBD, UPOV, WIPO and other international instruments/conventions.

3.3.5.8 Trade secrets and test data protection

3.258. There is no specific legislation regulating the protection of trade secrets and hence no enforcement measures/penalties for violations of trade secrets, other than under contract law and common law of passing off, breach of confidence etc. It is not clear precisely how India protects against disclosure of trade secrets by third parties not party to any formal or informal contracts or confidence. However, Indian Courts have upheld trade secret protection on the basis of principles of equity and at times upon a common law action of breach of confidence as well as breach of contractual obligation. The remedies available to the owner of trade secrets are injunctions preventing the licensee from disclosing the trade secret, orders to return all confidential and proprietary information and compensation for any losses suffered due to disclosure of trade secrets.

3.259. Judicial proceedings deal with these issues on a case-by-case basis. There have been cases where the courts in India have ordered injunctions against disclosure and use of trade secrets by

[208] See WTO document WT/TPR/S/249/Rev.1, paragraphs 284-287.
[209] "Branded seed" means any seed put in a package or any other container and labelled in a manner indicating that such seed is of a variety protected under this Act.
[210] Chapter VI of the Farmers' Rights Act, Section 39.
[211] Out of the 834 certificates, those concerned extant varieties were 265, concerned extant varieties, 108 new varieties, and 461.

third parties and ordered the return of such confidential and proprietary information as well as compensation or damages for any losses suffered due to the disclosure of trade secrets. In a recent case the court ordered a subsequent employer who offered to double an employee's remuneration and induced him to reveal confidential business secrets not to use such information until the case was disposed of within one year with the cooperation of the parties, or with automatic extension of the injunction in case of non-cooperation by the defendants in the case.[212] This order is in contrast to a court order in another case where injunction was refused as customers' list details were not considered to be trade secrets.[213]

3.260. In addition to civil remedies such as injunctions or damages, India allows for criminal remedies under the Indian Penal Code 1860, such as for criminal misappropriation, breach of trust and theft of property. However, for many reasons, including prosecution by the State and the fact that the remedies available may not be what businesses may seek, the criminal route is rarely used.[214]

3.261. There is no specific legislation protecting test data submitted for obtaining regulatory approval of pharmaceuticals. The Drugs and Cosmetics Act of 1940 regulates the manufacture and marketing approvals for drugs and traditional medicines, while the Insecticides Act of 1968 addresses the manufacture and marketing approvals for agricultural chemicals (such as insecticides, fungicides and weedicides). However, there is no statute in place in India at this time for the protection of pharmaceutical, agrochemical and traditional medicine-related data against disclosure and reliance by third parties. Such test data is said to be protected under the Official Secrets Act. However, it is not clear how India implements the second obligation under Article 39.3 of the TRIPS Agreement, which is in addition to the obligation to provide protection against disclosure, namely, protection of such data against unfair commercial use.

3.262. In 2004, an Inter-Ministerial Committee was set up to make recommendations on test data protection. In its report submitted on 31 May 2007[215], the Committee recommended, *inter alia,* that the term of data protection for agricultural chemical products should be three years from the date of marketing approval in India; that the term of data protection for traditional medicines should be five years from the date of marketing approval and that there should be an indefinite transition period for pharmaceuticals. After the transition period, the term of data protection would be five years from the date of the first marketing approval anywhere in the world. These recommendations are reportedly being considered by the Ministry of Commerce and Industry, Ministry of Agriculture and Ministry of Health.[216]

3.3.5.9 Enforcement

3.263. A 2012 study by Federation of Indian Chambers of Commerce and Industry (FICCI) and others show that the losses to industry from counterfeiting and piracy in India could be as high as Rs 730 billion, or more than US$10 billion per year. This study covered seven sectors most impacted by counterfeiting and piracy, namely auto components, alcohol, computer hardware, personal goods, packaged foods, mobile phones and tobacco. Nearly 30% of auto components and 26% of computer hardware sold in India are allegedly counterfeit.[217]

3.264. Enforcement of intellectual property rights in India (except at the borders) is under the purview of state Governments. A system of state nodal officers and specialized IP cells within the state police to tackle piracy is in place and has been important in the IPR enforcement effort.

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[212] See a judgment of the Karnataka High Court of October 2012 in favour of a German subsidiary company. Viewed at: http://judgmenthck.kar.nic.in/judgments/bitstream/123456789/759406/1/MFA1682-10-10-10-2012.pdf; and an analysis of this case is available at: http://spicy-ip2.blogspot.ch/2012/10/karnataka-high-court-temporarily.html.

[213] See American Express Bank Ltd. Vs. Ms Priya Puri of 24 May 2006. Full order viewed at: http://indiankanoon.org/doc/445135/.

[214] See analysis of Indian trade secret law and practice. Viewed at: http://nopr.niscair.res.in/bitstream/123456789/1381/1/JIPR%2013(3)%20(2008)%20208-217.pdf; and https://www.aippi.org/download/commitees/215/GR215india.pdf.

[215] Department of Chemicals and Petrochemicals (2007).

[216] Embassy of the United States at New Delhi, India online information. Viewed at: http://newdelhi.usembassy.gov/iprdataprot.html.

[217] International Chamber of Commerce (2013).

3.265. Enforcement of IPR at India's borders is carried out by the Customs Department with respect to imports. Under the Customs Act, Customs may seize and hold goods for a reasonable period (e.g. six months), including for suspected violations of intellectual property rights, following which, the goods must be released or a court injunction obtained to start infringement proceedings. In order to further effectively implement border measures, in 2007 the Customs authorities issued a notification that prohibits imports of goods infringing intellectual property rights, namely the Intellectual Property Rights (Imported Goods) Enforcement Rules 2007.[218]

3.266. These rules go beyond the minimum requirements of the TRIPS Agreement as they cover border measures not solely for copyright and trademarks, but also for patents, designs and geographical indications.[219] They lay down detailed procedures for right-holders or their authorized representatives and for Customs to seek suspension of release of suspect imported goods. The rules allow right-holders to record their registered intellectual property with Customs. After the grant of the registration by the Commissioner on due examination, imports of allegedly IPR-infringing goods into India may be prohibited. The rules also permit *suo moto* action by Customs when infringing goods are found through random checks, and the disposal of the confiscated goods; however, the rules do not call for any action against goods of a non-commercial nature contained in personal baggage, sent in small consignments intended for the personal use of the importer, or goods in transit.

3.267. Approved Registration of various IP rights with the Customs authority are as follows (Table 3.26).

Table 3.26 Approved registration of various IP rights, 2010 and 2014

S.No.	IP right	No. of approved registrations as at 31.12.2010	No. of approved registrations as at 28.12.2014
1.	Trademarks	379	881
2.	Copyright	2	8
3.	Patent	10	11
4.	Design	5	5
5.	Geographical Indications	0	0

Source: WTO Secretariat, based on information provided by the Indian authorities.

3.268. During 2012, 2013 and 2014 (up to September, 2014) all cases of IPR infringements registered by Customs relate to trademark violations. Details are as follows (Table 3.27).

Table 3.27 IPR infringements, 2012-14

Year	Total cases booked for infringement of IPR	
	No. of cases	Value of goods (in Rs. Million)
2012	47	100.37
2013	19	20.42
2014 (up to September)	11	14.29

Source: WTO Secretariat, based on information provided by the Indian authorities.

3.269. In addition to the Government's efforts to enforce IPR, industries in India have become more proactive. For example, the Ministry of Human Resource and Development recently issued an official notification designating the Federation of Indian Chambers of Commerce and Industry (FICCI) to Chair the Subcommittee under the Copyright Enforcement Advisory Council (CEAC) responsible for coordinating relevant stakeholders to address the menace of piracy. Similarly, as reported in the last Review, the Ministry of Information and Broadcasting had set up a Committee on Piracy, and IPR-holders have created associations and IPR committees to generate awareness on issues relating to counterfeit, fake, and spurious products. The music and film industry, through the Film Federation of India, Motion Picture Association, and Indian Music Industry Association, cooperates and collaborates with the police in the design and implementation of anti-piracy

[218] Central Board of Excise and Customs online information. See full text available at: http://www.cbec.gov.in/customs/cs-act/notifications/notfns-2k7/csnt47-2k7.htm.

[219] See Rule 2(b) "intellectual property" means a copyright as defined in the Copyright Act, 1957, trade mark as defined in the Trade Marks Act,1999, patent as defined in the Patents Act, 1970, design as defined in the Designs Act, 2000 and geographical indications as defined in the Geographical Indications of Goods (Registration and Protection) Act, 1999.

programmes. To support the efforts of the industry, the state Governments of Andhra Pradesh, Kerala, Maharashtra, and Tamil Nadu, where the film and music industry is prominent, have introduced legislation which stipulates that video piracy is an offence. The aim is that with enhanced coordination of the industry, enforcement will continue to improve.

4 TRADE POLICIES BY SECTOR

4.1 Agriculture

4.1.1 General policy framework

4.1. Agriculture accounts for around 17% of GDP in India (Table 4.1), and 56% of total employment (according to Census 2011). Within the central Government, agricultural policy is formulated and implemented mainly by the Ministry of Agriculture, with the assistance of other institutions.[1] India's current agricultural policy is outlined in the 12th Five-Year Plan (2012-17), which aims, *inter alia,* to improve agri-investment, income product and productivity, promotion and extension of modern technologies, and resource-use efficiency for sustainable agriculture. With these objectives, India uses various measures in the agriculture sector, including in production, marketing, consumption and international trade. In 2012-13 and 2013-14, India emerged as the largest exporter of rice in the world, with more than 10 MMT of exports each year. Total cereal exports amounted to 22 MMT in 2012-13 and 21 MMT in 2013-14.

Table 4.1 Selected indicators for agriculture, 2009-13

	2009-10	2010-11	2011-12	2012-13[a]
GDP in the agriculture sector[b], at constant 2004/05 prices (growth rate, %)	0.8	7.9	3.6	1.9
Contribution of the agriculture sector[b] to current GDP (%)	17.7	18.0	17.6	17.3
Employment[b] (% of total)	..	..	54.6	..
Agricultural production (million tonnes)				
Oilseeds	24.9	32.5	30.0	31.0
Pulses	14.7	18.2	17.2	18.5
Coarse cereals	33.6	43.7	42.0	40.1
Rice	89.1	96.0	105.3	105.2
Wheat	80.8	86.87	94.9	93.5
Sugarcane	292.3	342.4	361.0	341.2
Cotton (million bales of 170 kg each)	24.0	33.0	35.2	34.0

.. Not available.

a Estimates.
b Including agriculture, forestry, and fishing.

Source: Department of Agriculture and Co-operation, *Agricultural Statistics at a Glance 2013*, 10 December.

4.1.1.1 Measures affecting imports

4.2. India's tariff policy focuses on supporting domestic agricultural policy objectives. Hence, average tariff protection for agricultural products (WTO definition) in 2014-15 was 36.4%, (compared with 33.2% in 2010-11) considerably above that of non-agricultural products (WTO definition) at 9.5%. Around 55.7% of agricultural goods bear tariffs of 30%, and 17.2% bear tariffs above 30%. This contrasts with tariffs on non-agricultural products, where tariff rates exceeding 10% account for 4% of the whole non-agricultural tariff lines.

4.3. There are significant differences in applied tariff rates for specific agricultural products within product groups. For example, among vegetable fats and oils, the applied MFN tariff rate on crude palm oil and edible margarine is 7.5% and that on crude soybean is zero. Similarly, vegetable oils (HS 1507-HS 1515) have traditionally been protected by high applied MFN tariffs. The average applied MFN tariff rate on animals and animal products is 30.4%, with most products subject to a 30% tariff.[2] Imported fresh and frozen chicken cuts are subject to a 100% applied MFN tariff rate. Applied MFN tariff rates on oats and rye are zero, while rates on other cereals, such as some types of rice and wheat (of seed quality) are 80% and 50%, respectively.

[1] These include the Commission for Agricultural Costs and Prices (CACP), Food Corporation of India (FCI), Central Warehousing Corporation, National Agricultural Cooperative and Marketing Federation of India (NAFED), Cotton Corporation of India (CCI), Jute Corporation of India (JCI), the Ministry of Food Processing Industries, and the Ministry of Consumer Affairs, Food, and Public Distribution. See WTO document WT/TPR/S/249/Rev.1, Table IV.2.

[2] Within animals and animal products, the tariff rate on four lines is 100%.

4.4. Bound tariff rates for agricultural products range from 10%-300%, compared with those for manufactured goods (0%-150%). For many agricultural products, there is a wide spread between bound (10%-300%) and applied tariff rates (0%-150%), which allows the Government to modify its tariffs substantially while complying with its WTO commitments. This variability, as well as the complex process for the notification of tariff-rate changes, can create uncertainty and act as an impediment to trade.

4.5. Imports under tariff rate quotas (TRQs) are allowed only through eligible entities or designated agencies. These entities and agencies apply to the DGFT prior to or by 1 March of each financial year proceeding the quota year. The Exim Facilitation Committee in DGFT receives, evaluates and allots the TRQ. Imports must be completed before 31 March of the financial year for which the quota is allocated. During the period under review, according to India's latest notification to the WTO submitted in March 2011, tariff quotas continue to be allocated on a *pro rata* basis by the DGFT, on request by designated agencies.[3]

4.6. The authorities may impose import (and export) restrictions for security, self-sufficiency, and balance-of-payments reasons, and on health and moral grounds.[4] India links the use of import (and export) restrictions and licensing, and other NTMs to domestic policies. Products subject to import prohibitions include pig fat, edible products of wild animal origin; import restrictions apply to various live animals and products as well as vegetable products.

4.7. India maintains state trading requirements on imports of certain agricultural goods including wheat, rye, oats, rice, grain sorghum, buckwheat, millet, canary seed, jawar, bajra, ragi, other cereals, milk or cream, sunflower seed or safflower oil, copra, coconut oil, and maize, and on exports of onions, gum karaya, and sugar.[5]

4.8. Imports of animal products into India require sanitary import permits issued by the Department of Animal Husbandry, Dairy and Fisheries; a permit must be obtained prior to shipment from the country of origin. Imports of plants and plant material must be accompanied by a phytosanitary certificate issued by the national plant protection organization of the exporting country and an import permit issued by the officer-in-charge of the plant quarantine station.

4.1.1.2 Measures affecting exports

4.9. While no export taxes are charged on agricultural products, India imposes export cess on tobacco.

4.10. India imposes export restrictions and prohibitions mainly for environmental, food security, marketing, pricing, and domestic supply reasons, and to comply with international treaties. Some agricultural products are subject to export prohibitions, including certain pulses, and edible oils.

4.11. State trading is maintained on exports with the purpose of ensuring better marketing and prices of agricultural and minor forestry products including sugar (for exports under preferential regime), onions, and gum karaya. Currently, sugar, under preferential quotas, and onions are exported through state trading.[6]

4.12. India's last notification of export subsidies, made to the WTO in 2012, covered 2004 to 2010. Based on the Sugar Development Fund (Amendment) Rules 2014, on 12 February 2014 the Government approved a subsidy at the rate of Rs 3,300 per tonne towards marketing and

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[3] See WTO (2011) for the list of designated agencies and tariff fill ratio. India's latest notification concerning tariff quotas were submitted in 2011 (WTO documents G/AG/N/IND/5 and 6, 7 March 2011).

[4] Section 3 of the Foreign Trade (Development and Regulation) Act 1992 and through the issue of notifications under Section 11 of the Customs Act 1962.

[5] WTO document G/STR/N/14/IND, 30 November 2012.

[6] As regards non-agricultural goods, exports of crude oil and certain ores are also subject to state trading.

promotion services of raw sugar production for February-March 2014.[7] The scheme is now to be reviewed for the current sugar season 2014-15.[8]

4.13. Sugar under the preferential regimes by the European Union and the United States (exported by state-trading enterprises), milk powder, wheat, edible oil, pulses, and non-basmati rice and wheat products (HS 1001) was subject to export quotas during the period under review.

4.14. Export prohibitions and export quotas are notified annually; they are usually in place for a specific period, during which they may be subject to change. These changes can diminish the predictability of the regime.

4.15. Minimum export prices are also maintained to control prices and availability in the domestic market. Minimum export prices currently apply to certain edible oils, onions, Bangalore roses and Krishnapuram onions and potatoes.

4.1.1.3 Internal measures

4.16. Agriculture comes under the purview of the state Governments in India; the responsibility for development in agriculture and related sectors is vested with the States. However, the central Government supports the state Governments in their efforts to increase agricultural production, enhance productivity by providing technical support, and explore the sector's untapped potential. Since India's previous Review, in order to achieve the objectives of the 12th Five-Year Plan, the Department of Agriculture (DAC) has reviewed its 51 existing schemes with a view to restructuring them into 11 missions/schemes from 1 April 2014 onwards in order to: (i) promote investment in agriculture and related sectors; (ii) improve income and productivity; and (iii) ensure extension of modern technologies and resource-use efficiency for sustainable agriculture (Table 4.2). India also supports the farm sector through output price support programmes, input support programmes, and credit and insurance schemes. Output price support programmes include minimum support prices (MSPs) for certain staple crops produced in India. Input support programmes focus primarily on fertilizers, rates for irrigation water, electricity rates, diesel prices, and seeds. Credit schemes comprise a number of government programmes to improve the flow of credit to agriculture and to lower the cost of borrowing for farmers (via below-market-rate loans or debt write-offs).

Table 4.2 Agriculture sector schemes/programmes, 2014

Programme/scheme	Budget allocation	Purpose
National Mission for Sustainable Agriculture (NMSA)	Rs 16.84 billion	Seeks to address issues of "sustainable agriculture" in the context of climate change by devising appropriate strategies for ensuring food security, enhancing livelihood opportunities, and contributing to economic stability at national level. Aims at enhancing agricultural productivity in rain-fed areas focusing on integrated farming, water use efficiency, soil health management and synergizing resource conservation
Mission for Integrated Development of Agriculture (MIDH)	Rs 22.63 billion	Aims at holistic growth of horticulture sector covering fruits, vegetables and flowers with a view to augmenting farmers' income and nutritional security
National Mission on Oilseed and Oil Palm (NMOOP)	Rs 4.33 billion	Aims at ensuring edible oil security through production improvement of traditional oilseed and tree-borne oilseed
National Mission on Agricultural Extension and Technology (NMEAT)	Rs 13.16 billion	Seeks to restructure, strengthen and promote agricultural extension to enable use of appropriate agro-technology and improved agronomic practices to farmers
National Food Security Mission (NFSM)	Rs 20.3 billion	Seeks to ensure food security by reducing gaps between potential and actual yields and by providing extension and promotion services to agriculture and rural community

[7] The Government has notified the subsidy at the rate of Rs 2,277 per MT, Rs 3,300 per MT, Rs 3,371 per MT for the bi-monthly period of April-May, June-July and August-September 2014, respectively.
[8] WTO document G/AG/W/138, 5 February 2015.

Programme/scheme	Budget allocation	Purpose
Rashtriya Krishi Vikas Yojana (RKVY)	Rs 99.54 billion	Seeks to promote public investment in agriculture and related sector by the states, and provide flexibility and autonomy to states for planning and executing programmes/projects.
Modified National Agriculture Insurance Scheme (MNAIS)	Rs 28.23 billion	Aims at providing relief to the farmers from crop failure due to natural disasters, pests and diseases
Integrated Scheme for Agricultural Marketing (ISAM)	Rs 8.0 billion	Seeks to promote: (i) creation and improvement of marketing infrastructure, (ii) capacity-building of stakeholders, and (iii) access to market information
Integrated Scheme on Agriculture Cooperation (ISAC)	Rs 1.11 billion	Seeks to promote cooperative action in agriculture by: (i) capacity-building of cooperatives to undertake value addition; (ii) providing managerial and technical inputs including training; (iii) fostering diversification of activities; and (iv) boosting creation of cooperative storage/cold facilities
Integrated Scheme on Agriculture Census and Statistics (ISAC&S)	Rs 2.57 billion	Aims at collecting statistics relating to the agricultural holdings, land use, cropping patterns, irrigation status, tenancy, and deriving facets of agriculture in the country
Secretariat Economic Services	Rs 0.13 billion	Aims at carrying out agro-economic evaluations and research and providing expert services to the department on various economic and statistical issues

Source: WTO Secretariat, based on information provided by the Indian authorities.

4.17. A key objective of India's domestic agricultural policy is to ensure stability of food supply and income support for the nearly 60% of the population that is dependent on agriculture. This policy is implemented through price support for farmers such as MSPs for 25 major commodities and for sugar, and the market intervention scheme (MIS) for other crops, input subsidies for fertilizers, power and water, as well as food subsidies (through the targeted public distribution system).

4.18. The Government announces MSPs for major agricultural commodities each year for crop seasons after taking into account the recommendations of the CACP (Table 4.3). According to the authorities, the purpose of the MSP scheme is primarily to protect the "small and marginal" farmers growing "essentially staple" food crops from market volatility. The scheme is at present applicable for 25 major agricultural commodities as below.

4.19. Farmers are guaranteed the MSP through the price support scheme (PSS): when prices of the relevant commodities fall below the MSP, government-designated agencies intervene in the market to purchase at the MSP.[9] Designated agencies under the PSS purchase specific products.[10] The FCI is also authorized occasionally to sell from its stock through open market sales, including for export. During 2012-13 for instance, the Government authorized the export of 4.5 million metric tonnes of wheat and 2 million metric tonnes in 2014-15. Domestic sales are carried out at pre-determined prices, with 7 million metric tonnes and 6 million metric tonnes of grain sold respectively during 2012-13 and 2013-14.[11] It was not clear to the Secretariat how prices are set for domestic open market sales, and who the grains are sold to.

4.20. Purchasing prices of sugarcane are subject to the fair and remunerative price (FRP)[12]; a minimum price set at the central level, below which no sugar mill may purchase sugarcane from a farmer.[13] State governments also set a state advisory price (SAP) for sugarcane. If the SAP is

[9] See, for example, NAFED online information. Viewed at: http://www.nafed-india.com/govt-operations.asp.

[10] The Food Corporation of India (FCI) and the state agency under the Targeted Public Distribution System (TPDS) are the designated agency to distribute wheat, rice and coarse grains, the National Agricultural Cooperative Marketing Federation of India (NAFED), Central Warehousing Corporation (CWC) and National Cooperative Consumer Federation of India Ltd. (NCCF) for pulses and oilseeds, the Cotton Corporation of India and NAFED for cotton, and the Jute Corporation of India for jute.

[11] Food Corporation of India (2015).

[12] Based on the Sugarcane Control (Amendment) Order 2009. For FRPs for the past years, see Department of Food and Public Distribution online information. Viewed at: http://dfpd.nic.in/?q=node/10.

[13] Other factors taken into account to fix the FRP include: the cost of production of sugarcane; the return that growers would have if planting alternative crops; the general trend of prices of agricultural

higher than the FRP, the State Government bears the loss. In addition to the price intervention, a quota of the sugar production (at present 10%), referred to as "levy sugar", is earmarked for distribution under the Targeted Public Distribution System (TPDS).[14] The remaining sugar may be sold under the monthly regulated release system. Exports of sugar are also controlled through bilateral quotas with the European Union and the United States.

Table 4.3 Minimum support prices, 2010-15

(Rs per quintal)

Minimum support prices (MSPs)	2010-11	2014-15
Paddy (common)	1,000	1,360
Jowar (hybrid)	1,030	1,530
Bajra	880	1,250
Maize	880	1,310
Ragi	965	1,550
Arhar (tur)	3,000	4,350
Moong	3,170	4,600
Urad	2,900	4,350
Cotton (medium staple)	2,500	3,750
Groundnut in shell	2,300	4,000
Sunflower seed	2,350	3,750
Soybean (black)	1,400	2,500
Sesame	2,900	4,600
Niger seed	2,450	3,600
Wheat	1,120	1,450
Barley	780	1,150
Gram	2,100	3,175
Masur (lentil)	2,250	3,075
Rapeseed (mustard)	1,850	3,100
Safflower seed	1,800	3,050
Toria	1,780	..
Copra	4,450	5,250
De-husked coconut	1,200	1,425
Jute	1,575	2,400
Sugarcane	139.12	220.00

.. Not available.

Source: Directorate of Economics and Statistics online information. Viewed at: http://eands.dacnet.nic.in/msp/MSPStatement(2014.29.10).pdf; and information provided by the Indian authorities.

4.21. Under the MIS, the NAFED and other State-designated agencies purchase perishables not covered under the MSPs at a market intervention price (MIP) when the prices decline because of a bumper crop, and distribute the products to avoid distress sales during the peak arrival period of the produce. The MIS is carried out by NAFED for horticultural commodities; they are sold in local markets. The MIS is implemented when there is at least a 10% increase in production or 10% decrease in prices over the previous year. Procurement is made by the Central and State agencies. NAFED is also authorized to undertake procurement under the scheme as a central agency.

4.22. The National Food Security (NFS) Act, 2013 was passed by Parliament on 10 September 2013.[15] Its stated aim is "to provide for food and nutritional security by ensuring access to adequate quantity of quality food at affordable prices to people to live a life with dignity and for matters connected therewith or incidental thereto". It aims at providing food grains (wheat, rice or coarse grains) to around two-thirds of the population (around 800 million people) at subsidized prices. The targeted population is around three-quarters of the rural population and half of the urban population. Corresponding to the coverage of 75% of the rural and 50% of the urban population at the all India level, coverage by states and union territories (States/UT) has been determined by the Planning Commission. Within the coverage determined for each State/UT, eligible households are to be identified by State/UT governments in accordance with criteria to be

commodities; supply of sugar to consumers at a "fair" price; price of refined sugar (made with sugarcane) at the mill; earnings made from selling by-products (e.g. molasses, bagasse, and pressed mud); and a "reasonable" profit margin for sugarcane producers to also account for risk.

[14] Department of Food and Public Distribution online information. Viewed at: http://dfpd.nic.in/?q=node/101.

[15] Ministry of Law and Justice (2013).

determined by them. Subsidized food grains under the Act will continue to be provided through the targeted public distribution system (TPDS) with an attempt to better streamline food delivery. While the TPDS currently provides 15 kg per month of subsidized wheat, rice, coarse grains per household (35 kg per household for below the poverty line households), the entitlement under the NFSA is 5 kg per person of wheat, rice or coarse grains per month at the central issue price of Rs 2, 3, and 1 per kg respectively.[16] Antyodaya Anna Yojana households, who are the poorest of the poor, will continue to receive 35 kg foodgrains per household per month. Kerosene and sugar are not included as entitlements under NFSA; nonetheless, their distribution at subsidized prices under the TPDS is continuing as separate schemes. The NFSA will also bring under its umbrella various other ongoing schemes intended for nutritional support to pregnant women and lactating mothers and children, such as Integrated Child Development Services and mid-day meal scheme, thereby enshrining them as legal rights. It also provides for maternity benefits of Rs 6,000 to pregnant women and lactating mothers. It is expected that implementation of the NFSA will require around 61 million metric tonnes of grain per year.[17] According to the authorities, this will not be a substantive change compared to the amounts distributed in recent years under the TPDS of 58-59 million metric tonnes per year; this is mainly because of a reduction in the share of the population below the poverty line. One estimate shows that the cost of the food subsidy will be about 1.1% of GDP for 2013-14.[18] According to the national budget, food subsidies for 2014-15, which includes subsidies under the NFSA, amounts to Rs 1.15 trillion compared with Rs 0.9 trillion for 2013-14 (before the NFSA was adopted).

4.23. Another key change is in the delivery of food grains. Procurement will continue at MSPs by central Government agencies such as the FCI and state agencies and maintained in the central pool. Procurement by state Government agencies will be continued under the NFSA as has been the case under the TPDS through the decentralized procurement system. The grain will then be transported to designated points in each state according to the applicable allocation. It will then be the responsibility of each individual state to ensure that the food is delivered to the fair price shops for sale to the identified recipients. The storage and logistical infrastructure required will be considerable and in this regard, a High Level Committee (HLC) set up by the Government on reorienting the role and restructuring of the FCI has suggested that the FCI should be outsourcing its warehousing to the central warehousing corporation (CWC), the state warehousing corporation (SWC), and the private sector and should also largely leave procurement and stocking to the states that have demonstrated considerable success in doing so.[19] The HLC on restructuring of the FCI submitted its report to the Government in January 2015, which is finalizing its comments and an action plan on the implementation of the recommendations of the HLC.

4.24. To date 11 States/UTs (out of 36) have implemented the NFSA.[20] The TPDS has experienced implementation problems in the past[21] and to ensure better implementation, the NFSA includes guidelines that provide for reforms to strengthen it and a "grievance redressal mechanism" in each state to address complaints.[22]

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[16] For an average family of five this comes to 25 kg per month, compared to 15 kg per month per household under the current TPDS. The central issue price (CIP) of goods sold under the TPDS is currently Rs 4.15 and Rs 5.65 for wheat and rice for those below the poverty line and Rs 2 and Rs 3 respectively for those under the AAY (Department of Food and Public Distribution (undated)).

[17] Buffer stocks (including the strategic reserve) range from between 20 million and 30 million metric tonnes of rice and wheat together (revised recently up to 40 million metric tonnes in keeping with the requirements of the NSFA). Food Corporation of India (2015).

[18] IMF (2014).

[19] Food Corporation of India (2015).

[20] They are: Bihar, Chandigarh, Chhattisgarh, Delhi, Haryana, Himachal Pradesh, Karnataka, Madhya Pradesh, Maharashtra, Punjab, and Rajasthan.

[21] The Planning Commission in a Report in 2005 for instance noted that around 57% of subsidized grains distributed through the PDS during 2003-04 did not reach below the poverty line beneficiaries; of this around 36% was siphoned off from the supply chain. (Planning Commission of India (2005)).

[22] In this regard the report by the High Level Committee on reorienting the role and restructuring of the FCI on 19 January 2015 suggested that with leakages of between 40% and 50% in the PDS and up to 70% in some States, implementation of the NFSA in certain States should be deferred unless such provisions on identification and grievances have been put in place; the authorities maintain that these have not yet been accepted by the Government (Food Corporation of India, 2015). The report also indicates that: (i) not more than 6% of the total agricultural households in India (90.2 million) directly benefitted from the procurement of wheat and rice under MSP; and (ii) stocks have been hugely excessive, even though India has a shortage of storage capacity. The recommendations in the report have not yet been accepted by the Government.

4.25. India's latest notification to the WTO on domestic support commitments in 2014 covered 2004-05 to 2010-11.[23]

4.26. The bulk of India's subsidies, as mentioned in each year's annual budget, is aimed mainly at promoting food security and reducing poverty. As a result, most of the outlays are allocated to food and fertilizers. Food subsidies are provided by the Department of Food and Public Distribution to meet the difference between actual prices and the central issue prices fixed under the TPDS and other welfare schemes. The central Government also provides a subsidy to the Food Corporation of India to keep buffer stocks of wheat and rice as a food security measure. "Other subsidies", which accounted for 0.4% of total subsidies in 2014-15, include market intervention and price support schemes for agricultural products.

4.27. India continues to subsidize indigenous and imported (urea) fertilizers through price controls, which remain unchanged since its previous Review.[24] This policy has resulted in an excessive use of chemical fertilizers that has resulted in severe depletion of micronutrients and degradation of soil in many parts of the country.[25] India's farmers also benefit from: input support for irrigation water, electricity, diesel, and seeds; and programmes to supply quality seeds at "affordable prices".[26]

4.28. India sets targets for priority-sector lending to ensure that banks provide credit to specific priority sectors. Domestic commercial banks are required to reserve 18% of their adjusted net bank credit (ANBC) or credit equivalent amount of off-balance-sheet exposure (OBSE), whichever is higher, for agriculture (Section 3.3.1.3).

4.29. In addition to credit set-asides, India has implemented programmes to ensure access to credit in agriculture and allied activities, including providing subsidized direct credit to agriculture up to a certain limit, rehabilitation packages for distressed farmers (e.g. debt write-offs for farmers in distress and farmers in arrears), and a One Time Settlement (OTS) Scheme for small and marginal farmers and relief to farmers indebted to non-institutional lenders, such as money-lenders. The National Bank for Agriculture and Rural Development (NABARD) has been designated as the implementing agency for the Short-Term Co-operative Rural Credit (Refinance) Fund (STCRC (Refinance) Fund). The purpose of the Fund is to enhance refinancing operations of NABARD to short-term co-operative credit institutions, i.e., state co-operative banks/district central co-operative banks. NABARD also administers funds that ensure the availability of credit to farmers. The Agriculture Insurance Company of India Ltd. (AICI) implements the Government's National Agriculture Insurance Scheme (NAIS).[27]

4.2 Energy

4.2.1 Oil and gas

4.30. India's oil and gas industry can be broadly divided into three subsectors: exploration and production; refining; and marketing. In exploration and production, the two national oil companies accounted for 74% and 11.3% of total recoverable reserves (onshore and offshore) of crude oil and natural gas in 2014.[28] Of the 22 refineries, 17 were owned by the public sector and account for about 56% of total refining capacity as at 1 April 2014. India is a net importer of petroleum, which accounts for 75% of domestic consumption. A significant share of explicit subsidies is accounted for by petroleum. Since its previous Review, India has adopted measures to deregulate petrol and diesel prices (Section 3.3.2.2). The price controls on petrol and diesel were abolished on 26 June 2010 and 19 October 2014, respectively.

4.31. The oil and gas sector in India is regulated by the Ministry of Petroleum and Natural Gas (MoPNG), and the Petroleum and Natural Gas Regulatory Board, which was established under the

[23] WTO document G/AG/N/IND/10 and 10/Corr.1, 10 September 2014 and 1 October 2014.
[24] Department of Fertilizers online information. Viewed at: http://fert.nic.in/page/policy-division-urea.
[25] Planning Commission (2012).
[26] See WTO (2011) for details.
[27] The Agriculture Insurance Company of India Ltd. (AICI) is registered with the Insurance Regulatory and Development Authority (IRDA).
[28] Ministry of Petroleum and Natural Gas (2014). The two NOCs are the Oil and Natural Gas Corporation Ltd (ONGC), and Oil India Ltd (OIL).

Petroleum and Natural Gas Regulatory Board (PNGRB) Act 2006; the Act was implemented partly in 2007 and in 2010. The MoPNG administers exploration and production of oil and natural gas, their refining, distribution and marketing of petroleum, petroleum products and natural gas. It also regulates the allocation and pricing of natural gas produced in the country through policy and administrative orders. Under the administrative control of the MoPNG, the Directorate General for Hydrocarbons (DGH), as an upstream regulator, was established in 1993, and it is responsible for promoting the New Exploration Licensing Policy (NELP) for new exploration programmes, and managing the Production Sharing Contracts (PSCs). The PNGRB was established in 2007 to regulate the activities of the midstream and downstream oil and gas sectors. The PNGRB is the statutory regulatory board under the PNGRB Act 2006. The PNGRB's main responsibilities include: granting authorizations to the entities selected to develop common or contract carrier pipelines for transportation of petroleum, petroleum products and natural gas, or city or local natural gas distribution networks (CGD networks); declaring existing pipelines/CGD networks as common or contract carriers; regulating access to common or contract carrier pipelines/networks with a view to ensuring fair trade and competition amongst entities; determining the transportation rates (tariffs) for usage of common or contract carriers; and registering eligible entities for establishing liquefied natural gas (LNG) terminals.

4.32. Regarding exploration and production activities in India, the main legislation includes: (i) the Oil Field (Regulation and Development) Act 1948 and Petroleum and Natural Gas Rules 1959, which govern *inter alia* granting of petroleum exploration licences, mining leases, and royalty; (ii) New Exploration Licensing Policy (NELP), which allocates exploration blocks through international competitive bidding; and (iii) Coal Bed Methane (CBM) Policy, which allocates coal blocks for extraction of methane gas from coal seams through international competitive bidding.

4.33. Regarding refining and marketing activities in India, the main legislation include the Industries (Development and Regulation) Act 1951 and its rules, and the Petroleum Act 1934, which regulates importation, transport, storage, production, refining and blending of petroleum. For gaining marketing rights for transportation fuel by private investors, including by foreign investment, a minimum threshold of investment (Rs 20 billion) must be made (and/or committed to be made). A number of specific product-wise regulations and rules framed under the Petroleum Act 1934 have been issued with a view to controlling adulteration and ensuring quality of the product.

4.34. Over the past years, several laws, regulations and the rules concerning India's oil and gas sector have been adopted.[29] They include: the Petroleum & Natural Gas (Safety in Offshore Operations) Rules 2008, the Petroleum & Natural Gas (Amendment) Rules 2009 specifying, *inter alia,* granting of exploration licences; and the Petroleum Amendment Rules 2011.

4.35. FDI is allowed through the automatic route for a number of activities in the petroleum and natural gas sector. Up to 100% FDI is allowed under the automatic route for: (i) exploration activities of oil and natural gas fields, (ii) infrastructure related to marketing of petroleum products and natural gas, (iii) marketing of natural gas and petroleum products, (iv) petroleum product pipelines, (v) natural gas/pipelines, (vi) LNG re-gasification infrastructure, (vii) market study and formulation, and (viii) petroleum refining in the private sector. Up to 49% FDI is allowed under the automatic route in petroleum refining by public sector undertakings (PSUs), without any disinvestment or dilution of domestic equity in the existing PSUs. FDI is subject to the existing sectoral policy and regulatory framework.

4.36. Prices of LPG for domestic use and kerosene are controlled. A two-price regime exists for natural gas, involving gas priced under the administered pricing mechanism (APM), and non-APM gas (Section 3.3.2.2). The price of gas produced by ONGC and OIL under the APM was fixed at US$4.2/MMBTU in 2010. This was increased to US$5.61/MMBTU (on net calorific value) since 1 November 2014, to be valid until 31 March 2015, and decreased to US$5.18/MMBTU from 1 April 2015; the authorities indicate that the price was set by a prescribed formula related to international gas markets. The prices are to be revised every six months.

4.37. At present, there is no gas pipeline connected to India’s neighbouring countries. Pipeline transport for petroleum and gas is regulated by various laws, regulations and rules including: the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Amendment Act 2011;

[29] Petroleum & Natural Gas Regulatory Board online information. Viewed at: http://www.pngrb.gov.in.

Petroleum and Natural Gas Regulatory Board (Authorizing Entities to Lay, Build, Operate or Expand Natural Gas Pipelines) Regulations 2008; and Petroleum and Natural Gas Regulatory Board (Determination of Natural Gas Pipeline Tariff) Regulations 2008 (Table A4.1).[30]

4.2.2 Electricity

4.38. Electricity generation in India during 2013-14 grew by 6.0% (compared with around 4.6% in 2012-13).[31] While production has been increasing, inefficiency due to transmission and distribution losses continues to hamper supply in India.[32] The increased supply has also been unable to keep up with rapidly growing demand which has implications for economic growth. Around a quarter of the population still does not have access to electricity and supply can also be intermittent in urban areas. The electricity grid is connected to India's neighboring countries including Bangladesh, Bhutan, and Nepal; cross-border supply of electricity is under bilateral agreements between national governments.

4.39. Under the Indian Constitution, electricity is regulated by both the central and State Governments. The Electricity Act 2003 governs generation, transmission, distribution, trading and use of electricity in India.

4.40. In recent years, various regulations that are mainly concerned with technical standards and provision of information have also been adopted.[33]

4.41. At the central level, the Ministry of Power is responsible for the administration of the Electricity Act 2003 as well as issues related to the Central Electricity Regulatory Commission (CERC) and rural electricity schemes. The CERC is responsible for regulating the tariff of generating companies owned or controlled by the central Government and those that operate in more than one State; it is also in charge of regulating inter-state transmission, including the issue of licences for transmission and trading, specifying the grid code and enforcing standards with regard to quality, continuity and reliability of service. The State Electricity Regulatory Commissions (SERCs) administer electricity firms (generation, transmission, and retail) operating in a single state. According to the authorities, the State Electricity Boards (SEBs), which used to be responsible for generation, transmission and retail in the States and were a significant source of inefficiency, have been unbundled to a large extent, with most States separating the transmission part from the rest; even after the unbundling, most of the State-owned distribution companies are loss making.[34] In 2012, the Government adopted a Financial Restructuring Plan (FRP) for turnaround of the State distribution utilities by giving incentives from the central Government if the state distribution companies and the State Government follow some pre-specified mandatory conditions, including reduction of transmission and distribution losses. India's national grid is based on five inter-connected regional grids for transmission. Other related Ministries include the Ministry of Coal, the Ministry of Petroleum and Natural Gas, and the Ministry of New and Renewable Energy.

4.42. Power exchanges registered under the Central Electricity Regulatory Commission (Power Market) Regulations 2010 are subject to 49% foreign equity limit (FDI up to 26% and FII/FPI up to 23%). 100% foreign equity participation is allowed in all other segments of the industry (e.g. generation, transmission, distribution, and trading) under the automatic approval route.

[30] See Ministry of Petroleum and Natural Gas online information for the details of relevant legislation. Viewed at: http://www.pngrb.gov.in.

[31] Ministry of Finance (2014).

[32] OECD (2014).

[33] These include: (i) Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulation 2007; (ii) Central Electricity Authority (Furnishing of Statistics, Returns and Information) Regulations 2007, which specify requirements for collecting, recording the data concerning the generation, transmission, trading, distribution and utilization of electricity; (iii) Central Electricity Authority (Grid Standards) Regulation 2010; (iv) Central Electricity Authority (Measures Relating to Safety & Electric Supply) Regulations 2010; (v) Central Electricity Authority (Technical Standards for Construction of Electrical Plants and Electric Lines) Regulations 2010; (vi) Central Electricity Authority (Safety Requirements for Construction, Operation and Maintenance of Electrical Plants and Electric Lines) Regulations 2011; and (vii) Central Electricity Authority (Technical Standards for Connectivity of the Distributed Generation Resources) Regulations 2013.

[34] The authorities indicate that some of the States have also privatized the distribution part, resulting in more efficient operation. However, sometimes the State Regulator is not inclined to raise the tariff.

Certain fiscal benefits, in the form of duty concessions and tax holidays, are provided.[35] In addition, all electricity projects have a 100% corporate tax exemption for ten consecutive years, within 15 years of commencement or from undertaking a substantial renovation or modernization of existing transmission lines. However, when not paying corporate tax, they are subject to minimum alternate tax (MAT).

4.43. Competitive bidding guidelines issued in 2005 provide for the determination of tariffs for purchasing electricity by distribution companies; the CERC and SERCs are required to adopt tariffs determined through the bidding process. Exceptions include the one-time expansion of existing projects, i.e. existing generation projects can expand 50% of their current capacity within the present tariff regulation regime, or where a state-controlled company is identified as the developer of the project. A cross-subsidy is applied with industrial consumers subsidizing others, particularly in agriculture.[36]

4.44. Recognizing that cross-subsidies hide inefficiencies and losses in operations, the national electricity policy acknowledges the urgency of reducing such subsidies. However, the policy stipulates that consumers below the poverty line and consuming electricity below a specified level may receive cross-subsidies in the form of tariff reductions, which should be at least 50% of the overall average cost of supply. As the authorities considered that the complete elimination of cross-subsidies would not be feasible in the near future, the Act was reviewed by the Government, and was consequently amended in 2007 to, *inter alia,* necessitate reduction of cross subsidies to around 20%, rather than the previously required "reduction and elimination of cross-subsidies".[37]

4.45. India's electricity generation is highly dependent on coal, which forms almost half of the country's source of fuel and around 74.7% (between April 2014 and January 2015) of electricity generated.[38] The Government has encouraged the development of alternative sources of energy, with the Electricity Act of 2003 providing a preferential tariff for renewable-based electricity and a mandatory renewable purchase obligation (RPO) for State utilities. The Jawaharlal Nehru National Solar Mission (JNNSM) was established in 2010 and aimed to accelerate the development of solar capacity in India's energy mix by providing subsidies and customs duty exemptions for capital equipment. The JNNSM further required that in order to avail of the subsidies all solar projects should use cells and modules manufactured in India, and 30% local content was required for plants or installations for a solar thermal project. The National Tariff Policy of 2011 further amended the RPO by adding a solar purchase obligation (SPO) as part of the RPO of 0.25% by 2013 and 3% by 2022. Grid-connected renewable energy generation constituted 5.65% of total energy produced between April 2014 and January 2015.

4.3 Manufacturing

4.46. The share of manufacturing in gross value added at factor cost has declined from 17.7% in 2012-13 to 17.1% in 2013-14 and 16.8% in 2014-15 (advance estimates).[39] The average applied MFN tariff for manufacturing increased from 11.1% in 2010-11 to 12.1% in 2014-15. Productivity in the sector is low partly because of the relatively small size of firms in the sector, which makes it difficult to gain from economies of scale.[40]

4.47. The Government notified a new manufacturing policy in 2011, which aims at increasing manufacturing's share in GDP to 25%.[41] To implement the policy, national investment and manufacturing zones (NIMZs) have been created (Section 2.4.1.1). In September 2014, the

[35] For example, under the Mega Power Policy, large generation projects can obtain capital import-duty concessions, and/or the waiver of local levies to reduce costs. All inter-state projects with a capacity of 1,000 MW and above for thermal projects, and 500 MW and above for hydro projects, are treated as mega power projects.

[36] International Energy Agency (2012).

[37] This relates to Sections 38, 39, 40, 42, 61, 178 and 181 of the Act. In addition, Section 6 and Section 151 of the Act were amended. The amendment to Section 6 stipulates that the concerned state governments and the central government must jointly endeavour to provide access to electricity to all areas through rural electricity infrastructure and electrification of households.

[38] The coal sector is highly regulated, with production dominated by two public sector enterprises.

[39] Ministry of Statistics and Programme Implementation, Central Statistical Organization, Press Release dated 9 February 2015. Viewed at: http://mospi.nic.in/Mospi_New/upload/nad_press_release_9feb15.pdf.

[40] OECD (2014).

[41] Department of Industrial Policy and Promotion (2011).

Government launched a "Make in India" campaign to strengthen the sector and attract investment.[42]

4.48. In textiles and clothing, the Government provides interest rate subsidies under the Technology Upgradation Scheme with a view to upgrading technology in machinery.[43] The Government has also been trying to promote industrial and textile clusters through, *inter alia,* the Integrated Textile Parks Scheme (40% of which is funded by the Government while 60% is private), which aims to provide infrastructure facilities to the textile industry; subsidies are provided through a selection process based on budget limitations. In addition, there exists Hank Yarn Obligation, a mechanism instituted in 2013 with a view to protecting handloom weavers and ensuring sufficient availability of hank yarn for the handloom sector.[44] MSPs apply to cotton. Every year, before the commencement of the cotton season, the Commission for Agricultural Costs and Prices (CACP) fixes the MSPs for the medium staple length and long staple length cotton. For the cotton season 2014-15, the Government fixed the MSP for medium staple length cotton at Rs 3,750 and Rs 4,050 per quintal for the long staple length cotton. The Government has nominated the CCI and NAFED to purchase at the MSPs. In textiles and clothing, 100% foreign-ownership is allowed under the automatic route subject to all applicable regulations and laws.

4.49. In the iron and steel sector, 100% foreign investment is allowed. The Government has substantial shares in public sector enterprises, holding for example, around 75% of total shares of the Steel Authority of India. The authorities maintain that most of these companies, where the Government may have a substantial shareholding, are listed on the stock exchanges and their operations are on a purely commercial basis. To promote the industry's competitiveness and improve efficiency and productivity, the National Steel Policy, issued in 2005, is aimed at increasing steel output to 110 million tonnes per annum by 2019-20 (from 38 million tonnes in 2004-05); in 2013-14, steel production amounted to 87.7 million tonnes. The authorities are in the process of revising the Policy. In March 2014, a Steel and Steel Products (Quality Control) Second (Amendment) Order 2014 was issued to provide for mandatory BIS certification for various steel products covering 93 tariff lines.[45]

4.50. The Ministry of Food Processing Industries has various schemes to provide assistance to food processing industries in India, which face major infrastructure constraints. One of its main schemes is the Mega Food Park Scheme, which aims to provide an infrastructure for farmers, processors and retailers particularly in rural sectors.[46] The scheme is proposed to be entrepreneur driven and implemented on a PPP (public private partnership) basis. Under the scheme, a onetime capital grant of 50% of the project cost can be accorded subject to a maximum of Rs 500 million in general areas and 75% of the project cost subject to a ceiling of Rs 500 million in difficult and hilly areas.[47] Other facilities being provided include cold chain infrastructure. A minimum of 50 acres of land is required to set up a mega food park. 21 mega food parks have been accorded final approval; they are at various stages of implementation. There are around 370 technical regulations that affect food processing in India which, the authorities state are aligned with Codex.

4.51. India's automotive industry is protected by high import duties and non-tariff measures. The average applied MFN tariff for motor vehicles (HS 8703) in 2006-07 was 100%; it was reduced to 60% in 2010-11 but increased to 100% in 2014-15. Given such high tariffs and that 100% foreign ownership is allowed, it is likely that some portions of the FDI in the industry is for "tariff-jumping" purposes. Although there are no licensing requirements for imports of new vehicles, licences need to be obtained for imports of automobiles more than three-years old, once safety and environmental requirements are met. In addition to a tariff of 100%, imports of vehicles may enter

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[42] Invest India online information. Viewed at: http://www.makeinindia.com.
[43] Ministry of Textiles online information. Viewed at: http://www.texmin.nic.in/policy/Anx%20C-Category%20wise%20Subsidy%20Approved%20as%20on%205.3.2014.pdf.
[44] Press Information Bureau online information. Viewed at: http://pib.nic.in/newsite/PrintRelease.aspx?relid=83745.
[45] Ministry of Steel Order S.O.979 (3), 31 March 2014.
[46] The scheme is aimed at providing modern infrastructure facilities along the value chain from farm gate to the market with backward and forward linkages. It includes creation of infrastructure for primary processing and storage near the farm in the form of primary processing centres (PPCs) and collection centres (CCs) and common facilities and enabling infrastructure at Central Processing Centre (CPC).
[47] These are the north east regions including Sikkim, J&K, Himachal Pradesh, Uttarakhand and ITDP notified areas of the States.

only through specified ports (Chennai, Kolkata, and Mumbai for new vehicles and Mumbai for second-hand cars). In December 2006, the Department of Heavy Industry issued an Automobile Mission Plan 2006-2016 as a road map for future development of the industry. The Plan has various suggestions for policy interventions. Automobile manufacturing is subject to various technical regulations.

4.52. FDI of up to 100% through the automatic route is permitted in electronics and information technology hardware manufacturing, software development, and ITES sector, except business-to-consumer (B2C) e-commerce.

4.4 Services

4.4.1 Financial services

4.4.1.1 Banking

4.4.1.1.1 Overview

4.53. India's banking sector comprises a small number of commercial banks compared with other types of financial institution (Table A4.2). The sector also consists of a wide variety of "non-banking financial institutions" (NBFIs). It continues to be dominated by public sector banks (PSBs), which account for around 72.7% of the sector's total assets.

4.54. The RBI regulates the banking sector (including NBFIs) in accordance, *inter alia,* with the Reserve Bank of India Act 1934 and the Banking Regulation Act 1949, and a number of other acts governing banks, banking operations, specific functions, or individual financial institutions.[48]

4.55. Foreign participation is allowed in both public and private sector banks; in private banks 74% for all forms of foreign investment (i.e. FDI and FII) and 20% in State Bank of India (SBI) and its Associate Banks or nationalised banks is permitted.

4.56. The main changes to India's legislation concerning banking since 2011 include the adoption of the Banking Laws (Amendment) Act 2012; the 2012 Act, *inter alia,* confers power on the RBI to specify approved securities and raises restrictions on voting rights of investors in the private sector banks to 26% (from 10%).[49] Other legislative changes include amendments to the Banking Companies (Acquisition and Transfer of Undertakings) Act 1970 and 1980[50], the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002, the Recovery of Debts Due to Banks and Financial Institutions Act 1993 and the Prevention of Money-Laundering Act 2005 and the Prevention of Money-Laundering (Maintenance of Records) Rules 2005.

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[48] Other acts governing the sector include: the Banking Companies (Acquisition and Transfer of Undertakings) Act 1970/1980; the State Bank of India Act 1955; the State Bank of India (Subsidiary Banks) Act 1959; the State Bank of Hyderabad Act 1956; Regional Rural Banks Act 1976; the Multi State Co-operative Societies Act 2002 and the co-operative society laws of respective states; the Negotiable Instruments Act, 1881, the Companies Act 1956; the Companies Act, 2013, the Bankers' Books Evidence Act, 1891; the Public Debt Act 1944; the Government Securities Act, 2006, the Securities Contract (Regulation) Act 1956; the Foreign Exchange Management Act 1999; and the Payment and Settlement Systems Act 2007; the Industrial Development Bank (Transfer of Undertaking and Repeal) Act 2003; the Industrial Finance Corporation (Transfer of Undertaking and Repeal) Act 1993; the National Bank for Agriculture and Rural Development Act; the National Housing Bank Act; the Export Import Bank of India Act, 1981, Small Industries Development Bank of India Act 1989; and the Deposit Insurance and Credit Guarantee Corporation Act.

[49] Other changes include: enabling banking companies to issue preference shares subject to RBI's regulatory guidelines; providing for prior approval of the RBI for acquisition of 5% or more shares or voting rights in a banking company; aligning the restriction on commission on sale of shares to issue price rather than to the paid-up value of shares; conferring power on the RBI to specify the cash reserve ratio for non-scheduled banks; establishing a depositor education and awareness fund to take over inoperative deposit accounts that have not been claimed or operated for ten years or more; conferring power on the RBI to call for information and returns from the associate enterprises of banking companies and to jointly inspect the bank with the regulators of the associate enterprises.

[50] Changes include: raising the authorized capital of the nationalized banks from Rs 15 billion to Rs 30 billion; allowing the nationalized banks to issue "bonus shares" and "rights issue"; raising restrictions on voting rights to 10% for shareholders other than the central Government.

4.57. During the review period, assets in the sector increased, while the net non-performing assets (NPAs) to net advances ratio of scheduled commercial banks increased from 0.93% in 2011 to 2.24% in 2014 (Table 4.4); this mainly reflects a growing NPAs in public sector banks.[51]

Table 4.4 Trends in the banking sector's gross loans and deposits and prudential indicators, 2010-14

(Rs million and %)

	2010	2011	2012	2013	2014
Assets	56,878,957	67,497,264	77,483,673	88,123,483	100,158,489
Return on assets (%)	1.02	1.09	1.06	1.05	0.78
Capital to risk weighted assets ratio (CRAR) (%)	14.54	14.19	14.21	13.88	13.01
Net NPA to gross advances (%)	1.12	0.93	1.24	1.68	2.24
Total loans (gross advances)	32,649,887	39,922,275	46,663,373	53,711,515	61,017,753
Loans by economic sector (% of total loans)					
Agriculture	13.09	12.65	12.32	12.05	12.62
Real estate	17.67	17.96	17.00	17.27	17.89
Total deposits	45,774,926	53,919,199	61,378,626	70,228,434	79,859,229

Source: WTO Secretariat, based on information provided by the Indian authorities (off-site returns as reported by banks, domestic operations).

4.58. On 20 July 2012, the RBI revised its guidelines on priority sector lending. In the revised guidelines, foreign commercial banks with 20 or more branches must achieve overall priority sector target of 40% of adjusted net bank credit (ANBC) or a credit equivalent amount of off balance sheet exposure (OBSE), whichever is higher, along with the sub-targets for agriculture and weaker sections category within a maximum period of five years ending on 31 March 2018, as per the action plans submitted by them as approved by RBI.[52] Other foreign banks must achieve overall priority sector target of 32% of their ANBC/credit equivalent of OBSE,

4.59. Banking companies in respect of which the Government has issued a notification under section 45 of the Banking Regulation Act 1949 are exempt from the application of Section 5 and 6 of the Competition Act 2002 for a period of 5 years from 8 January 2013.[53]

4.60. The RBI has paid particular attention to fostering financial inclusion to overcome the still low and deepening levels of financial penetration in India. To this end, the RBI, *inter alia,* requires that banks open at least 25% of their branches in unbanked rural centres. The RBI issued guidelines for licensing of new banks in the private sector on 22 February 2013, and two applicants (IDFC Limited and Bandhan Financial Services Private Limited) were granted 'in-principle' approval in April 2014 for the establishment of private banks. On 27 November 2014, final guidelines with regard to licensing of small finance banks in the private sector and payment banks were issued by the RBI. 72 applications were received for small finance banks and 41 applications for payment banks. The Financial Stability and Development Council, established in 2010, has an exclusive mandate for financial inclusion and financial literacy.

4.4.1.1.2 Commercial banks

4.61. The RBI, as regulator and supervisor, prescribes broad parameters of banking operations within which India's banking system functions. The RBI also acts as banker to the Government and lender of last resort, performing merchant banking functions for the central and the State Governments. The RBI has three fully-owned subsidiaries: the National Housing Bank (NHB), the Deposit Insurance and Credit Guarantee Corporation of India (DICGC), and the Bharatiya Reserve Bank Note Mudran Private Ltd. (BRBNMPL). The RBI holds 0.4% of the total shares of the National Bank for Agriculture and Rural Development (NABARD); the remaining 99.6% is held by the Government.

[51] Ministry of Finance (2014).
[52] Reserve Bank of India online information. Viewed at: http://www.rbi.org.in/scripts/NotificationUser.aspx?Id=7460&Mode=0.
[53] Ministry of Corporate Affairs Notification S.O.93(E), 8 January 2013 and Notification No. 5 63/2011-CS, 8 January 2011.

4.62. In recent years, a number of regulatory changes have been introduced. Recent guidelines issued by the RBI specify that in the case of both payment banks and small finance banks, foreign shareholding in the payments bank will be as per the FDI policy for private sector banks. As per the current FDI policy, the aggregate foreign investment in a private sector bank from all sources will be allowed up to 74% of the paid-up capital of the bank (automatic up to 49% and approval route beyond 49% to 74%). At all times, at least 26% of the paid-up capital must be held by residents.

4.63. Domestic and foreign banks require a licence from the RBI to undertake banking operations in India. An authorization is required for the opening of new branches by banks and for changes in the location of existing branches, in accordance with the Branch Authorization Policy. Domestic banks may open branches anywhere if: (i) 25% of the branches in a year are in unbanked rural areas in tier 5 and tier 6 centres, and (ii) the total number of branches opened in tier 1 centres in a year does not exceed the total number of branches opened in tier 2 to tier 6 centres in the same year. Foreign bank branches operating under the wholly owned subsidiary (WOS) route are also governed by the same guidelines.

4.64. Scheduled commercial banks are required to maintain a certain portion of their net demand and time liabilities (NDTL) in the form of cash (including cash reserves with the RBI), gold, or investment in approved securities (statutory liquidity ratio). The RBI monitors compliance with these requirements in the banks' day-to-day operations. The cash reserve ratio (CRR) is fixed by the RBI and used as a tool to inject/subtract excess liquidity.

4.65. Interest rates on all categories of rupee deposits are deregulated and banks are free to determine the interest rates as per the policy approved by their board. While interest rates on term deposits are already deregulated, interest rates on savings deposits were also deregulated on 25 October 2011 subject to certain conditions. On 16 December 2011, interest rates on non-resident (External) rupee (NRE) and non-resident ordinary (NRO) deposits were deregulated subject to certain conditions. Interest rates on foreign currency non-resident accounts (banks) (FCNR) (B) deposits, however, continued to be subject to a prescribed ceiling rate. Interest rates on rupee advances are deregulated. With the introduction of the Base Rate from 1 July 2010, all categories of loans are priced only with reference to the Base Rate, except (i) differential rate of interest (DRI), (ii) loans to banks' own employees (iii) loans to banks' depositors against their own deposits, and (iv) short-term crop loans by the Government. According to the authorities, with the introduction of the Base Rate, interest rates on rupee export credit have also been fully deregulated and are determined by the banks as per the policy approved by their board. Interest rates on export credit in foreign currencies have been deregulated since 5 May 2012; banks are free to determine the interest rates approved by their board.

4.66. The RBI requires that banks maintain a capital- risk weighted assets ratio (CRAR) of 9%.[54] This includes capital for credit risk, market risk, operational risk, and other risks. Also, in order to maintain the quality of loans and advances, the RBI requires banks to classify their loan assets as performing and non-performing assets (NPAs), primarily based on the record of recovery from the borrowers. NPAs are further categorized into sub-standard, doubtful, and loss assets, depending upon the age of the NPAs, and value of available securities. Banks are also required to make appropriate provisions against each category of NPA and to disclose their exposure to the 20 largest depositors/borrowers, apart from disclosing information on sector-wise NPAs (percentage of NPAs to total advances in that sector) and on changes in NPAs. Banks are required to have exposure limits, to prevent credit concentration risk and to limit exposure to sensitive sectors such as capital markets and real estate. The RBI also requires banks to classify their investment portfolios into three categories: held to maturity (HTM), available for sale (AFS), and held for trading (HFT). There are mandates as to what securities are allowed to be kept under HTM category with overall limit for HTM category (25% of total investments) as well as statutory liquidity ratio (SLR) holdings in the HTM category. Further, while profit or loss on sale of investments in HFT and AFS categories will be taken to the profit and loss account, profit on sale of investments in the HTM category must first be taken to the profit and loss account, and thereafter be appropriated to the capital reserve account.

[54] RBI Master Circular – Basel III Capital Regulations (dated 1 July 2014, and updated periodically). Viewed at: http://www.rbi.org.in/scripts/BS_ViewMasCirculardetails.aspx?id=9015.

4.67. During the period under review, the RBI further reformed its prudential regulations, mainly in the context of the adoption of the Basel III reform package. Among various changes in India's prudential regulations, the RBI issued: modified guidelines concerning credit risk capital charge, credit default swaps, and guidelines on derivatives (2011-12); the final guidelines on the implementation of Basel III capital regulations (2012-13); guidelines on: (i) composition of capital disclosure requirements, (ii) restructuring of advances by banks and financial institutions; (iii) management of intra-group transactions and exposures, and (iv) refinancing of project loans and sale of NPAs by banks (2013-14); and "Basel III Framework on Liquidity Standards – Monitoring tools for Intraday Liquidity Management" (2014-15).

4.68. India's Deposit Insurance and Credit Guarantee Corporation provides insurance cover to all eligible bank depositors up to Rs 100,000 per depositor per bank.

4.69. The RBI supervises banks in order to monitor and ensure their compliance with the regulatory policy framework through on-site inspection, off-site surveillance, and periodic meetings with the banks' top management. Banks are allowed to undertake non-traditional banking activities, also known as para-banking, which includes asset management, mutual funds business, insurance business, merchant banking activities, factoring services, venture capital, card business, equity participation in venture funds, and leasing. During the period under review, the annual financial inspection (AFI) process was revised to make the process more focused; the supervisory process and the organizational structure of Department of Banking Supervision (DBS) of RBI were reorganized on 1 April 2011 and a new Financial Conglomerate Monitoring Division (FCMD) was established to closely supervise 12 large banking groups.[55] During the same period, India also signed memoranda of understanding (MoUs) or exchange of letter (EoL) with overseas supervisors on supervisory cooperation[56]; engaged in inspection of overseas branches of Indian banks as from 2012-13; set up fora for discussion between the host and home country regulators on major supervisory issues of the regulated entities (supervisory colleges); and shifted from a transaction-testing-based (CAMELS)[57] supervisory framework to a risk-based approach with effect from the 2013-14 supervisory cycle.[58] Thirty banks have so far been migrated under the new risk-based supervision approach out of a total of 94 banks and 4 All-India Financial Institutions.

4.70. On 6 November 2013, the RBI announced the "Scheme for Setting-Up of Wholly-Owned Subsidiaries (WOS) by Foreign Banks in India" based on the principles of reciprocity and single mode of presence. A WOS may open branches anywhere in the country at par with domestic banks (except in certain sensitive areas where the RBI's prior approval is required). A foreign bank that has *inter alia* complex structures, or does not provide adequate disclosure in its home jurisdiction may only enter India as a WOS. A foreign bank opting for the branch form of presence must convert into a WOS when such conditions become applicable to it, or when it becomes systemically important on account of its balance-sheet size in India.[59] With a view to preventing domination by foreign banks, restrictions will be placed on further entry of new WOSs of foreign banks or further capital infusion of WOSs of foreign banks, when the capital and reserves of the WOSs and foreign bank branches in India exceed 20% of the capital and reserves of the banking system. The initial minimum paid-up voting equity capital for a WOS is Rs 5 billion for new entrants. Existing branches of foreign banks desiring to convert to WOSs must have a minimum net worth of Rs 5 billion. The parent company of the WOS is required to issue a letter of comfort to the RBI for meeting the liabilities of the WOS.

4.71. In terms of corporate governance, a minimum of one-third of the directors must be independent of the management of the subsidiary in India, its parent or associates; not less than 50% of the directors must be Indian nationals[60], and not less than one-third of the directors must

[55] State Bank of India, Punjab National Bank, Bank of Baroda, Bank of India, Canara Bank, ICICI Bank Ltd., HDFC Bank Ltd., Axis Bank Ltd., Kotak Mahindra Bank Ltd., Citibank, HSBC, and Standard Chartered Bank. The aggregate total assets of the 12 banks accounted for 52.7% of the total assets of the banking system in India.

[56] As of 18 November 2014, RBI has signed 22 MoUs and one Letter of Supervisory Cooperation.

[57] The term "CAMELS" stands for Capital Adequacy, Asset Classification, Management, Earnings Appraisal, Liquidity, Sensitivity.

[58] During 2013-14, 28 banks were supervised under the risk based model, covering 60% of assets of the Indian banking system.

[59] Foreign banks that commenced banking business in India before August 2010 have an option to continue their banking business through the branch mode.

[60] Including non-resident Indians and persons of Indian origin.

be Indian nationals resident in India. The branch expansion guidelines as applicable to domestic scheduled commercial banks will generally be applicable to WOSs, except that they will require RBI prior approval for opening branches at certain locations that are sensitive from the perspective of national security. The "priority sector lending requirement" will be 40% for a WOS, like domestic-scheduled commercial banks, with an adequate transition period provided for existing foreign bank branches converting into WOS. On an arm's length basis, WOSs will be allowed to use parental guarantee/credit rating only for the purpose of providing custodial services and for their international operations. The issue of permitting WOSs to enter into mergers and acquisitions (M&A) transactions with any private sector bank in India subject to the overall investment limit of 74% is to be considered after a review is made with regard to the extent of penetration of foreign investment in Indian banks and functioning of foreign banks (branch mode and WOS).

4.72. New private-sector banks must maintain minimum capital, initially of Rs 5 billion, as per the new bank licensing guidelines dated 22 February 2013. In the case of payments banks and small finance banks, the minimum capital requirement is Rs 1 billion. Currently, voting rights of any individual is capped at 10%. However, the RBI is empowered to increase, in a phased manner, the ceiling on voting rights to 26%.

4.73. Banks operating in India (including public-sector banks, privately-owned banks, and foreign-invested banks) authorized to deal with foreign exchange, are eligible to set up offshore banking units (OBUs) in special economic zones (SEZs). Eligible banks are allowed to establish only one OBU per SEZ, essentially for wholesale banking operations. As a start-up contribution, the parent bank must provide a minimum of US$10 million to the OBU. OBUs are exempt from the cash reserve requirement, and on request a statutory liquidity ratio exemption may be considered for a specified period. OBUs are expected to provide loans at international rates to companies located in SEZs. They are also permitted to lend to corporations in the domestic tariff area, under external commercial borrowing guidelines and subject to the Foreign Exchange Management Act regulations. This latter type of lending may not exceed 25% of total liabilities. OBUs are not allowed to accept or solicit deposits or investments from Indian residents, or open accounts for them. The Government has proposed to set up an International Financial Services Centre (IFSC) at Gandhinagar, Gujarat as a part of a SEZ. The entities to be established in the IFSC will be regulated by the respective sectoral regulators; the IFSC Banking Units (IBUs) are regulated by RBI. The authorities state that draft guidelines in this regard are being finalized.

4.4.1.1.3 Urban cooperative banks (UCBs) and other financial institutions

4.74. UCBs are registered under the respective State Co-operative Societies Act or Multi-State Cooperative Societies Act 2002, and governed by the provisions of the respective acts for non-banking issues such as registration, management, administration, recruitment, and amalgamation and liquidation. On 1 March 2012, a revised supervisory action framework was introduced for UCBs; this was revised on 27 November 2014. The framework envisages self-corrective action by the UCBs; if the financial position of the bank does not improve, the RBI will take supervisory action. In August 2011, the RBI allowed certain scheduled UCBs[61] to offer internet banking facilities to their customers with the approval of the RBI.

4.75. There are also rural cooperative banks, state cooperative banks, so-called "financial institutions" that provide medium- to long-term finance to specific sectors of the economy, regional rural banks (RRBs) established under the Regional Rural Banks Act 1976, and Local Area Banks.[62]

4.76. Non-banking financial companies (NBFCs), which engage in: (i) lending; (ii) acquisition *inter alia* of shares, stocks, bonds; (iii) financial leasing or hire purchase; or (iv) acceptance of deposits are regulated by the RBI and are open to foreign investment up to 100% of their capital. On 10 October 2012, the RBI issued a circular (No. 41) to relax conditions for foreign-owned NBFCs to establish step-down subsidiaries.[63] As per the Circular, NBFCs whose share of foreign-owned paid-up capital account for more than 75% and up to 100% (previously only 100%)

[61] Those having minimum net worth of Rs 1 billion, CRAR of at least 10%, NPA of less than 5%, and have earned net profit continuously in the past three financial years.
[62] WTO (2011).
[63] Step-down subsidiaries are subsidiary companies of a company that are subsidiary of another company.

and with a minimum capitalization of US$50 million can set up step-down subsidiaries for specific NBFC activities without any restriction on the number of operating subsidiaries and without bringing in additional capital.

4.4.1.2 Insurance

4.77. Insurance and re-insurance in India are regulated by the Insurance Act 1938, the Insurance Regulatory and Development Authority Act 1999 (which amended the Insurance Act 1938), the Life Insurance Corporation Act 1956, and the General Insurance Business Act 1972. The Micro-Insurance Regulations 2005 aim to promote the use of insurance by people in the lower income brackets.

4.78. The insurance sector's regulator is the Insurance Regulatory and Development Authority of India (IRDAI). Its functions include supervising the development of the sector, granting licences to insurance intermediaries, and specifying the percentage of insurance business to be undertaken in rural areas and the social sector.[64]

4.79. At end-March 2014, there were 53 insurance companies in India; foreign participation was 21.6% of total equity (Table 4.5). In addition, there were 20,057 micro-insurance agents.[65]

Table 4.5 Insurance and reinsurance market, end-March 2014

Insurer	Private		Public		Total		FDI (Rs billion)	% of FDI to total equity
	No.	Equity (Rs billion)	No.	Equity (Rs billion)	No.	Equity (Rs billion)		
Life	23	258.4	1	1.0	24	259.4	61.5	23.6
General	17	62.3	4	6.0	21	68.3	13.4	19.6
Special Govt insurance	0	0.0	2	13.0	2	13.0	0	0.0
Health insurer	5	16.8	0	0.0	5	16.8	3.7	22.0
Re-insurer	0	0.0	1	4.3	1	4.3	0.0	0.0
Total	45	337.5	8	24.3	53	361.8	78.2	21.6

Source: WTO Secretariat, based on information provided by the Indian authorities.

4.80. As in the case of the banking sector, the insurance industry continues to be dominated by state-owned enterprises. For example, the market share of Life Insurance Corporation (LIC) of India was around 75.4% in 2013-14, compared with 68.7% in 2010-11. The four non-specialized public non-life insurance companies (National, New India, Oriental and United) accounted for around 54.7% of gross premium income (compared with 53.2% in 2010-11). The micro-insurance market is also dominated by the LIC, which contributed 89.4% of total micro-insurance premiums in 2013-14.

4.81. In accordance with the 1938 Insurance Act, as amended, insurance services may only be carried out by an Indian insurance company, meaning any insurer formed and registered in India under the Companies Act 2013, whose sole purpose is to carry out life insurance business or general insurance business or re-insurance business.

4.82. There is no tariff control for any class of non-life insurance business, except motor third-party cover.[66]

4.83. In accordance with the Insurance Regulatory and Development Authority (Obligations of Insurers to Rural and Social Sectors) Regulations 2002, insurers must place a certain percentage of their policies with the rural and social sectors. This restriction has remained unchanged since

[64] The "social sector" includes the "unorganized" sector, informal sector, economically vulnerable or backward classes, and other categories of persons both in rural and urban areas.

[65] As per recent guidelines, District Co-operative Banks, Regional Rural Banks, individual owners of Kirana shops are among banking correspondents that can be appointed as micro-insurance agents.

[66] For motor third-party cover, which is a statutory insurance cover required under the provisions of Motor Vehicles Act, the IRDA has retained the powers to determine the rates, terms and conditions.

2011.[67] All 23 life insurance companies in the private sector fulfilled their rural sector obligations; the LIC was also compliant with its obligations, underwriting a percentage of policies in the rural sector above its prescribed 25% for 2013-14. Out of 23 private life insurance companies, 21 fulfilled their social sector obligations during 2013-14, and the IRDA initiated penal action against the two non-compliant insurers.[68] The LIC also complied with its social-sector requirements in 2013-14. All non-life private insurance companies and one public sector insurer complied with their rural and social sector obligations in 2013-14.

4.84. There has been no change in the solvency margin requirement of 150% since India's previous Review. At end-March 2014, all 24 life and 28 non-life insurers and one re-insurer were in compliance with the minimum solvency margin requirement.

4.85. Tariff restrictions exist only for the premium rates for motor third-party liability cover; such rates must be adjusted every year in accordance with a specific formula. On 27 March 2014, the authorities moderated the rate increase in some of the classes of motor insurance and notified the revised premium rates for 2014-15.[69]

4.86. Insurance companies must maintain a required solvency margin, which has remained unchanged since 2011.

4.87. The insurance penetration rate as a percentage of GDP declined slightly for life insurance from 4.6% in 2009 to 3.1% in 2013 (the latest year for which data were made available); insurance density decreased for life insurance from US$47.7 in 2009 to US$41 in 2013. The penetration rate for general (non-life) insurance increased from 0.6% in 2009 to 0.8% in 2013; its density increased from US$6.7 in 2009 to US$11 in 2013.[70]

4.88. The Micro-Insurance Regulations 2005 provide a platform to promote insurance penetration among rural and urban populations. The Regulations define micro-insurance as policies of up to Rs 30,000 or Rs 50,000, depending on the type of insurance contract. The Regulations promote the creation of specific micro-insurance products and allow non-governmental organizations and self-help groups to act as agents to insurance companies in marketing these micro-insurance products. Agents may charge a commission of 10% of the premium for single-premium life insurance policies, and 20% for non-single-premium policies; for non-life insurance business, agents may charge a commission of 15% of the premium.

4.89. Grievances with respect to insurance issues may be addressed to the Insurance Ombudsman. There are 12 Ombudsmen across India. The Insurance Ombudsman may engage in conciliation, and award-making; the Ombudsman's powers are restricted to insurance contracts of a value not exceeding Rs 2 million. Insurance companies are required to honour awards passed by an Insurance Ombudsman within three months.

4.90. The Insurance Laws (Amendment) Ordinance 2014, issued on 26 December 2014, adopted a number of regulatory changes including (a) raising the foreign equity limit in an Indian insurance company from 26% to 49%; (b) allowing foreign re-insurers to open branches only for re-insurance business in India; (c) making the underwriting of third-party risks of motor vehicles obligatory; (d) shifting the responsibility of appointing insurance agents from the IRDA to the insurers; and (e) introducing flexibility to raise capital through other forms instead of through equity alone.

4.4.1.3 Securities

4.91. The securities sector in India is regulated by the Securities and Exchange Board of India (SEBI), *inter alia,* under the Securities and Exchange Board of India Act 1992, as amended.[71]

[67] WTO (2011), Table IV.7.
[68] Insurance Regulatory and Development Authority (2014).
[69] IRDA Notification No. IRDA/NL/NFTN/MOTP/098/03/2014, 27 March 2014. Viewed at: http://www.irda.gov.in/ADMINCMS/cms/frmGeneral_Layout.aspx?page=PageNo2247&flag=1.
[70] Insurance penetration is measured as the ratio of premiums (in US$) to GDP (also in US$). Insurance density is calculated by dividing total premiums (in US$) by total population.
[71] Other laws that regulate the securities sector include the Securities Contract (Regulations) Act 1956, the Depositories Act 1996, and the relevant provisions of the Companies Act 1956.

SEBI's responsibility is to regulate and promote the development of the securities market, and protect the interests of investors in securities.

4.92. Since its previous Review, India adopted new legislation including the Securities Laws (Amendment) Act 2014[72], which amended the SEBI Act 1992, the Securities Contracts (Regulation) Act 1957 and the Depositories Act, 1996. Under the Securities Laws (Amendment) Act 2014, SEBI is empowered to: (i) call for information from any person in relation to any investigation or inquiry by SEBI in respect of any transactions in securities; (ii) obtain or furnish information to other securities regulators abroad; (iii) settle administrative and civil proceedings on terms determined by SEBI in accordance with procedures specified in the relevant regulations; (iv) review (by the SEBI Board) on its own initiative any order passed by an adjudicating officer if the order is considered to be erroneous and not in the interest of the securities market; and (v) strengthen enforcement.[73] The Act also enlarged the scope of the collective investment scheme, and stipulates the establishment of Special Courts for prosecution of offences under the Act for speedy trials.

4.93. As at 16 February 2015, there were 15 stock exchanges in India[74], all regulated by SEBI under the Securities Contract (Regulation) Act 1956 and the SEBI Act 1992.[75] During the review period, the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations 2012[76] was adopted to provide a separate regulatory framework for regulation of stock exchanges and clearing corporations, and repealed the previous SCR R (Manner of Increasing and Maintaining Public Shareholding in Recognised Stock Exchanges) Regulations 2006, although some aspects of the latter are incorporated in the new Regulations (e.g. shareholding restriction and fit and proper criteria) with minor modifications (Table 4.6).

Table 4.6 Securities market, 2012-15

Registered market participants	2012[a]	2013[a]	2014[a]	2014[b]
Stock exchanges				
Cash market	19	20	19	19[j]
Derivatives market	2	3	3	3
Currency derivatives	4	3	4	4[k]
Foreign institutional investors	1,765	1,757	1,710	7,638[c]
Custodians	19	19	19	19
Venture capital funds	212	211	207	198
Foreign venture capital investors	174	182	192	201
Alternative Investment Funds	0	42	101	122
Mutual funds	49	52	50	49
	2011-12	**2012-13**	**2013-14**	**2014-15[b]**
Primary securities market				
Capital raised (US$ billion)				
Equity securities				
Public and rights issues	2.5	2.8	2.2	0.6
Qualified institutions placements (QIPs)	0.4	2.9	2.3	3.5
Preferential allotments	5.0	8.6	7.7	3.5
Debt securities				
Public issues	7.0	3.1	7.1	0.9
Private placements	51.1	66.5	45.9	29.9
Total	**58.0**	**69.6**	**53.0**	**30.8**
Secondary securities market				
Number of listed companies[d]	5,133	5,211	5,336	5,498
Equity market capitalization (US$ billion)[d]	1,214.9	1,174.5	1,233.8	1,577.1
Equity market turnover (US$ billion) (NSE + BSE Ltd.)[c]	680.0	598.8	554.1	481.9
Number of trades (million) (NSE + BSE Ltd.)	1,832.1	1,684.0	1,806.4	1,472.7

[72] Ministry of Finance online information. Viewed at: http://finmin.nic.in/law/The%20Securities%20Laws%20Amendment%20Act%202014.pdf.
[73] SEBI has a precedence for the recovery claim over all other claimants.
[74] The authorities state that as the process of exit of stock exchanges is underway, the number of stock exchanges might change more frequently. Out of the total, the applications of 10 stock exchanges for exit is under process and one stock exchange is in the process of merger as on 24 February 2015.
[75] SEBI online information. Viewed at: http://www.sebi.gov.in/sebiweb/userview/detail/2/388/No%20of%20Stock%20Exchange.
[76] SEBI online information. Viewed at: http://www.sebi.gov.in/cms/sebi_data/attachdocs/1340272091708.pdf.

	2011-12	2012-13	2013-14	2014-15[b]
Daily average turnover (US$ billion) (NSE + BSE Ltd.)	2.7	2.4	2.2	3.4
Derivatives market				
Turnover (US$ billion)				
Equity derivatives[e]	6,286.2	7,114.7	7,892.0	6,682.7
Currency derivatives[f]	1,934.5	1601.5	1161.5	446.7
Interest rate futures[g]	0.0.	0.0	1.2	0.2
Average daily turnover (US$ billion)				
Equity derivatives[e]	25.2	28.6	31.4	47.4
Currency derivatives	8.1	6.6	4.8	3.4
Investment by foreign institutional investors (FIIs)				
Investment during the year (US$ billion)	18.9	31.0	8.9	26.8
Cumulative net investment by the FIIs (US$ billion)	140.5	171.5	180.4	207.2
Market value of assets (US$ billion)[h]	216.5	245.7	265.2	353.6
% of equity market capitalization held by the FIIs[i]	15.3	18.0	19.3	19.7
Investments by venture capital funds and foreign venture capital investors (cumulative investments (US$ billion))				
Venture capital funds	5.6	5.8	6.0	5.7
Foreign venture capital investors	7.7	6.2	7.5	7.3

a As at 31 March of each year.
b As at 31 October 2014.
c With the commencement of the FPI Regime from 1 June 1 2014, the FIIs, Sub-Accounts and QFIs were merged into a new investor class termed as "Foreign Portfolio Investors (FPIs)". As at 19 November 2014, the number of FPIs was 467, and the number of deemed FPIs (previous FIIs, deemed FPIs (previous sub-accounts), and deemed FPIs (previous QFIs)) were 1,500, 5,603 and 68, respectively.
d BSE only.
e BSE and NSE.
f BSE, NSE, USE and MCX-SX.
g NSE only.
h Equity and Debt.
i AUC of FII in equity as a percentage of BSE market cap.
J The corresponding data for 16 Feb 2015 is 15.
k USE merged with BSE in December 2014. As of February 2015, the number of exchanges offering currency derivatives was 3.

Note: All conversions in US$ billion have been based on the reference rate published by RBI.

Source: Securities and Exchange Board of India; and information provided by the Indian authorities.

4.94. Other policy initiatives since India's previous Review in 2011 include: allowing registered mutual funds to accept subscriptions from foreign investors that meet the know-your-client (KYC) requirements for equity schemes since 2011-12; reviewing corporate governance norms for listed companies[77]; raising the FII limit for investment in corporate bonds to US$51 billion, including a sub-limit of US$25 billion each for bonds of the infrastructure and non-infrastructure sectors, and US$1 billion for qualified foreign investors (QFIs) in non-infrastructure sector; establishing a registration requirement with SEBI for alternative investment funds under SEBI (Alternative Investment Funds) Regulations 2012[78]; providing a framework for registration and regulation of investment advisors[79], research analysts[80], real estate investment trusts[81], and infrastructure investment trusts[82]; and streamlining the regulation of schemes by companies for the benefit of their employees involving dealing in shares through the SEBI (Share Based Employee Benefits)

[77] Securities and Exchange Board of India (2014).
[78] SEBI online information. Viewed at: http://www.sebi.gov.in/cms/sebi_data/attachdocs/1337601524196.pdf.
[79] SEBI online information. Viewed at: http://www.sebi.gov.in/cms/sebi_data/attachdocs/1358779330956.pdf.
[80] SEBI online information. Viewed at: http://www.sebi.gov.in/cms/sebi_data/commondocs/RESEARCHANALYSTS-regulations_p.pdf.
[81] SEBI online information. Viewed at: http://www.sebi.gov.in/cms/sebi_data/attachdocs/1411722678653.pdf.
[82] SEBI online information. Viewed at: http://www.sebi.gov.in/cms/sebi_data/attachdocs/1411722495005.pdf.

Regulations 2014. SEBI also notified the SEBI (Prohibition of Insider-Trading) Regulations, 2015 in order to put in place a framework for prohibition of insider trading in securities and to strengthen the legal framework, which replaced the regulations notified in 1992.

4.95. An additional regulatory step has been to converge accounting standards in India with International Financial Reporting Standards (IFRS). In February 2011, the Ministry of Corporate Affairs (MCA) notified that accounting standards in India would converge with IFRS, and a new Companies Act 2013 was adopted. The Act introduced various new provisions including requirement for preparation of consolidated financial statements by companies. In the Budget 2014-15, the Minister for Finance proposed for national standards to be converged with IFRS voluntarily from 2015-16, and mandatorily from 2016-17. Subsequently, the Institute of Chartered Accountants of India (ICAI) prepared a revised roadmap for implementation of the Indian Accounting Standards (Ind-AS) and submitted it to the MCA for taking up with the National Advisory Committee on Accounting Standards (NACAS) to decide on its implementation. On 16 February 2015, the Ind-AS was notified by MCA. With the implementation of Ind-AS, India will have two sets of accounting standards, i.e. existing accounting standards under Companies (Accounting Standard) Rules 2006 and Ind-AS.

4.96. Foreign investment is allowed, either under the FDI route or the portfolio investment scheme (Table 4.7). Foreign investment under the latter has been reformed since India's previous Review, while overall foreign-ownership restrictions remain largely unchanged. As per SEBI (Foreign Portfolio Investors) Regulations 2014, existing FIIs, Sub-Accounts and QFI are merged into a new investor class called Foreign Portfolio Investors (FPIs).[83] FPIs require no direct registration with SEBI; instead newly-defined Designated Depository Participants (DDPs) that are approved by SEBI register FPIs on behalf of SEBI subject to compliance with KYC requirements.[84] FPIs require registration under any of the following categories: (i) Category I FPI, which include government-related foreign investors; (ii) Category II FPI, which include broad-based funds and other entities appropriately regulated, and unregulated broad based funds (whose investment manager is appropriately regulated), and university funds, pension funds, and university-related endowments already registered with SEBI as FII/Sub-Account; and (iii) Category III FPI, which includes all others such as foreign individuals and foreign corporations. Category I and Category II FPIs (except unregulated broad-based funds) are allowed to issue or deal in offshore derivative instruments (ODIs) directly or indirectly. Category I and II FPIs have been exempted from furnishing the financial details of the investor, proof of address, proof of identity and photographs of senior management personnel, authorised signatories and ultimate beneficial owners (UBOs). Further, Category II FPIs are exempted from furnishing lists of UBOs, where no UBO is holding more than 25%.

4.97. Restrictions on FPIs/FIIs investment in debt have been modified since India's previous Review. These include: (i) allowing FPIs to invest in Government debt and corporate debt without purchasing debt limit until the overall investment reaches 90%, respectively, after which the auction mechanism is initiated for allocation of the remaining limits (in 2013); (ii) allowing FPIs to invest in credit-enhanced rupee denominated bonds up to an equivalent of US$5 billion within the overall corporate bond limit of US$51 billion (November 2013); (iii) creating a separate additional limit of US$5 billion for long-term investors allowing FPIs to invest only in dated Government securities having residual maturity of one year or above (April 2014). This was being subsequently revised in respect of the Government debt limit (other than the sub-limit of US$5 billion for long term investors) of US$25 billion requiring FPIs to invest in Government bonds with a minimum residual maturity of three years (July 2014). In addition, FPIs have recently been permitted to: (i) invest in corporate bonds with a minimum residual maturity of three years and prohibiting FPIs from investing in liquid and money-market mutual-fund schemes (since February 2015); (ii) invest, on a repatriation basis, in non-convertible/redeemable preference shares or debentures issued by an Indian company as per terms and conditions specified by RBI; (iii) invest in

[83] SEBI online information. Viewed at: http://www.sebi.gov.in/cms/sebi_data/attachdocs/1389083605384.pdf. All existing FIIs and Sub-Accounts may continue to buy, sell or deal in securities under the FPI regime. All existing QFIs may continue to buy, sell or deal in securities until one year after the date of notification of the Regulation; in the meantime, these QFIs may obtain FPI registration through DDPs.

[84] Instructions regarding risk-based KYC for FPIs was issued on 12 September 2013. DDPs are either an Authorized Dealer Category-1 bank authorized by the Reserve Bank of India or a Depository Participant and Custodian of Securities registered with SEBI.

Government securities. Such investments shall be kept outside the applicable limit (currently US$30 billion) for investments by FPIs in Government securities.

Table 4.7 Market access and national treatment conditions for foreign investment in the securities market, 2014

Sector/sub-sector	Limitation on market access	Limitation on national treatment
Venture capital	Domestic venture capital funds and foreign venture capital investors are regulated by SEBI. A venture capital fund may raise moneys from any investor, Indian, foreign or NRI, by way of issue of units.	Same rules apply to Indian and foreign investors within relevant SEBI Regulations.
Asset management (mutual funds)	Mutual funds in India must register with SEBI. The requirement & procedure to be followed for registration of a mutual fund in India are provided in SEBI (Mutual Fund), Regulations, 1996. Overseas investors may invest either through offshore funds or can directly invest in units of mutual fund schemes through FPI route. FPIs are not permitted to invest in liquid and money market mutual fund schemes.	Same rules apply to Indian and foreign investors with regard to registration of mutual funds.
Portfolio management	FPIs (and previous FIIs and sub-accounts) may avail portfolio management service.	Same rules apply to Indian and foreign investors within relevant SEBI Regulations.
Custodial services	Foreign banks may carry out activities, subject to RBI approval and SEBI Regulations. Foreign banks are allowed to register as Custodian with SEBI. SEBI (Custodian of Securities) Regulations, 1996 (Custodian Regulations) does not impose any restrictions on custodians with respect to foreign ownership.	Same rules apply to Indian and foreign custodians under the Custodian Regulations.
Depository	A depository must be a company incorporated under the Companies Act and needs to obtain a Certificate of Registration and Certificate of commencement of business from SEBI before operating as a depository. No person other than a sponsor, whether Indian or foreign, can hold more than 5% of equity share capital of a depository. The entities that can be a sponsor of a depository are provided in the SEBI (Depositories and Participant) Regulations. These can be a bank referred in the second schedule to RBI Act, a foreign bank operating in India with the permission of RBI, or a recognised stock exchange. A foreign corporation providing custodial, clearing or settlement services in the securities, and any institution engaged in providing financial services established outside India can also sponsor a depository if approved by the Government. There is a composite ceiling of 49% for foreign investment (FDI 26% and FII 23%) in Depository.	Foreign institutional investors are allowed to acquire shares in the secondary market only. Foreign institutional investors are also precluded from having representation in the board of the depository.
Participation in issues of all kinds of securities, including underwriting and placement as agent	Foreign entities may subscribe to issues as FPIs. Foreign companies may issue IDR to raise money; they may act as intermediaries subject to setting up a company in India.	Same rules apply to Indian and foreign entities in relevant SEBI Regulations.
Investment in stock exchange	No persons resident in India and resident outside India directly or indirectly, either individually or together with persons acting in concert, must acquire or hold more than 5% of the paid-up equity share capital in a recognized stock exchange. The only exception to this is granted to some domestic players like a stock exchange, a depository, a banking company, an insurance company, and a public financial institution, which may acquire or hold, either directly or indirectly, either individually or together, with persons acting in concert, up to 15% in Indian stock exchanges. There is a composite ceiling of 49% for foreign investment in stock exchanges (FDI 26% and FII 23%).	Foreign institutional investors are allowed to acquire shares in the secondary market only. Foreign institutional investors are also precluded from having representation in the board of stock exchanges.

Source: WTO Secretariat, based on information provided by the Indian authorities.

4.98. A Securities Transaction Tax (STT) is applied on the sale and purchase of various securities at the rates of 0.017%, 0.025%, 0.125%, and 0.25% of the value of the transaction, depending on its nature. The same tax treatment that had been applied to FIIs is extended to all FPIs.

4.99. Regulations on takeovers in the securities sector were modified by the adoption of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations 2011, notified on 23 September 2011[85]; takeovers in the securities' sector had previously been regulated by SEBI (Substantial Acquisition of Shares and Takeovers) Regulations 1997. Regulations with respect to trigger-points for making an open offer by an acquirer have been modified: under the 2011 Regulations, acquirers who intend to acquire shares that, along with their existing shareholding, would entitle them to exercise 25% (previously 15%) or more of the voting rights, may acquire such additional shares only after making a public announcement of an open offer to acquire at least an additional 26% (previously 20%) of the voting capital of the target company from shareholders. The 2011 Regulations also introduced, *inter alia*: voluntary offers (subject to certain conditions), and a mandatory recommendation on the open offer by the committee of independent directors of the target company. The new Regulations provide for disclosure obligations pursuant to an acquisition that leads to the acquirer owning 5% of the shares of the company. Any investor that owns 5% or more of the shares must disclose the purchase or sale of any further stock representing at least 2% of the total shares. Every person that holds more than 25% of shares and the promotors must submit yearly declarations stating the amount of ownership both in terms of number of shares and as a percentage of the total voting capital of the company. Acquirers that hold between 25% and 75% of shares must not acquire more than 5% of shares in any financial year without triggering an open offer. The SEBI cooperates with the CCI with respect to regulations of takeovers and open offers with a view to ensuring smooth functioning of the capital market. Consultations between the two bodies are held on a needs basis for specific cases.

4.4.2 Telecommunications

4.100. The telecommunications sector is regulated by the Indian Telegraph Act 1885 (as amended), the Indian Wireless Telegraphy Act 1933, the Indian Telegraph Rules 1951 (as amended), the Telecom Regulatory Authority of India Act 1997, and the directions, orders, and regulations issued by the Telecom Regulatory Authority of India. The Indian Telegraph Rules were amended on 28 January 2010, 28 March 2012 and 8 February 2014.[86]

4.101. Since its previous Review, various changes to the regulatory environment regarding telecommunications in India have been adopted. These include the adoption of: (i) Standards of Quality of Service for Mobile Data Services Regulations 2012, which aim to protect the interests of consumers by requiring mobile-data service-providers to provide certain information about the quality of services, and assess the quality of services; (ii) Registration of Consumer Organisations Regulations 2012 as a revision to the Regulation on Guidelines for Registration of Consumer Organisations 2001; (iii) International Telecommunication Cable Landing Stations Access Facilitation Charges and Co-location Charges Regulations 2012 to regulate Cable Landing Station Reference Interconnection Offer (CLSRIO); (iv) Short Message Services (SMS) Termination Charges Regulations 2013 to apply the framework of Interconnection Usage Charges (IUC) on SMS termination charges; (v) International Calling Card Services (Access Charges) Regulations 2014 to introduce more competition in the long-distance communications market; (vi) Guidelines for the Reporting System on Accounting Separation Regulations 2012 to facilitate the availability of more detailed and disaggregated information on revenues and costs on a regular basis; and (vii) Telecommunication Interconnection (Port Charges) (Second Amendment) Regulations 2012.[87]

4.102. The Department of Telecommunications (DoT) at the Ministry of Communications and Information Technology is in charge of formulating the telecommunications policy and granting licences. The DoT also controls four central public-sector undertakings, including India's main fixed-lines operators, Bharat Sanchar Nigam Ltd. (BSNL), and Mahanagar Telephone Nigam Ltd.

[85] SEBI online information. Viewed at: http://www.sebi.gov.in/cms/sebi_data/commondocs/takeovernotifi_p.pdf.

[86] Department of Telecommunications online information. Viewed at: http://www.dot.gov.in/act-rules/indian-telegraph-rule-2008.

[87] The authorities consider that reports issued as per the regulation will provide information on revenues, costs, returns and capital employed in major areas of a service provider's business for regulatory purposes.

(MTNL).[88] The Telecom Regulatory Authority of India (TRAI), created in 1997 as an independent body, regulates tariffs, inter-connectivity, and quality standards, and ensures that the universal service obligation is met. TRAI also makes recommendations regarding the procedures to grant licences. The Telecom Disputes Settlement and Appellate Tribunal (TDSAT) resolves disputes between the Government and licensees, service-providers, and service-providers and consumers; and deals with appeals against TRAI's decisions. Over 2011-14, 2,516 disputes and 50 appeals were filed.[89]

4.103. The National Telecom Policy 2012, among others, establishes the main guidelines for the development of the telecom sector in India. The policy aims, *inter alia* to: simplify the licensing framework to further extend converged high-quality services across the nation, including rural and remote areas; increase rural teledensity to 70 by 2017 and 100 by 2020 (teledensity was around 46 in 2014); provide affordable and reliable broadband-on-demand by 2015 and achieve 175 million broadband connections by 2017 and 600 million by 2020 at minimum 2 Mbps download speed and make available higher speeds of at least 100 Mbps on demand; de-link spectrum in respect of all future licences; enhance number-portability; and put in place a simplified merger and acquisition regime in the telecom sector, while assuring competition.

4.104. During the period under review, while rural teledensity increased, major gaps remained between urban and rural teledensity (Table 4.8). BSNL and MTNL hold around 77% of the fixed telephony market as at 30 June 2014.[90]

Table 4.8 Selected telecom indicators, 2011-14

(Calendar year)

	2011	2012	2013	2014[a]
Total telephone subscribers (million)				
Fixed lines	32.7	30.8	28.9	27.0
Wireless	893.8	864.7	886.3	944.0
Teledensity				
Urban	167.9	149.9	145.0	148.1
Rural	37.5	39.9	42.7	46.1
Internet subscribers (million)	25.3	25.3	238.7	254.4[b]
Broadband subscribers (million)	13.4	15.0	55.2	85.7
Local fixed telephony providers	7	8	8	8
Mobile telephony providers	16	14	14	14
National long-distance telephony providers	28	29	31	35
International long-distance telephony providers	23	24	25	28
Internet service providers	388	392	386	434
Infrastructure service providers	392	404	404	485
Fixed telephony rates[c] (Rs)				
Cost of local call per 3 minutes (to other fixed network)	1.2	1.2	1.2	2.4
Cost of national long distance call per 3 minutes (to other fixed network)	1.2	1.2	1.2	2.4
Cost per minute of international long distance call to the United States	7.2	6.0	6.0	7.0
Mobile telephony rate[d] (Rs)				
Cost of local call per minute	1	1	1	1.2
Cost of national long distance call per minute	1.5	1.5	1.5	1.2
Cost per minute of international long distance call to the United States	6.4	6.4	6.4	8.0

a As at 30 June 2014.
b As at 30 September 2014.
c Per BSNL (leading fixed-line telephony provider)
d Per Airtel (leading service provider of mobile telephony).

Source: TRAI online information. Viewed at: http://www.trai.gov.in/WriteReadData/PressRealease/Document/PR-TSD-Dec-14.pdf; and information provided by the Indian authorities.

[88] Department of Telecommunications (2010); and Telecom Regulatory Authority of India, Press Release No. 11/2011, 9 February 2011.

[89] Telecom Disputes Settlement and Appellate Tribunal online information, "Statement of institution, disposal and pendency of cases as on 19 December 2014." Viewed at: http://www.tdsat.nic.in/Statement_of_Disposal.htm.

[90] MTNL provides telecom services in Mumbai and Delhi, and BSNL covers the rest of India.

4.105. Under the Telecom Regulatory Authority of India Act 1997, TRAI is in charge of setting tariffs for all telecom services.[91] TRAI consults with all stakeholders[92], including consumer associations, on all issues related to the development of telecom regulations including tariffs.[93] The Telecommunications Tariff Order 1999 had been amended 59 times by November 2014 (and 10 times between 2011 and 2014).[94]

4.106. Concerning interconnection charges, in accordance with the Telecommunication Interconnection (Port Charges) (Second Amendment) Regulations 2012, issued on 18 September 2012, the TRAI set a ceiling for providing port in Tandem/TAX Switch at Rs 10,000 per port per year and for providing port in a mobile-switching centre (MSC), the ceiling was specified as Rs 4,000 per port per year. The TRAI also issued International Telecommunication Access to Essential Facilities at Cable Landing Stations (Amendment) Regulations 2012 (No. 21 of 2012) on 19 October 2012. Under the International Telecommunication Cable Landing Stations Access-Facilitation Charges and Co-location Charges Regulations 2012 (No. 27 of 2012), issued on 21 October 2012, access facilitation charges have been specified.[95] The Short Message Services (SMS) Termination Charges Regulations 2013 prescribes an SMS termination charge as Rs 0.02 per SMS, based on cost. In addition, the Regulations on International Calling Card (Access Charges) Regulations 2014, issued on 19 August 2014, prescribe access charges payable by international long-distance operator (ILDO) to the access service-provider where the access service-provider customer avails of the calling-card service of ILDO at Rs 0.4 per minute for wireless services and Rs 1.2 per minute for wireline services.

4.107. India is divided into 22 telecom service areas. For providing telecom services, the Government grants Unified Licences (ULs). The basic features of ULs are as follows: (i) the allocation of spectrum is de-linked from the licences and must be obtained separately as per prescribed procedures. At present, spectrum in 800/900/1800/2100/2300/2500 MHz band is allocated through a bidding process. For all other services and usages like Public Mobile Radio Trunking Service (PMRTS), the allocation of spectrum and charges thereof is prescribed by the Wireless and Planning and Co-ordination wing of Department of Telecommunications from time to time; (ii) authorisation under UL comprises any one or more services among: unified license (All services); access service (per service area); internet service (Category-A with all India jurisdiction); internet service (Category-B with jurisdiction in a service area); internet service (Category-C with jurisdiction in a secondary switching-area); national long-distance (NLD) service; international long-distance (ILD) service; global mobile personal communication by satellite (GMPCS) service; public mobile radio trunking (PMRTS) service; very small aperture terminal (VSAT) closed-user group (CUG) service; INSAT MSS-reporting (MSS-R) service; and resale of international private-leased circuit (IPLC) service. To deliver these services, domestic and foreign operators must be licensed by the DoT (Table A4.3). To apply for a licence, operators must register as an Indian company under the Indian Companies Act 1956. A maximum of 100% foreign equity participation is allowed. In the event of holding/obtaining access spectrum, no licensee or its promoter(s) directly or indirectly shall have any beneficial interest in another licensee company holding access spectrum in the same service area.

4.108. The Mobile Number Portability (MNP) Policy was launched on a trial basis across India in January 2011; full number portability was recommended by the Authority in 2013-14; this is planned to be implemented on 3 May 2015.[96]

4.109. Development and maintenance of rural fixed-line and mobile telecom and broadband services are subsidized to allow affordable prices for customers.[97] All service-providers, except providers of value-added services (e.g. internet, voice-mail, and e-mail services), are subject to a

[91] Fixed, mobile, and internet services, and radio paging services, leased circuit, integrated digital services network, value-added services, telex and telegraph services, and global mobile personal communication by satellite.

[92] To undertake these consultations TRAI holds public meetings or invites written comments.

[93] For details, see Telecom Regulatory Authority of India online information, "Consultation Papers". Viewed at: http://www.trai.gov.in.

[94] For details, see Telecom Regulatory of India online information, "Tariff Orders". Viewed at: http://www.trai.gov.in.

[95] Access-facilitation charges per unit capacity per year were set for STM-1, STM-4, STM-16 and STM-64 capacities at cable-landing stations and alternate locations, respectively.

[96] Department of Telecommunications(2014).

[97] Department of Telecommunications (2010).

universal service levy of 5% of adjusted gross revenue.[98] Funds from the Universal Service Obligation Fund (USOF) are allocated to "eligible operators" from the public and the private sectors[99], through a bidding process, for telecom and broadband infrastructure development projects in rural areas (e.g. provisions of village public telephones, household telephones, and infrastructure for mobile and broadband services).[100] In 2012, the Government amended the Indian Telegraph Rules 1951 to provide funds from the USOF to create a national optical fibre network (NOFN) to extend broadband connectivity to all villages.

4.110. In addition to the Competition Act 2002, the Department of Telecommunications issues guidelines for mergers and acquisitions in telecommunications. On 20 February 2014, revised guidelines were issued. Under these guidelines mergers will be allowed where the market share of the combined entity in the respective service area is up to 50% (compared with 35% previously).[101]

4.4.3 Transport

4.4.3.1 Maritime transport

4.4.3.1.1 Shipping

4.111. Some 95% of India's merchandise trade by volume and 68% in terms of value is transported by sea.[102] India's fleet comprises 1,205 commercial Indian-flag vessels with a gross tonnage of 10.3 million tonnes; around 32% of the tonnage is held by the state-owned national flag-carrier, the Shipping Corporation of India (SCI) (December 2014). Foreign-flag vessels dominate maritime transport for international trade; Indian-flag vessels carried only 9.1% of India's merchandise trade in 2012-13.[103] The Ministry of Shipping controls eight shipping enterprises, including the SCI. According to the authorities, there is no reservation policy for SCI. Bids are awarded to the lowest price and that match the technical requirements.

4.112. The shipping sector is governed by various laws and regulations including the Merchant Shipping Act 1958. Main changes in regulations concerning maritime transport since 2011 reflect decisions made at the International Maritime Organization (IMO). In line with the amendments to the International Convention on Standards of Training, Certification and Watch-Keeping for Seafarers (STCW Convention) of the IMO in 2010, at Manila (Manila Amendments), the Merchant Shipping (STCW) Rules 2014 incorporated such changes into India's national legislation, as notified on 30 July 2014. These pertain to seafarers' training, certification and watch-keeping standards.

4.113. The registration of Indian vessels is governed by the Merchant Shipping Act 1958 (Part V) and the Merchant Shipping (Registration of Ships) Rules 1960, as amended. Indian vessels must register at designated port registries. A central register is kept by the Directorate General of Shipping (DGS). Foreign ships may not be registered in India. Under the Act, vessels (Indian or foreign) must be licensed by the DGS. The DGS issues general licences (for Indian vessels and vessels chartered by a citizen of India or a company, or a cooperative society), licences for the whole or any part of the coastal trade, and licences for a specified period/voyage (i.e. specified period licence (SPL)), granted to foreign flag vessels for coastal trade.

4.114. The Merchant Shipping Act 1958, as amended, reserves, in principle, cabotage to Indian-flag vessels (Part XIV). Nonetheless, the Act, in Sections 406 and 407, enables applications to be considered for relaxation from cabotage on a case-by-case basis, subject to the guidelines prescribed for the purpose. The latter stipulates, *inter alia,* obtaining a no-objection certificate (NOC) from the INSA as to the availability or non-availability of Indian-flag vessels for the carriage of such cargo domestically along the coast of India. Technical specifications of the vessels are examined in addition to the consideration of the first right of refusal to Indian-flag vessels to

[98] Department of Telecommunications, Notification No. 20-100/2007-AS-I, 1 October 2008.
[99] Basic service-operators, cellular mobile service-providers, and unified access services licence-holders or any entities that may be specified by the central Government from time to time (Indian Telegraph (Amendment) Rules 2004).
[100] Department of Telecommunications (2010); and Indian Telegraph (Amendment) Rules 2004.
[101] Department of Telecommunications(2014).
[102] Ministry of Finance (2014).
[103] Ministry of Finance (2014).

match, on price points, the offers made by foreign-flag vessels. On the receipt of the NOCs from the INSA, the Director General of Shipping may grant licenses to foreign flag vessels. In fiscal years 2012/13, 2013/14, and 2014/15 (up to 14 October), the Director General of Shipping granted exemption from cabotage restrictions to 740, 742, and 291 foreign-flag vessels, respectively. According to the authorities, applications for cabotage are rarely declined. In addition, foreign cruise-ships are allowed to visit more than one Indian port. At the same time, the Government aims to develop coastal shipping by enhancing modal shift in domestic transportation.

4.115. A policy of controlled Indian tonnage has been introduced, recently through DGS Order No. 10 of 2014 on 23 July 2014. This policy enables Indian shipping companies, registered in India, to register ships abroad, subject to certain conditions stipulated in the Order.

4.116. There have been no changes to foreign ownership by way of any restriction in the maritime transport sector since 2011. The policy of 100% foreign direct investment through the automatic route, in the Indian shipping sector, continues to be in force.

4.117. On repatriation of capital and dividends, the provisions of the Foreign Exchange Management Act (FEMA) 1999, as amended, and the rules framed thereunder, remain applicable.

4.118. On the issue of compliance with instruments of the International Maritime Organization such as its Conventions/Protocols/Agreements, India has ratified 32 such IMO instruments (out of 55) (Table A4.4). Currently, 6 others are being considered.[104]

4.119. A service tax is charged on the transport of goods on inland waterways and on coastal shipping.[105] The change in taxation introduced in 2005, through which shipping companies were given the option of applying a tax based on total tonnage (tonnage tax) instead of the corporate tax, is estimated to have reduced the tax burden on the shipping sector and encouraged investment.[106]

4.120. Imports of repair materials by ship-repair units registered with the DGS, are exempt from customs duties, and domestic goods are exempt from excise duties.[107] The recent budget extended some of the incentives, including duty-free imports of spare parts and other items used for repairs, provided for ocean-going vessels owned by ship-owners registered in India.

4.121. Vessel-sharing agreements of the liner-shipping industry are exempted from Section 3 of the Competition Act 2002, initially for a period of one year as from 11 December 2013. The exemption has been extended several times; currently, it is valid until 4 February 2016 (Section 3.3.2.1). Registration is required for such agreements; 47 such agreements have been registered.[108] During the first exemption period (from 11 December 2013 to 10 December 2014), 30 vessel-sharing agreements were filed with the Directorate General of Shipping.

4.4.3.1.2 Ports

4.122. India has around 200 ports including 12 major ports, which handle around 57% of total cargo.[109] The major ports are mainly administered by the central Government through the Ministry

[104] They are: AFS Convention (International Convention on the Control of Harmful Anti-Fouling Substances on Ships) 2001; Bunker Convention (International Convention on Civil Liability for Bunker Oil Pollution Damage) 2001; Protocol of 1996 Convention on Prevention of Marine Pollution by Dumping Waste and Other Matter (London Convention); OPRC/HNS (Protocol on Preparedness, Response and Cooperation to Pollution incidents by Hazardous and Noxious Substances) 2000; BWM Convention (International Convention for Control and Management of Ship's Ballast Water and Sediments) 2004; and Maritime Labour Convention 2006. The authorities consider that, as for the remaining 17 conventions/protocols/agreements, not all of them are relevant in the Indian context and may not require immediate action domestically.

[105] An education cess (2%) and a secondary and higher education cess (1%) apply on the payable service tax. For details, see Central Board of Excise and Customs online information, "Service Tax: Service Profile". Viewed at: http://www.cbec.gov.in/cae1-english.htm.

[106] The Income Tax Act 1961, as amended on 1 April 2005.

[107] Press note 1990 series No. SY-22013/7/89-SBR, 10 October 1990.

[108] Information provided by the Indian authorities.

[109] A major port is any port the central Government declares (by notification in the *Official Gazette*) or has declared (under any law in force), to be a major port (Indian Ports Act 1908). Currently, they

of Shipping and managed by "port trusts" under the Major Port Trust Act 1963.[110] The Maritime Agenda 2010-20 identified various areas for capacity-building in ports and shipping. The National Maritime Development Programme (NMDP), a part of the Maritime Agenda, is aimed at modernizing infrastructure both at major and minor ports.[111]

4.123. The Indian Ports Act and the Major Port Trusts Act 1963[112] are the main laws governing ports. All ports are owned by the Government; specific berths and activities may be publicly or privately administered and operated. Infrastructure at major and non-major ports is developed through public and private partnerships. Tax holidays of 10 years are available for development of infrastructure in ports. Foreign direct investment of up to 100% under automatic route is permitted for port development projects. Projects involving investment of around Rs 110 billion have been awarded to foreign companies since 2012; these include the development of the fourth container terminal at Jawaharlal Nehru Port involving an investment of around Rs 79.2 billion.

4.124. On 20 April 2012, the Merchant Shipping (Regulation of Entry of Ships into Ports, Anchorages and Off-Shore Facilities) Rules 2012 were notified and promulgated with a view to mitigating the adverse effects of potential marine environmental pollution from the entry of sub-standard ships into India.[113]

4.125. Tariffs for services and facilities at major ports are regulated by the Tariff Authority for Major Ports (TAMP)[114], constituted in April 1997 as an independent authority. Tariff Regulation at Major Ports 1997 specifies conditions governing tariffs for major ports; under its 2005 guidelines, as revised in February 2008, a tariff cap based on a cost-plus approach with an assured return on gross capital deployed has become a basic norm for the setting of port tariffs. In 2013, the Ministry of Shipping issued Guidelines for Determination of Tariffs for Projects at Major Ports 2013, with a view to liberalizing certain aspects of tariff regulations in order to invite more private investment in the port sector.[115]

4.126. Non-major ports are regulated by States' maritime boards/departments. Non-major ports are allowed to fix their own tariffs, and in order to attract cargo from major ports, they often fix their tariffs at levels lower than the regulated tariffs.

4.127. The Policy for Preventing Private Sector Monopoly in Major Ports 2010 continues to promote competition in the award of contracts. If there is one private terminal/berth-operator in a major port for a specific cargo, the operator is not allowed to bid for the next terminal/berth for handling the same cargo in the same port.[116]

4.4.3.2 Air transport

4.128. The Ministry of Civil Aviation is in charge of policy formulation for, and regulation of civil aviation in India. Within the Ministry, the Directorate General of Civil Aviation (DGCA) regulates air transport services to/from India; enforces civil air regulations and standards, registers aircraft and licenses pilots, air engineers, and traffic controllers. The Bureau of Civil Aviation Security (BCAS), also within the Ministry, is in charge of formulating security standards. The Ministry controls: Air India Ltd., which operates Air India flights; the Airports Authority of India (AAI), which manages

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comprise: Kolkata, Paradip, Visakhapatnam, Ennore, Chennai, Tuticorin, Cochin, New Mangalore, Mormugao, Mumbai, Jawaharlal Nehru, and Kandla.

[110] The exception, Ennore port, is managed under a "landlord" port model, which separates port ownership from port operations. Ennore port is a corporatized port registered under the Companies Act 1956.

[111] Ministry of Shipping online information, "Parliament Related Matter: Rajya Sabha dated 7 December 2010". Viewed at: http://shipping.gov.in/index1.asp?linkid=175&langid=1; and Ministry of Shipping (undated).

[112] Ministry of Shipping online information. Viewed at: http://shipping.nic.in/writereaddata/l892s/53177698The%20MPT%20Act%201963%20(38%20of%201963).pdf.

[113] Ministry of Shipping online information. Viewed at: http://shipping.nic.in/writereaddata/l892s/PortEntryRules-39326416.pdf.

[114] The Major Ports Trust Act 1963 was amended by the Port Laws (Amendment) Act 1997 to constitute the TAMP (Tariff Authority for Major Ports online information. Viewed at: http://www.tariffauthority.gov.in/).

[115] Ministry of Shipping online information. Viewed at: http://shipping.nic.in/index1.php?lang=1&level=1&sublinkid=114&lid=63.

[116] Ministry of Shipping online information, "Policy". Viewed at: http://shipping.nic.in.

and operates some of India's civil airports and surveys India's airspace; and Pawan Hans Helicopters Ltd., which operates helicopter services for the oil and tourism industries.

4.129. The AAI manages 126 of India's 454 airports. The remaining airports are managed by private operators. AAI is responsible for slot allocation at AAI-managed airports. All domestic airlines must file for slots with the DGCA and the respective airport operators. Slots are allocated twice a year, based on grandfathered rights or a "use it or lose it" rule.[117] After allocation of slots, new airlines are allotted 50% of the remaining slots. No charge is levied for peak and non-peak slots.

4.130. Permits to operate scheduled and non-scheduled flights are granted by the DGCA upon a NOC from the Ministry of Civil Aviation[118]; permits may be renewed within 60 days of expiry.[119] Under the Aircraft Rules 1937, passenger-air-carriers must publish airfares for customers' information. In order to increase transparency, carriers must notify their airfares to the DGCA on the first day of every month and any significant changes within 24 hours.[120]

4.131. Foreign investment is allowed in scheduled air-transport services and domestic-scheduled passenger airlines up to 49% (automatic route), and in non-scheduled air-transport service, non-scheduled airlines, chartered airlines, and cargo airlines up to 74% (subject to governmental approval beyond 49%). Foreign investment in airport projects is allowed up to 100% under the automatic route for Greenfield projects; and up to 100% for existing projects subject to governmental approval beyond 74%, to sectoral regulations notified by the Ministry of Civil Aviation, and security clearance. Private domestic partners in airport projects are granted full tax-exemption for ten years.[121]

4.132. Civil aviation construction projects are subject to a 1% cess under the Building and Other Construction Workers' Welfare Cess Act 1996.

4.133. Tariffs on aeronautical services account for 70%-80% of Indian airports revenues.[122] Until 2008, the AAI operated airports and regulated tariffs for aeronautical services, which led to a conflict of interest, and users complained about the disparity between tariffs and services provided.[123] To address these concerns, the Airports Economic Regulatory Authority (AERA), an independent body, was created in 2009.[124] AERA, which began operations in September 2009, is in charge of regulating airports with annual traffic of at least 1.5 million passengers; 13 airports in India exceed this threshold and account for 85% of passenger traffic.[125] The central Government is in charge of regulating airports with annual traffic of less than 1.5 million passengers. The AERA is also responsible, *inter alia*, for fixing aeronautical services charges, the passenger service tax, and airport and user-development fees for major airports; and monitoring the quality and reliability of services rendered at airports.[126] Airport operators collect the aeronautical charges and the taxes fixed by AERA.

4.134. Ground-handling services are open for FDI of up to 74%, subject to sectoral regulations notified by the Ministry of Civil Aviation and to security clearance. However, FDI is only allowed up to 49% under the automatic route. Beyond 49%, approval from the Foreign Investment Promotion Board is required. In addition, non-resident Indians are allowed to invest up to 100% in ground-handling services.

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[117] Under grandfathered rights, slots revert to air carriers that made significant use of their allocations during the previous season. The "use it or lose it" rule applies to mergers. An airline that is merging with another airline, takes control of the slot rights of the latter. If the slots are not used, the airline loses its user rights.

[118] For details, see DGCA Air Transport Circular No. 1 of 2009, 14 March 200 (Directorate General of Civil Aviation online information, "Rules: Circulars: Air Transport". Viewed at: http://www.dgca.gov.in/).

[119] DGCA Air Transport Circular No. 2 of 2009, 23 April 2009.

[120] DGCA Air Transport Circular No. 2 of 2010, 19 November 2010.

[121] Kacker (undated).

[122] Centre for Asia Pacific Aviation (2009).

[123] Government of India (2007).

[124] Airports Economic Regulatory Authority of India Act 2008.

[125] Centre for Asia Pacific Aviation (2009).

[126] Airports Economic Regulatory Authority of India Act 2008.

4.135. The foreign travel tax (FTT) is levied at approximately Rs 500 for international journeys and Rs 150 on journeys to Afghanistan, Bangladesh, Bhutan, Myanmar, Nepal, Pakistan, Sri Lanka, and the Maldives; the inland air travel tax (IATT), at 10% of the basic fare, is levied on domestic journeys. The IATT is levied if the airfare is paid in foreign currency.

4.136. A passenger service tax, charged on all air tickets, is set at 10% of the gross fare or Rs 100 per journey, whichever is less, for domestic flights (any class)[127]; and at 10% of the gross fare or Rs 500 per journey, whichever is less, for international economy class flights.[128] Since July 2010, passengers in transit in India or embarking/disembarking in the north-eastern region have been exempt from the service tax.[129] VAT on aviation turbine fuel (ATF) varies from 4% to 30% in different states; the average VAT is 24%. Excise tax of 8% and education cess of 3% on the value of excise duty are added to the cost of ATF produced in India. The authorities estimate that due to high rates of taxes, the cost of ATF in India is 40-45% higher than international averages. According to the authorities, steps are being taken in association with the Ministry of Finance and State governments to rationalize relevant taxes.

4.137. An airport-development fee and a user-development fee are levied at some of India's major airports on an *ad hoc* basis to finance projects for the construction and use of upgraded or new infrastructure (Greenfield airports included). Currently, the fees are levied at 13 major airports including Delhi. They are levied on all (international and domestic) departing flights and their rates vary from one airport to another.[130]

4.138. India has signed bilateral air service agreements with 109 of its trading partners; during the period under review, it signed agreements with Azerbaijan (April 2012), Brazil (March 2011), Indonesia (January 2011), Myanmar (May 2012), Trinidad and Tobago (January 2012), United Arab Emirates (January 2014), Viet Nam (November 2013) and Zimbabwe (June 2014) (Table A4.5). Traffic rights accorded under these agreements may differ; for example, India's bilateral air service agreement with the United States contains elements of open-sky arrangements. The operation of charter flights to/from India is liberalized for all "inclusive tour packages".[131]

4.139. India is party to the ICAO 2001 Cape Town Convention and Protocol, and the 1999 Montreal Convention.[132]

4.4.3.3 Road and rail transport

4.140. The Ministry of Road Transport and Highways (MRTH) is responsible for formulating and implementing road transport policies, and the construction and maintenance of national highways. Development of other roads is under the responsibility of the state or local authorities.[133] The National Highways Authority of India (NHAI) is in charge of implementing the seven-phase National Highways Development Project (NHDP) launched in 1998. Around 55,000 km of national highways are to be upgraded/built at an estimated total cost of US$60 billion.[134] One of the NHDP's major goals is to improve access to India's major ports and thus ease freight traffic. The NHDP was scheduled to be completed by 2015 but there have been delays reportedly because of,

[127] Journeys to/from airports in the states of Assam, Meghalaya, Manipur, Mizoram, Tripura, Nagaland, Arunachal Pradesh, Sikkim and Bagdogra in West Bengal are exempt.

[128] An education cess (2%) and a secondary and higher education cess (1%) apply on the payable service tax. For details, see Central Board of Excise and Customs online information, "Service Tax: Service Profile". Viewed at: http://www.cbec.gov.in/cae1-english.htm. See also Department of Revenue, D.O.F. No. 334/03/2010-TRU, 1 July 2010.

[129] Service Tax Notification Nos. 25/2010, 22 June 2010; and 27/2010, 22 June 2010. For Service Tax Notifications, see Central Board of Excise and Customs online information. Viewed at: http://cbec.gov.in/cae1-english.htm.

[130] *Business Line*, "User development fee in Hyderabad airport hiked", 29 September 2010; and British Airways online information, "British Airways in India". Viewed at: http://www.britishairways.com/travel/lcinfo/public/en_in#4.

[131] An inclusive tour package is a round trip for which a consolidated price is charged for airfare, hotel accommodation, and other ground arrangement services.

[132] The Montreal Convention is incorporated into the Carriage by Air (Amendment) Act 2009 (Ministry of Civil Aviation, 2009).

[133] Ministry of Road Transport and Highways online information, "Roads and highways: an overview". Viewed at: http://www.morth.nic.in/writereaddata/sublinkimages/overview_NH3244795788.htm.

[134] National Highways Authority of India (2010).

inter alia, difficulties in acquiring land and contractors' poor performance.[135] India is also implementing the National Highways Interconnectivity Improvement Programme, which seeks to improve the entire national highways network by upgrading it to a minimum two-lane standard by December 2014. FDI in road construction and maintenance is allowed up to 100% under the automatic route.

4.141. India's railway network is managed and operated by Indian Railways, an enterprise fully-owned by the Ministry of Railways. Although railway operations are still reserved for the public sector, foreign and private domestic participation has been encouraged in non-core activities, e.g. wagon-ownership/leasing, and infrastructure projects.[136] Nonetheless, prices for passenger transport are cross-subsidized by higher prices for freight transport, making freight transport uncompetitive compared with road transport. The share of freight carried by the railways has been declining for many years: around 30-35% of freight is transported by rail.

4.142. Cross-border services of railway transport between India and its neighbouring countries (Bangladesh, Nepal, and Pakistan) are regulated under bilateral working agreements or rail service agreements signed with these countries. Regulations on cargo are issued by Customs.

4.143. Foreign direct investment is permitted in rail transportation. While the Government notification dated 22 August 2014 reserves railway operations only for the public sector, FDI in construction, maintenance and operation is allowed for: (i) suburban corridor projects through public-private partnership; (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 connectivity to main railway lines; and (x) mass rapid transport systems. The Ministry of Railways issued sectoral guidelines for domestic and foreign direct investment in the rail sector in November 2014 as guidelines providing the framework for making investments.

4.144. On 1 July 2012, a new service tax regime was introduced in railway transport. The service tax is levied at 12.36%; in addition, an education cess (2%) and a secondary and higher education cess (1%) are levied on railway transport charges. An abatement of 70% is permitted on freight for taxable commodities. Certain commodities (e.g. agricultural produce, foodstuff, chemical fertilizers and oilcakes) are exempt from the service tax. The authorities state that practices of levying terminal charges in case of freight traffic handled at railway-owned goods sheds/terminals have been discontinued. A busy season surcharge is 15% on all commodities except containers and automobiles. Development charges are levied at 5% on normal tariff rates for all types of traffic. A congestion charge is levied at 20% on all traffic to Bangladesh and Pakistan.

4.4.4 Professional services

4.145. The regulatory framework concerning the provision of legal services in India has remained largely unchanged over the past decade. The Advocates Act, 1961 and the Bar Council of India Rules, 1975 regulate the legal services sector.[137] The sector is administered by the Ministry of Law and Justice. The legal profession is regulated by the Bar Council of India (BCI) (the final regulating body), and state bar councils. The bar councils set the standards for legal qualifications, validate foreign-obtained degrees, and set standards for professional conduct and etiquette. They also admit advocates on their rolls (thus allowing them to appear in court). FDI is not permitted in the legal services sector. Foreign law firms are not permitted to open offices in India and are prohibited from giving legal advice. Legal services can be provided only by natural persons who are citizens of India, and who are on the advocates roll in the State where the service is being provided. The service provider can either be a sole proprietorship or a partnership firm consisting of persons similarly qualified to practice law. To be eligible for enrolment as an advocate, a candidate must be a citizen of India or a country that allows Indian nationals to practice on a reciprocal basis; hold a degree in law from an institution/university recognized by the BCI; and be at least 21 years of age.

[135] Ministry of Road Transport and Highways (2009).
[136] Energy and Resources Institute (2009).
[137] Advocates Act 1961. Viewed at: http://barcouncilofindia.nic.in/disk1/196125.pdf.

4.146. Accounting services rendered by chartered accountants in India are regulated by the Chartered Accountants Act 1949 and the Chartered Accountants Regulations 1988. Changes in the regulatory framework for accounting services in recent years include those associated with the adoption of the Companies Act 2013. The Institute of Chartered Accountants of India (ICAI) is empowered to regulate accounting services. The ICAI has entered into MOUs/MRAs with foreign accounting bodies of the following trading partners (without audit rights): Australia, Canada, Ireland, New Zealand, and the United Kingdom.

4.147. Under the Act, a chartered accountant is entitled to practice either as an individual or in partnership with chartered accountants in practice or in partnership with members of such other recognized profession as may be prescribed. No company, whether incorporated in India or elsewhere, can practice as chartered accountants.[138] A chartered accountant may practice the profession of chartered accountancy whether in his/her own name or as a firm of chartered accountants proprietory/partnership/limited liability partnership. Only an individual who has completed such requirements as prescribed under the Act can be registered as a member of the Institute; only a member of the ICAI can be a chartered accountant in practice by taking a Certificate of Practice in accordance with the Act. Under the Act, foreign qualifications may be recognized based on mutual-recognition agreements.

4.148. Recent regulatory changes in the accounting sector include those associated with the adoption of the Companies Act 2013, which stipulated, *inter alia*: (i) stricter disqualification norms for auditors[139]; (ii) that an auditor must not perform specified non-audit services; (iii) that internal audit is mandated for certain large companies; (iv) that substantial civil and criminal liability is charged to an auditor in case of non-compliance; (v) that an auditor must report fraud in the company to the Government if, in the course of the performance of his/her duties as auditor, he/she has reason to believe that an offence involving fraud is being/has been committed against the company by officers or employees of the company; (vi) a whistle-blowing mechanism; (vii) class action suits as recognized to enable minority shareholders to approach the tribunal for suitable remedy including in case of any improper or misleading statement of particulars made in the audit report or for any fraudulent, unlawful or wrongful act or conduct of auditor/audit firm. On 1 April 2014, mandatory rotation of auditors for certain classes of companies was introduced. The Indian Accounting Standards (Ind-AS) is to be applicable, on a voluntary basis with effect from 1 April 2015, and mandatorily with effect from 1 April 2016 for a certain class of companies.

4.4.5 Tourism

4.149. The direct and indirect contributions of tourism to total GDP and employment during 2012-13 were estimated at 6.9% and 12.4%, respectively. In 2013, 7.0 million foreign tourist arrivals were recorded in India, an increase over 2012 (6.58 million). During 2013, foreign tourist arrivals in India grew by 5.9% over 2012. The number of domestic tourist visits in 2013 was 1,145 million; it grew by 9.6% over 2012. According to the UN World Tourism Organization, in 2013 revenues in the tourism sector were estimated at US$ 18.4 billion.

4.150. There is no specific legislation to regulate the tourism sector and other related activities in India. Foreign presence is allowed in travel agencies, tour operators or tourist transport operators. The Government issued a Ministry of Tourism Strategic Action Plan on 10 February 2001[140], and Revised Guidelines for the Promotion of Wellness and Medical as Niche Tourism Products on 21 August 2014.[141]

4.151. The Ministry of Tourism (MoT) is responsible for the development and promotion of tourism. The basic policy direction for the tourism sector is outlined in the National Tourism Policy, issued in 2002, which aims to make tourism a major engine of economic growth. The key objectives of the policy are to increase India's competitiveness in the world tourism market; improve, expand and market tourism products effectively; and develop world-class tourism

[138] Under section 25 of the Chartered Accountants Act, a company includes any limited liability partnership that has a company as its partner.

[139] An auditor must not be related to directors or associated with group companies.

[140] Incredible India online information. Viewed at: http://www.incredibleindia.org/images/docs/trade-pdf/important-documents/other-important-documents/Strategic%20Action%20Plan.pdf.

[141] Incredible India online information. Viewed at: http://www.incredibleindia.org/images/docs/trade-pdf/guidelines/revised-guidelines-for-W-&-M.pdf.

infrastructure. The MoT also licenses travel agents, tour operators and tourist transport operators on a voluntary basis; to be licensed, operators must comply with a series of eligibility criteria stipulated by the MoT. As at December 2014, there were 671 government-approved tour operators and 404 travel agents. In addition, the MoT, in cooperation with the UN Environment Programme and the UN World Tourism Organization, has developed and issued 37 quality standards to be applied by tourism operators for the development of tourism in India. Various schemes to support the development of tourism industries continue to exist (Table 4.9).

4.152. On 27 November 2014, the Government introduced visa-on-arrival for foreign nationals of 43 countries.

4.153. A service tax (12.36%), an education cess (2%) and a secondary and higher education cess (1%) are levied on travel agents, tour operators, and on tourist transport operators.

4.154. India has signed 51 bilateral agreements on tourism cooperation.[142]

Table 4.9 Selected support schemes for tourism, 2014

(Rs million)

Objective	Assistance
Develop new tourism products to world standards	Ministry of Tourism bears 100% of the project cost or a maximum of Rs 250 million for destination development and Rs 500 million for circuit development
Develop rural tourism[a]	Maximum of Rs 5 million
Large projects with a tourism impact[b]	Grant to prepare the detailed project report, up to 50% of the actual cost, subject to a maximum of Rs 2.5 million per project; amount of subsidy for private sector/public private partnership projects determined through a competitive bidding process by the concerned State governments/union territory administrations; Subsidy capped at Rs 500 million, subject to a maximum of 25% of total project cost or 50% of equity contribution of the promoters, whichever is lower
Promote public-private partnerships in infrastructure development, to deal with the lack of availability of physical infrastructure across different sectors, which is hindering economic development	Government support capped at 20% of total project cost; Rs 1 billion for each project may be sanctioned by the empowered institution, subject to budgetary ceilings indicated by the Finance Ministry; proposals up to Rs 2 billion may be sanctioned by the empowered committee; and amounts exceeding Rs 2 billion may be sanctioned by the empowered committee with the approval of Finance Minister
Unexploited potential for domestic tourists	Approved tourism service providers would be provided financial assistance on travel expenses by air only, subject to a ceiling of Rs 30,000 per trip. Trips must be with Air India or alliance partner
Create institutional infrastructure that may foster and facilitate professional education and training specific to tourism, travel, and hospitality industry	Assistance varies, according to project, from Rs 5 million (minor civil works at universities and other colleges, and polytechnics) to a maximum of Rs 20 million (expenditure on civil works, equipment, furniture, and fixtures in industrial training institutes)
Use of professional services from consultants/agencies for: tourism-related surveys, studies, plans, and market research for making available relevant data/information/report/inputs to the Ministry of Tourism for policy making and planning purposes; and feasibility studies and detailed project reports (DPRs) for specific tourism projects	Maximum assistance of Rs 1 million provided for preparation of feasibility studies and DPRs for projects under the Scheme of Product/Infrastructure Development for Destination and Circuits

a The following activities may be taken up under the Scheme: improvement of village surroundings and access roads; illumination in villages; improvement in solid-waste management and sewerage management; procurement of equipment directly related to tourism (e.g. water sports, adventure sports, and eco-friendly modes of transport for moving within the tourism zone); refurbishment of monuments; reception centres; and tourist accommodation.

b Tourist trains, cruise vessels, cruise terminals, convention centres, golf courses open for domestic and international tourists, health and rejuvenation facilities, last-mile connectivity to tourist destinations (air and cruise including heli-tourism) etc., would qualify for assistance.

c IHM: Institute of Hotel Management; FCIs: Food Craft Institutes; IITTM: Indian Institute of Tourism and Travel Management; and ITIs: Industrial Training Institutes.

Source: WTO Secretariat, based on information provided by the Indian authorities.

[142] 11 of them have already expired.

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5 APPENDIX TABLES

Table A1. 1 Merchandise exports by HS section and major HS chapters, 2010-14

HS Section	HS Chapter/Code	2010-11	2011-12	2012-13	2013-14
Total (US$ billion)		251.1	306.0	300.4	314.4
		(% of total)			
01 Live animals and products		1.9	2.2	2.4	3.2
02 Vegetable products		3.9	5.8	7.1	6.6
	10 Cereals	1.3	2.0	3.2	3.4
	1006 Rice	1.0	1.6	2.1	2.5
03 Fats and oils		0.3	0.4	0.3	0.3
04 Prepared food, beverages and tobacco		2.4	2.3	2.6	2.4
05 Mineral products		19.6	21.1	22.1	21.9
	27 Mineral fuels and oils, products thereof	17.0	18.8	20.7	20.6
	2710 Petroleum oils, other than crude	16.4	18.1	20.1	19.9
06 Chemicals and products thereof		9.2	9.4	10.3	10.4
	29 Organic chemicals	3.6	3.8	4.0	3.8
	30 Pharmaceuticals	2.7	2.8	3.3	3.5
	3004 Certain medicaments for retail sale	2.2	2.4	2.9	3.1
07 Plastics and rubber		2.3	2.6	2.6	2.6
08 Raw hides and skins; leather		1.0	1.0	1.1	1.2
09 Wood, cork, straw		0.1	0.1	0.1	0.1
10 Pulp of wood; paper and paperboard		0.4	0.4	0.4	0.4
11 Textiles and textile articles		11.5	11.2	11.1	11.9
	52 Cotton	2.8	2.9	3.0	3.2
	62 Clothing, not knitted or crocheted	2.7	2.6	2.5	2.7
	61 Clothing, knitted or crocheted	2.0	1.9	1.8	2.1
12 Footwear, headgear, etc.		0.8	0.8	0.8	0.9
13 Articles of stone, plaster, cement		0.7	0.6	0.7	0.8
14 Precious stones and metals, pearls		17.4	15.5	14.6	13.3
	7102 Diamonds, not mounted or set	11.7	9.2	7.7	8.3
	7113 Articles of jewellery, of precious metal	3.5	4.6	4.6	3.4
15 Base metals and articles thereof		8.5	7.3	7.4	7.4
	72 Iron and steel	2.8	2.7	2.7	2.9
	73 Articles of iron and steel	2.7	2.3	2.5	2.2
16 Machinery, electrical machines		7.6	7.3	7.5	7.1
	84 Machinery and mechanical appliances	3.6	3.5	3.8	3.8
	85 Electrical machinery	4.0	3.8	3.6	3.3
17 Transport equipment		6.4	7.0	6.1	6.8
	87 Motor vehicles and parts thereof	3.7	3.6	4.1	4.1
18 Precision equipment		0.6	0.7	0.7	0.7
19 Arms and ammunitions		0.0	0.0	0.0	0.0
20 Miscellaneous manufactured articles		0.5	0.5	0.5	0.6
21 Works of art, collector pieces and antiques		0.1	0.1	0.1	0.1
Not classified		4.7	3.9	1.5	1.2

Source: WTO calculations, based on Department of Commerce online information, "Export Import Data Bank".

Table A1. 2 Merchandise imports by HS section and major HS chapters, 2010-14

HS Section	HS Chapter	2010-11	2011-12	2012-13	2013-14
Total (US$ billion)		369.8	489.3	490.7	450.2
		(% of total)			
01 Live animals and products		0.1	0.1	0.0	0.0
02 Vegetable products		1.0	1.0	1.2	1.2
03 Fats and oils		1.8	2.0	2.3	2.1
04 Prepared food, beverages and tobacco		0.4	0.2	0.4	0.4
05 Mineral products		33.3	37.4	39.1	42.3
	27 Mineral fuels and oils, products thereof	31.4	35.3	37.0	40.3
	2709 Petroleum oils, crude	25.1	27.4	29.4	31.9
	2701 Coal; solid fuels manufactured from coal	2.5	3.4	3.3	3.4
06 Chemicals and products thereof		7.9	7.8	7.6	8.0
	29 Organic chemicals	3.4	3.0	3.2	3.8
07 Plastics and rubber		2.8	2.5	2.7	3.0
08 Raw hides and skins; leather		0.2	0.2	0.2	0.2
09 Wood, cork, straw		0.5	0.5	0.6	0.6
10 Pulp of wood; paper and paperboard		1.0	0.9	0.9	1.0
11 Textiles and textile articles		1.1	1.1	1.1	1.2
12 Footwear, headgear, etc.		0.1	0.1	0.1	0.1
13 Articles of stone, plaster, cement		0.4	0.4	0.4	0.4
14 Precious stones and metals, pearls		20.8	18.6	17.1	13.0
	7108 Gold unwrought or in semi-manuf. forms	11.0	11.5	11.0	6.4
	7102 Diamonds, not mounted or set	9.1	5.7	4.4	5.0
15 Base metals and articles thereof		5.9	5.6	5.6	5.0
	72 Iron and steel	3.0	2.8	2.8	2.0
16 Machinery, electrical machines		15.2	14.4	13.3	13.3
	84 Machinery and mechanical appliances	7.8	7.7	7.2	6.8
	85 Electrical machinery	7.4	6.7	6.1	6.5
17 Transport equipment		3.1	2.8	3.5	3.5
18 Precision equipment		1.5	1.4	1.5	1.6
19 Arms and ammunitions		0.0	0.0	0.0	0.0
20 Miscellaneous manufactured articles		0.4	0.4	0.4	0.4
21 Works of art, collector pieces and antiques		0.0	0.0	0.0	0.0
Not classified		2.4	2.6	2.3	2.8

Source: WTO calculations, based on Department of Commerce online information, "Export Import Data Bank".

Table A1. 3 Merchandise exports by destination, 2010-14

	2010-11	2011-12	2012-13	2013-14
Total exports (US$ billion)	251.1	306.0	300.4	314.4
	(% of total)			
America	14.7	16.5	17.8	17.3
United States	10.1	11.4	12.1	12.5
Other America	4.6	5.1	5.7	4.8
Brazil	1.6	1.9	2.0	1.8
Europe	19.9	19.0	18.6	18.6
EU(28)	18.4	17.3	16.8	16.5
United Kingdom	2.9	2.8	2.9	3.1
The Netherlands	3.1	3.0	3.5	2.5
Germany	2.7	2.6	2.4	2.4
Belgium	2.3	2.3	1.8	2.0
Italy	1.8	1.6	1.5	1.7
France	2.1	1.5	1.7	1.6
EFTA	0.4	0.5	0.5	0.7
Other Europe	1.1	1.2	1.4	1.5
Turkey	1.1	1.2	1.3	1.4
Commonwealth of Independent States (CIS)	1.1	1.0	1.2	1.1
Africa	7.9	8.1	9.8	9.9
South Africa	1.6	1.5	1.7	1.6
Middle East	20.0	17.9	20.8	19.5
United Arab Emirates	13.5	11.7	12.1	9.7
Saudi Arabia, Kingdom of	1.9	1.9	3.3	3.9
Iran, Islamic Republic of	1.0	0.8	1.1	1.6
Asia	30.7	32.1	30.0	29.9
China	6.2	5.9	4.5	4.7
Japan	2.0	2.1	2.0	2.2
Six East Asian Traders	12.9	14.5	13.8	12.5
Hong Kong, China	4.1	4.2	4.1	4.0
Singapore	3.9	5.5	4.5	4.0
Korea, Republic of	1.5	1.4	1.4	1.3
Other Asia	9.6	9.6	9.8	10.5
Bangladesh	1.3	1.2	1.7	2.0
Viet Nam	1.1	1.2	1.3	1.7
Indonesia	2.3	2.2	1.8	1.5
Sri Lanka	1.4	1.4	1.3	1.4
Other	5.7	5.4	1.8	3.7
Memorandum				
APEC	37.6	40.9	39.2	38.9
ASEAN	10.2	12.0	11.0	10.5

Source: WTO calculations, based on Department of Commerce online information, "Export Import Data Bank".

Table A1. 4 Merchandise imports by origin, 2010-14

	2010-11	2011-12	2012-13	2013-14
Total imports (US$ billion)	369.8	489.3	490.7	450.2
	(% of total)			
America	9.8	9.2	12.1	12.8
United States	5.4	4.8	5.1	5.0
Other America	4.4	4.4	7.0	7.8
Venezuela	1.4	1.4	2.9	3.1
Europe	19.3	19.2	17.8	15.8
EU(28)	12.1	11.6	10.7	11.1
Germany	3.2	3.2	2.9	2.9
Belgium	2.3	2.1	2.0	2.4
United Kingdom	1.5	1.5	1.3	1.3
EFTA	7.0	7.3	6.7	4.5
Switzerland	6.7	7.1	6.6	4.3
Other Europe	0.2	0.2	0.4	0.2
Commonwealth of Independent States (CIS)	1.5	1.7	1.6	1.7
Africa	8.6	8.9	8.4	8.1
Nigeria	2.9	3.0	2.5	3.1
Angola	1.4	1.4	1.5	1.3
South Africa	1.9	2.2	1.8	1.3
Middle East	27.0	28.6	29.2	29.9
Saudi Arabia, Kingdom of	5.5	6.5	6.9	8.1
United Arab Emirates	8.9	7.5	8.0	6.4
Iraq	2.4	3.9	3.9	4.1
Kuwait, the State of	2.8	3.4	3.4	3.8
Qatar	1.8	2.6	3.2	3.5
Iran, Islamic Republic	3.0	2.8	2.4	2.3
Asia	32.6	32.1	30.4	30.8
China	11.8	11.3	10.6	11.3
Japan	2.3	2.5	2.5	2.1
Six East Asian Traders	11.3	10.5	9.7	10.0
Korea, Republic of	2.8	2.6	2.7	2.8
Malaysia	1.8	1.9	2.0	2.1
Hong Kong, China	2.5	2.1	1.6	1.6
Singapore	1.9	1.7	1.5	1.5
Other Asia	7.2	7.9	7.5	7.4
Indonesia	2.7	3.0	3.0	3.3
Australia	2.9	3.2	2.7	2.2
Other	1.2	0.2	0.4	0.9
Memorandum				
APEC	39.4	38.6	37.6	38.0
ASEAN	8.3	8.6	8.7	9.2

Source: WTO calculations, based on Department of Commerce online information, "Export Import Data Bank".

Table A2. 1 Sectors in which FDI is permitted

Sector	Foreign equity limit/route	Additional conditions
Agriculture		
Floriculture, horticulture, apiculture and cultivation of vegetables and mushrooms under controlled conditions; development and production of seeds and planting material; animal husbandry (including dog breeding), pisciculture, aquaculture, under controlled conditions; and services related to agro and allied sectors	100%/automatic	Use of genetically modified materials subject to the Foreign Trade (Development and Regulation) Act, 1992 and any other laws, regulations or policies applicable
Tea, including plantations	100%/Government	Compulsory divestment of 26% of the equity of the company in favour of an Indian partner/Indian public within five years; and prior approval of the State Government concerned required in case of any future land use change
Mining and petroleum		
Mining and exploration of metal and non-metal ores (including diamond, gold, silver and precious ores but not titanium bearing minerals and ores)	100%/automatic	Subject to the Mines and Minerals (Development and Regulation) Act, 1957
Coal and lignite mining for captive consumption by power projects, iron and steel and cement units and other eligible activities	100%/automatic	
Setting up coal processing plants such as washeries subject to certain conditions	100%/automatic	
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	FDI for the separation of titanium bearing minerals and ores is subject to value addition activities being set up in India along with transfer of technology; and the disposal of tailings during mineral separation are subject to regulations framed by the Atomic Energy Regulatory Board
Exploration of oil and natural gas fields, infrastructure related to marketing and marketing of petroleum products and natural gas, pipelines, LNG regasification infrastructure, market study and petroleum refining in the private sector	100%/automatic	Subject to existing sectoral policy and regulatory framework in the oil marketing sector and on private participation in oil exploration and existing fields of national oil companies
Petroleum refining by the public sector undertakings (PSUs) without any disinvestment or dilution of domestic equity in existing PSUs	49%/Government	
Power		
Power exchanges registered under the Central Electricity Regulatory Commission (Power Market) Regulations 2010	49% (FDI + FII/FPI)/automatic	Non-residents jointly or together may not own more than 5% of the equity of these companies
Manufacturing		
Manufacture of items reserved for micro and small enterprises	100% (Government approval required for equity above 24%)	Subject to sectoral limits, entry routes and other relevant sectoral regulations. Also subject to industrial licences under the Industries (Development and Regulation) Act, 1951. Specific conditions of the licence include a minimum export requirement of at least 50% of new or additional annual production of the reserved items within a period of 3 years from commencement of industrial production
Pharmaceuticals		
- greenfield	100%/automatic	
- brownfield	100%/Government	

Sector	Foreign equity limit/route	Additional conditions
Defence industry subject to Industrial licence under the Industries (Development and Regulation) Act 1951	49%/Government approval; above 49% through Cabinet Committee on Security on a case by case basis, wherever it is likely to result in access to modern and 'state of art' technology in the country. Portfolio investment will not exceed 24% of the total equity of the company/automatic	Subject to licences issued by DIPP in consultation with the Ministry of Defence. Only for Indian companies or in partnership with an Indian company. The management of the company should be Indian with majority representation on the Board and residency requirements for the Chief Executives
Services		
Communication services		
Broadcasting carriage services		
- teleports (setting up of uplinking hubs/teleports); direct to home (DTH); cable networks; mobile TV; Headend in the sky broadcasting services (HITs)	74% (Government approval required for equity above 49% and up to 74%)	Subject to compliance with the relevant policy and regulations notified by the Ministry of Information and Broadcasting. Additional security requirements relate to the nationality of senior officials of the company; as well as security clearance for officials holding more than 10% of the shares of the company, renewable every two years; and prior permission from the Ministry before any changes to the Directors
Cable networks	49%/automatic	
Broadcasting content services		
- terrestrial broadcasting FM (FM radio)	26%/Government	
- uplinking of 'news and current affairs' TV channels	26%/Government	
- uplinking of non-'news and current affairs' TV channels; downlinking of TV channels	100%/Government	
Print media		
- publishing of newspaper and periodicals dealing with news and current affairs	26% (by NRIs, PIOs, FII/FPIs)/ Government	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
- publication of Indian editions of foreign magazines dealing with news and current affairs	26% (by NRIs, PIOs, FII/FPIs)/ Government	
- publishing, 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 by owner of original foreign newspaper whose facsimile edition is to be published in India. Publication only by a company incorporated in India under the Companies Act 1956 and subject to the Guidelines for publication of newspapers and periodicals dealing with news and current affairs and publication of facsimile editions of foreign newspapers issued by the Ministry of Information and Broadcasting on 31 March 2006 and as amended
- publication of facsimile edition of foreign newspapers	100%/Government	
- courier services for carrying packages, parcels and other items which do not come within the ambit of the Indian Post Office Act 1898 and excluding activities related to the distribution of letters	100%/Government	

Sector	Foreign equity limit/route	Additional conditions
Telecommunications services		
- telecommunications services	74%/automatic up to 49% (including FDI and FII, NRI, FCCBs, ADRs, GDRs and convertible preference shares held by foreign entity), Government above 49%	
- ISPs with and without gateways (for satellite and marine cables); radio paging; end-to-end bandwidth	74%/automatic up to 49%, Government above 49%	
- infrastructure provider, providing dark fibre, right of way, duct space, tower (IP category I); electronic mail; voice mail	100%/automatic up to 49%, Government above 49%	
Satellites-establishment and operation	74%/Government	Subject to the sectoral guidelines of the Department of Space/ISRO
Financial services		
- Asset reconstruction companies	100% of paid up capital (FDI and FII/FPI)/automatic up to 49%; Government approval above 49%	
- Banks (private sector)	74% (including FII/FPIs) – automatic up to 49%	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 Banking Companies (Acquisition and Transfer of Undertakings) Act 1970 and 1980
- Commodity exchanges	49% (FDI and FII)-FDI investment limit 26% and FII/FPIs registered under the Portfolio Investment Scheme to 23%/automatic	Subject to the Forward Contracts (Regulation) Act, 1952
- Credit information companies	74% (FDI + FII/FPI)/automatic	Subject to Credit Information Companies (Regulation) Act, 2005
- Infrastructure companies in Securities Market	49% (FDI + FII)(FDI up to 26% and FII up to 23%)/automatic	FIIs can invest only through purchases in the secondary market
- Insurance: (i) insurance company; (ii) insurance brokers; (iii) third-party administrators; and (iv) surveyors and loss assessors	49% (FDI + FII/FPI + NRI)/automatic	Licence required from the Insurance Regulatory and Development Authority
- Non-banking finance companies (NBFCs) (i) merchant banking; (ii) under writing; (iii) portfolio management services; (iv) investment advisory services; (v) financial consultancy; (vi) stock broking; (vii) asset management; (viii) venture capital; (ix) custodian service; (x) factoring; (xi) credit rating agencies; (xii) leasing and finance; (xiii) housing finance; (xiv) foreign exchange broking; (xv) credit card business; (xvi) money changing business; (xvii) micro credit; and (xviii) rural credit	100%/automatic	
Transport services		
Civil aviation		
- airports (greenfield projects)	100%/automatic	
- airports (existing projects)	100%/automatic up to 74%; Government approval for equity above 74%	
Air transport services		
- scheduled air transport services/domestic scheduled passenger airline	49%/automatic 100% for NRIs/automatic	Foreign airlines may invest in the capital of companies operating cargo airlines, helicopter and seaplane

Sector	Foreign equity limit/route	Additional conditions
- non-scheduled air transport services	74% (100% for NRIs) (Government approval required for equity above 49%)	services; foreign airlines may also invest in the capital of Indian companies (but not Air India) operating scheduled and
- helicopter services/seaplane services requiring DGCA approval	100%/automatic	non-scheduled air transport services subject to compliance with domestic regulations
Other civil aviation services		
- ground handling services subject to sectoral regulations and security clearance	74% (100% for NRIs) (Government approval required for equity above 49%)	
- Maintenance and repair organizations; flying training institutes; and technical training institutions	100%/automatic	
Railway infrastructure		
Construction, operation and maintenance of the following: (i) suburban corridor projects through PPP, (ii) high speed train projects, (iii) dedicated freight lines, (iv) rolling stock including train sets, and locomotive/coaches manufacturing and maintenance facilities, (v) railway electrification, (vi) signaling systems, (vii) freight terminals, (viii) passenger terminals, (ix) infrastructure in industrial park pertaining to railway line/sidings including electrified railway lines and connectivities to main railway line and (x) mass rapid transport systems	100%/automatic	Automatic subject to structural guidelines of Ministry of Railways, proposals for FDI above 49% in sensitive areas subject to consideration by Cabinet Committee on Security on case-by-case basis
Construction services		
- Townships, housing, built up infrastructure and construction-development projects (including but not restricted to housing, commercial premises, hotels, resorts, hospitals, educational institutions, recreational facilities, city and regional infrastructure)	100%/automatic	Subject to minimum area, capitalization requirements and repatriation limits for original investment for three years; FDI is not permitted in real estate
Industrial parks	100%/automatic	
Private security agencies	49%/Government	
Distribution services		
Trading		
- cash and carry wholesale trading (including sourcing from SMEs)	100%/automatic	Subject to licences/registration/permits as specified under relevant State government legislation
- e-commerce activities	100%/automatic	
- test marketing	100%/Government	
- Single brand product retail trading	100%/automatic up to 49%. Government approval required above 49%	FDI above 51% subject to sourcing of 30% of the value of goods purchased from India, preferably from medium and small enterprises, village and cottage industries, artisans and craftsmen
- multi brand retail trading	51%/Government	Minimum FDI of US$100 million at least 50% of which to be invested in backend infrastructure; 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 US$1 million

Source: Department of Industrial Policy and Promotion (DIPP), Consolidated FDI Policy Circular of 2014 (effective from 17 April 2014), 17 April 2014; DIPP, Press Note No. 8 (2014 Series), 27 August 2014; and WTO (2011), *Trade Policy Review: India*, Geneva.

Table A2. 2 India's regional trade agreements in force, end-March 2015

Regional trade agreements	
Asia-Pacific Trade Agreement (APTA)[a] (goods)	
Parties	Bangladesh, China, India, Korea (Rep. of), Lao People's Democratic Republic, and Sri Lanka
Date of signature/entry into force	31 July 1975/17 June 1976
Full implementation	1 November 1976
Duty-free tariff lines	1.7%
Other provisions	Rules of origin, safeguards, balance of payments measures and dispute settlement
India's merchandise trade[b]	Share of total imports: 14.4% Share of total exports: 9.5%
Of which preferential	
WTO document series	L/4418 (GATT), WT/COMTD/N/22, WT/COMTD/62
GSTP (goods)	
Parties (as notified)	Algeria, Argentina, Bangladesh, Benin, Bolivarian Republic of Venezuela, Brazil, Cameroon, Chile, Colombia, Cuba, Democratic People's Republic of Korea, Ecuador, Egypt, Ghana, Guinea, Guyana, India, Indonesia, Iran (Islamic Rep. of), Iraq, Korea (Rep. of), Libyan Arab Jamahiriya, FYR of Macedonia, Malaysia, Mexico, Morocco, Mozambique, Myanmar, Nicaragua, Nigeria, Pakistan, Peru, Philippines, Plurinational State of Bolivia, Singapore, Sri Lanka, Sudan, Tanzania, Thailand, Trinidad and Tobago, Tunisia, Viet Nam and Zimbabwe
Date of signature/entry into force	13 April 1988/19 April 1989
Full implementation	19 April 1989 for 15 signatory countries
Duty-free tariff lines	..
Other provisions	Rules of origin, safeguards including balance of payments measures, dispute settlement
India's merchandise trade[b]	Share of total imports: 30.3% Share of total exports: 26.4%
Of which preferential	
WTO document series	L/6564 (GATT)
SAPTA (goods)	
Parties	Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, Sri Lanka
Date of signature/entry into force	11 April 1993/07 December 1995
Full implementation	7 December 1995
Duty-free tariff lines	Tariff concessions apply to 2,565 HS six-digit tariff lines, with margins of preference of 10%-90% for non-LDC members and 10%-100% for LDC members.
Other provisions	Rules of origin, safeguards including balance of payments safeguards, dispute settlement
India's merchandise trade[b]	Share of total imports: 0.5% Share of total exports: 5.4%
Of which preferential	
WTO document series	WT/COMTD/10
SAFTA (goods and services)	
Parties	Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, Sri Lanka
Date of signature/entry into force	6 January 2004/1 January 2006
Full implementation	31 December 2012
Duty-free tariff lines	India has a sensitive list of 865 products imported from non-LDC members and 744 products from LDC members
Other provisions	Rules of origin, safeguards, including balance of payments safeguards, services, dispute settlement
India's merchandise trade[b]	Share of total imports: 0.5% Share of total exports: 5.4%
Of which preferential	
WTO document series	WT/COMTD/N/26

Regional trade agreements	
India-Afghanistan (goods)	
Parties	Afghanistan, India
Date of signature/entry into force	6 March 2003/13 May 2003
Full implementation	13 May 2003
Duty free tariff lines	13 out of 38 lines covered by the Agreement are duty free
Other provisions	Rules of origin, safeguards, including balance of payments safeguards, state trading and dispute settlement
India's merchandise trade[b]	Share of total imports: 0.05% Share of total exports: 0.2%
Of which preferential	
WTO document series	WT/COMTD/N/32
India-Bhutan	
Parties	Bhutan, India
Date of signature/entry into force	28.07.2006/29.07.2006
Full implementation	29 July 2006
Duty-free tariff lines	India provides a tariff exemption on all imports from Bhutan
Other provisions	Safeguards and customs related measures, rules of origin
India's merchandise trade[b]	Share of total imports: 0.03% Share of total exports: 0.1%
Of which preferential	
WTO document series	WT/COMTD/N/28
India-Nepal (goods)	
Parties	India, Nepal
Date of signature/entry into force	27 October 2009/27 October 2009
Transition for full implementation	27 October 2009
Duty-free tariff lines	India exempts imports from Nepal from tariffs (except for alcoholic liquors and beverages, perfumes and cosmetics with non-Nepalese/non-Indian brand names, and cigarettes and tobacco). Imports of vegetable fats, copper products, acrylic yarn and zinc oxide are subject to annual quotas
Other provisions	Rules of origin, safeguards
India's merchandise trade[b]	Share of total imports: 0.1% Share of total exports: 1.1%
Of which preferential	
WTO document series	WT/COMTD/N/34
India-Singapore (goods and services)	
Parties	India, Singapore
Date of signature/entry into force	29 June 2005/1 August 2005
Full implementation	1 January 2015
Duty-free tariff lines[c]	23.6% of the total
Other provisions	Rules of origin, customs related measures, safeguards, standards and technical regulations, sanitary and phytosanitary measures, services commitments, investment, dispute settlement
India's merchandise trade[b]	Share of total imports: 1.5% Share of total exports: 4.0%
Of which preferential	
WTO document series	WT/REG228, S/C/N/393
India-Sri Lanka (goods)	
Parties	India, Sri Lanka
Date of signature/entry into force	28 December 1998/15 December 2001
Full implementation	18 March 2003
Duty-free tariff lines	4150 lines at the HS6digit level are duty free. India does not give tariff concessions on 429 lines that are subject to a negative list. In addition a margin of preference of 25% of the MFN rate is provided for textiles imports with zero duty on imports of 3 million pieces per year for imports under HS 61 and 62. Tariff rate quotas on tea provide a 50% margin of preference on an annual quota of 15 million kg. There are also TRQs for dessicated coconut, pepper and Vanaspati.

Regional trade agreements	
Other provisions	Rules of origin, safeguards, including balance of payments safeguards, state trading, and dispute settlement
India's merchandise trade[b]	Share of total imports: 0.2% Share of total exports: 1.5%
Of which preferential	
WTO document series	WT/COMTD/N/16
Chile-India (goods)	
Parties	Chile, India
Date of signature/entry into force	8 March 2006/17 August 2007
Full implementation	13 January 2009 for India
Duty-free tariff lines[c]	0
Other provisions	Rules of origin, customs related measures, anti-dumping and countervailing measures, safeguards, TBT and SPS measures, dispute settlement
India's merchandise trade[b]	Share of total imports: 0.7% Share of total exports: 0.2%
Of which preferential	
WTO document series	WT/COMTD/N/30, WT/COMTD/RTA/4
MERCOSUR-India (goods)	
Parties	Argentina, Brazil, Paraguay, Uruguay, India
Date of signature/entry into force	25January 2004/1 June 2009
Full implementation	1 June 2009
Duty-free tariff lines[c]	1 line
Other provisions	Rules of origin, customs related procedures, SPS and TBT measures, state trading enterprises, dispute settlement
India's merchandise trade[b]	Share of total imports: 1.2% Share of total exports: 2.0%
Of which preferential	
WTO document series	WT/COMTD/N/31
ASEAN-India (goods and services)	
Parties	Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand, Viet Nam, India
Date of signature/entry into force	13 August 2009/1 January 2010
Full implementation	31 December 2022
Duty-free tariff lines[c]	75% at end of implementation
Other provisions	Rules of origin, customs related procedures, tariff rate quotas (by Malaysia), safeguards, SPS and TBT measures, services, dispute settlement
India's merchandise trade[b]	Share of total imports: 9.2% Share of total exports: 10.6%
Of which preferential	
WTO document series	WT/COMTD/N/35
Korea-India (goods and services)	
Parties	Korea (Rep. of), India
Date of signature/entry into force	7 August 2009/1 January 2010
Full implementation	1 January 2021
Duty-free tariff lines	On 31 December 2014, 61% of the tariff was duty free. India exempts 1,895 HS eight-digit tariff lines from liberalization
Other provisions	Rules of origin, customs related measures, anti-dumping and countervailing measures, safeguards, SPS and TBT measures, state trading, non-tariff measures, services, investment and dispute settlement
India's merchandise trade[b]	Share of total imports: 2.8% Share of total exports: 1.3%
Of which preferential	
WTO document series	WT/REG286, WT/COMTD/N/36, S/C/N/558, S/C/N/570
India-Malaysia (goods and services)	
Parties	India, Malaysia
Date of signature/entry into force	18 February 2011/1 July 2011
Full implementation	31 December 2019
Duty-free tariff lines[c]	75.3% by end of implementation

Regional trade agreements	
Other provisions	Rules of origin, customs related procedures, tariff rate quotas (by Malaysia), SPS and TBT measures, safeguards, including balance of payments safeguards, services, investment and dispute settlement
India's merchandise trade[b]	Share of total imports: 2.0% Share of total exports: 1.3%
Of which preferential	
WTO document series	WT/COMTD/N/37, S/C/N599, WT/COMTD/RTA/5, WT/REG329
India-Japan (goods and services)	
Parties	India, Japan
Date of signature/entry into force	16 February 2011/1 August 2011
Full implementation	1 January 2021
Duty-free tariff lines[c]	17.4% as of 31 December 2014 and 86.6% by end of implementation
Other provisions	Rules of origin, customs related procedures, SPS and TBT measures, safeguards, including balance of payments safeguards, services, investment and dispute settlement
India's merchandise trade[b]	Share of total imports: 2.1% Share of total exports: 2.2%
Of which preferential	
WTO document series	WT/REG300, S/C/N/601

.. Not available.

a Previously known as the Bangkok Agreement; original signatories were Bangladesh, India, Korea (Rep. of), Lao PDR and Sri Lanka. China became a party to the Agreement on 1 January 2002 and the amended APTA Agreement entered into force on 1 September 2006.

b UNSD Comtrade Database. Data for 2013.

c Secretariat calculations based on data provided by the authorities and included in a factual presentation of the RTA.

Source: WTO RTA Database (http://rtais.wto.org) and information provided by the Indian authorities.

Table A3. 1 IEC exemptions for imports and exports, 2014

Imports
Goods imported by the Government and state-owned undertakings for defence purposes
Goods imported by the Government, State governments, public entities or state-owned undertakings, through the Directorate General of Supplies and Disposals or the Indian supply missions in London and Washington D.C.
Goods imported by transhipment; or imported and bonded for re-export as ships' stores to any destination (except Nepal and Bhutan) or released for use of diplomatic/consular officers and UN officials
Goods imported and bonded for sale to passengers in duty-free shops
Goods in transit through India or redirected to any destination (except Nepal and Bhutan)
Goods imported for air shipment to Afghanistan or for land shipment to any destination (except Nepal and Bhutan) under claim for duty exemption or refund
Goods imported as passengers' baggage
Goods imported for personal use
Goods imported by diplomatic/consular officers and trade commissioners
Goods imported from countries exempt from customs duty on re-import
Goods previously exported but imported back for repair and re-export
Goods imported by UN officials or the Ford Foundation
Temporary imports of vehicles
Goods imported for use in fairs and exhibitions
Goods imported by the Government or State governments for repair and re-export to Indian embassies abroad
Food grains imported by the Food Corporation of India
Food products imported and supplied as gifts by UN accredited agencies
Goods imported by ministries and departments of the Government and State governments
Goods imported from Nepal, Myanmar (through the Indo-Myanmar border), and China (through Gunji, Namgaya Shipkila, and Nathula ports), provided the c.i.f. value of a single consignment does not exceed Rs 25,000 (Rs 100,000 for Nathula)
Exports
Goods exported by the Government
Goods (other than foodstuffs) constituting the stores of outgoing vessels
Goods constituting the bona fide personal baggage of any person
Goods exported by post or by air, under conditions specified by the postal authorities
Goods transhipped at Indian ports
Goods imported and bonded for re-export to any destination (except Nepal and Bhutan)
Goods in transit through India by post; or goods re-directed by post to any destination (except Nepal and Bhutan)
Goods imported with no valid import licence and exported following a Customs' order
Goods exported from special economic zones (SEZs) or export-oriented units (EOUs)
Exports of blood group Oh (Bombay phonotype) for scientific research or emergency medical treatment by the National Blood Group Reference Laboratory
Exports of samples of lubricating oil additives by Lubrizols India Ltd., Hindustan Petroleum Corporation Ltd., and Bharat Petroleum Corporation Ltd. to Lubrizol's laboratories in the United States and the United Kingdom for evaluation and testing purposes
Goods exported for personal use
Goods exported to Nepal, Myanmar (through the Indo-Myanmar border), and China (through Gunji, Namgaya Shipkila, and Nathula ports), provided the c.i.f. value of a single consignment does not exceed Rs 25,000 (Rs 100,000 for Nathula)

Source: Foreign Trade (Exemption from application of Rules in certain cases) Order 1993 (Clauses 3(1) and 3(2)) (CBEC online information, "Customs: Acts". Viewed at: http://www.cbec.gov.in/customs/cs-acts-botm.htm); and Department of Commerce (2010), Handbook of Procedures, Vol. 1, incorporating Annual Supplement, 23 August. Viewed at: http://dgft.gov.in, and information provided by the Indian authorities.

Table A3. 2 Safeguard investigations, 2011-14

Commodity: tariff item	Date of initiation	Date of final findings	Main import partners[a]	Recommendation by the Director-General	Final decision
Cases initiated in 2011					
Aluminium FRP and aluminium foil (review proceedings): 7606 and 7607	14.02.11	13.10.11	China specific	Investigation terminated on withdrawal of application	n.a.
Phthalic anhydride 2917.35.00	10.08.11	29.03.12	..	Safeguard duty at the rate of 10% *ad valorem* for one year (17.01.12 – 16.01.13)	Customs notification No. 03.12 (SG) of 29.05.12. Safeguard duty: 10% when imported between 17.01. 12 and 16.01.13 inclusive
Carbon Black 2803.00.10	02.12.11	16.03.12	..	30% minus anti-dumping duty payable, if any (first year), 25% minus anti-dumping duty payable, if any (second year), and 20% minus anti-dumping duty, if any (third year)	Customs notification No. 04.12 (SG) of 05.10.12. Safeguard duty: 30% minus anti-dumping duty payable, if any (first year: 05.10.12 to 04.10.13), and 25% minus anti-dumping duty payable, if any (second year: 05.10.12 to 31.12.13 inclusive)
Cases initiated in 2012					
Electrical Insulators 8546.10 and 8546.20	30.05.12	27.09.12	..	35% (first year) and 25% (second year)	Customs notification No.05.12 (SG) of 20.12.12. Safeguard duty: 35% (first year), and 25% (second year)
Dioctyl phthalate (DOP) 2917.39.20	23.05.12	16.11.12	..	15% (first year) and 10% (second year)	Safeguard duty not imposed
Phthalic Anhydride (Review) 2917.35.00	26.10.12	07.06.13	..	No safeguard duty recommended	n.a.
Hot Rolled Flat Products of Stainless Steel 304 grade 7219.11.11, 7220.11.10, etc.	26.06.12	25.05.13	China specific	20% (From 04.01.13 to 22.07.13 (both days inclusive))	Customs notification No.02.13 (SG) of 29.08.13. Safeguard duty: 20% (from 04.01.13 to 22.07.13 (both days inclusive)) on imports of hot rolled flat products of stainless steel 304 grade (up to a maximum width of 1,605 mm)

Commodity: tariff item	Date of initiation	Date of final findings	Main import partners[a]	Recommendation by the Director-General	Final decision
Cases initiated in 2013					
Sodium nitrite 2834.10.10	17.04.13	17.09.13	..	30% (first year) and 28% (second year – three months only)	Customs notification No. 01.14 (SG) of 26.02.14 Safeguard duty: 30% from 26.02.14-25.02.15 and 28% from 26.02.15-25.05.15
Seamless pipes and Tubes 73041910 etc.	22.04.13	11.03.14	..	25% (first year), 15% (second year), and 5% (third year – six months only)	Customs Notification No. 02/14 (SG) of 13.08.14 Safeguard duty: 20% (from 13.08.14 to 12.08.15 (both days inclusive)), 10% (from 13.08.15 to 12.08.16 (both days inclusive)), and 5% (from 13.08.16 to 12.02.17 (both days inclusive)).
Methyl Acetoacetate 2918.30.40	06.06.13	08.10.13	..	No safeguard duty recommended	n.a.
Rubber Chemical (Review) 3810, 3812, as well as under 2921, 2925, 2934 and 2942 (at six digit levels) of the Customs Act 1975	29.08.13	24.04.14	..	No safeguard duty recommended	n.a.
Cases initiated in 2014					
Saturated fatty alcohols with carbon chain length of C8, C10, C12, C14, C16 and C18 3823.70.10 etc.	13.02.14	09.10.14		20% (first year), 18% (second year), and 12% (third year – six months only)	Customs notification No.03.14 (SG) of 28.08.14. Safeguard duty: 20% (for 200 days from 28.08.14)
Elastomeric yarn 5402.44.00 and 5404.11.00 (Customs Tariff Act 1975)	28.02.14	29.09.14	..	No safeguard duty recommended	n.a.
Sodium citrate 2918.15.20 (Customs Tariff Act 1975)	04.03.14	16.09.14	..	55% (first year), 50% (second year), and 40% (third year)	Customs notification No. 04.14 (SG) of 31.12.14. Safeguard duty: 30% (from 31.12.14 to 30.12.15 (both days inclusive)), 20% (from 31.12.15 to 30.12.16 (both days inclusive)), and 10% (from 31.12.16 to 30.12.17 (both days inclusive))
Not-alloyed ingots of unwrought aluminium 7601 and 7602	07.04.14	07.10.14	..	No safeguard duty recommended	n.a.

Commodity: tariff item	Date of initiation	Date of final findings	Main import partners[a]	Recommendation by the Director-General	Final decision
Flexible slabstock polyol of molecular weight 3,000 to 4,000 3907.20.10	22.05.14	13.01.15	..	No safeguard duty recommended	n.a.
Sodium di-chromate 2841.30.00	26.05.14	15.01.15	..	No safeguard duty recommended	n.a.
Cold rolled flat products of stainless steel of chromium type, 400 series 7219.31.12 etc.	19.09.14	..	..	..	..

n.a. Not applicable.

.. Not available.

Source: WTO Secretariat; Central Board of Excise and Customs online information, "Customs: Notifications". Viewed at: http://www.cbec.gov.in/cae1-english.htm; and information provided by the Indian authorities.

Table A3. 3 Institutions responsible for formulation and enforcement of standards and technical regulations, 2014

Institution	Field of action	Legislation
Atomic Energy Regulatory Board	Nuclear energy	Atomic Energy Act 1962
Automotive Research Association of India	Safety standards on automobiles	Societies Registration Act XXI 1860
Bureau of Indian Standards (BIS)	Standardization, Certification and Testing	BIS Act 1986, BIS Rules 1987, BIS (Certification) Regulations 1988
Central Boilers Board	Boilers	Indian Boilers Act 1923; Indian Boilers Regulations 1949
Central Electricity Authority	Supply of electricity to units owned by the central Government	Electricity Act 2003; Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulations 2010
Central Silk Board	Natural raw silk and products	Central Silk Board (Amendment) Act 1982
Chief Controller of Explosives	Gas cylinders, pressure vessels and explosive materials, and flameproof electrical equipment for industries	Indian Explosives Act 1984; Gas Cylinders Rules 1981; Explosive Rules 1983; Static and Mobile Pressure Vessels (Unfired) Rules 1981; Acetylene Notification No. GSR.625(E), 7 August 1983; Carbide of Calcium Rules 1937
Coir Board	Coir products	Regulation Coir Industries Act 1953
Department of Fertilizer	Fertilizers	Fertilizer Control Order 1985
Food Safety and Standards Authority of India (FSSAI)	Food products	Food Safety and Standards Act 2006; Food Safety and Standards (Licensing & Registration of Food Businesses) Regulations 2011; Food Safety and Standards (Food Product Standards and Food Additives) Regulations 2011; Food Safety and Standards (Packaging and Labelling) Regulations 2011; Food Safety and Standards (Prohibition and Restriction on Sales) Regulations 2011; Food Safety and Standards (Contaminants, Toxins and Residues) Regulations 2011; Food Safety and Standards (Laboratory and Sampling Analysis) Regulations 2011.
Telecommunication Engineering Centre, Department of Telecommunication	Telecom equipment	Indian Telegraph Act 1885; Indian Wireless Act 1933; Telecom Regulatory Authority of India (TRAI) Act 1997
Ministry of Road Transport and Highways	Road transport	Regulation of Motor Vehicles Act 1988; Carriage by Road Act 2007; Road Transport Corporation Act 1950
Directorate General Factory Advice Service and Labour Institutes	Safety in factories, and flameproof electrical equipment for industries	Factory Act 1948; Dock Workers (Safety, Health, and Welfare) Act 1986
Directorate General of Civil Aviation	Civil aviation	Aircraft Act 1934; Carriage by Air Act 1972; Airport Authority of India Act 1994; Airports Economic Regulatory Authority of India Act 2008
Directorate General of Mines Safety	Safety of mines and mining operations, and electric equipment for coal and oil mines	Indian Mines Act and Rules 1952
Directorate of Marketing and Inspection	Raw and semi-processed agricultural commodities, and meat and meat products	Agricultural Produce (Grading and Marketing) Act 1937; Meat Food Products Order 1973
Directorate of Standardization	Articles for defence use	..

Institution	Field of action	Legislation
Directorate of Vanaspati, Vegetable oil, and Fats	Hydrogenated vegetable oils (Vanaspati), vegetable oil, de-oiled meals, and edible flours	Vegetables Products Control Order 1947; Vegetable Oil Products (Standards of quality) Order 1975; Solvent Extracted oils, De-Oiled Meals and Edible Flour (Control Order) 1967
Directorate of Weights and Measures	Weight and measures used in commercial transactions	Standards of Weights and Measures Act 1976; Standards of Weights and Measures (Packages Commodities) Rules 1977; Standards of Weights and Measures (Enforcement) Act 1985; Standards of Weights and Measures (General) Rules 1987
Drugs Controller General of India	Cosmetics, Indian pharmacopoeia, and drugs specification	Drugs and Cosmetics Act 1940, and Drugs and Cosmetic Rules 1945
Electronics Components Standardization Organization	Electronics components standardization	..
Indian Roads Congress	Technical specifications regarding roads and bridges	..
Jute Commissioner	Jute and jute products	Essential Commodities Act 1955; Jute (Licensing and Control) Order 1961
Ministry of Environment and Forest	Tolerance limits for emulsion and effluents	Environment (Protection) Act 1986 and Environment (Protection) Rules 1986
Ministry of Food Processing Industries	Fruits and vegetable products, synthetic syrups, and aerated waters	Fruit Products Order 1955
Research and Design Standards Organization (RDSO)	Development of standardization of technical specifications for items used in railways	Indian Railway Act
Rural Electrification Corporation (REC)	Codes of practice and guide for rural electrification	..
Technology Application and Standard Unit, Central Public Works Department	Civil and electrical works	..
Steel Authority of India	Interplant standardization of consumable, replacement, and other items used in the steel industry	..
Standardization Testing and Quality Certification Directorate	Standardization of electronics technology	..
Textile Commissioner	Textile fibres, yarn, and fabrics (except handloom, silk, and jute fabrics), and textiles machinery (excluding jute machinery)	..
Ministry of Home Affairs	Acquisition, possession, manufacture, sale, import, export and transport of arms and ammunition	Arms Act 1959
Central Insecticide Board and Registration Committee	Import, manufacture, sale, transport, distribution and use of insecticides	Insecticide Act 1968
Ministry of Environment, Forest and Climate Change	Hazardous waste	Hazardous Waste (Management and Handling) Rules 2003
Department of Consumer Affairs	Metrology that treats units of measurement, methods of measurement and relevant instruments	Legal Metrology Act 2009 and Legal Metrology (Packaged Commodities) Rules 2011

.. Not available.

Source: WTO Secretariat; Central Board of Excise & Customs (2011), Customs Manual on Self-Assessment 2011; Ministry of Home Affairs online information; Central Insecticide Board and Registration Committee online information; Ministry of Environment, Forest and Climate Change online information; Department of Consumer Affairs online information.

Table A3. 4 Export prohibitions, 2014

Reason for prohibition	Description
Protection of wildlife under the Wild Life (Protection) Act 1972	All wild animals, animal articles (including their products and derivatives), excluding those for which ownership certificates have been granted and those required for transactions for education, scientific research, and management under the Wild Life (Protection) Act 1972, including their parts and products Live exotic birds, excluding albino budgerigars, budgerigars, Bengali finches, white finches, and zebra finches, which may be exported subject to preshipment inspection; and java sparrows, which are subject to export licensing Marine species and their parts, products, and derivatives under the Wild Life (Protection) Act 1972 Bêche-de-mer (sea cucumber)
Control of poaching and illegal trade in wildlife and its products	Peacock tail feathers, including handicrafts and articles of peacock tail feathers Shavings of shed antlers of Chital and Sambhar, including manufactured articles Sea shells, including polished sea shells and handicrafts made out of those species mentioned in the Wild Life (Protection) Act 1972
Social and religious reasons	Beef of cows, oxen and calf Offal of cows, oxen, and calf Meat of buffalo (both bone-in and boneless) Tallow, fat and/or oils of any animal origin, excluding fish oil, buffalo tallow and lanolin Human skeletons
Ecological and environmental reasons	Undersized rock lobsters and sand lobsters Chemicals under the Montreal Protocol when exported to a country that is not party to the Protocol Plants and plant portions of wild species specified in the Wild Life (Protection) Act 1972 or the CITES Appendix I or in the Export Licensing Note 1[a] Wood and wood products in forms of logs, timber, stumps, roots, barks, chips, powder, flakes, dust, pulp, and charcoal[b], other than sawn timber made exclusively out of imported logs/timber Fuel wood in logs, billets, twigs, faggots or similar forms; wood in chips or particles; and sawdust and wood waste and scrap, whether or not agglomerated in logs, briquettes, pellets or similar forms Wood charcoal whether or not agglomerated[b] Wood sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end jointed, of a thickness exceeding 6 mm, other than sawn timber made exclusively out of imported logs/timber Sandalwood in any form, excluding finished handicraft products of sandalwood, machine finished sandalwood products, and sandalwood oil Red sanders wood in any form, whether raw, processed or unprocessed, excluding value-added products of red sanders wood (e.g. extracts, dyes, musical instruments, and parts of musical instruments, furniture, parts of various sizes of furniture (subject to DGFT notification No.54 of 3 December 2013), toys, dolls and other handicrafts made from red sanders wood procured from legal sources
Natural resources conservation	Mechanical wood pulp Chemical wood pulp, dissolving grades Chemical wood pulp, soda or sulphate, other than dissolving grades Chemical wood pulp, sulphite, other than dissolving grade Semi-chemical wood pulp

Reason for prohibition	Description
Family planning scheme	Condoms[c]
Ensuring domestic availability/food security	Dried leguminous vegetables, shelled, whether or not skinned or split, excluding kabuli chana (chickpea), and 10,000 tonnes of organic pulses during 2011-12[d] All edible oil[e]
Implementing the Chemical Weapons Convention	Toxic chemicals (Chemical Weapons Convention, Schedule 1)

a For Export Licensing Note 1, see the Export Policy Schedule (Chapter 12). Exemptions for research, education, and lifesaving drugs are granted by the DGFT, upon recommendations by the Ministry of Environment and Forests & Climate Change.

b Exemption from prohibition has been given for export of wood charcoal to Bhutan from 23 December 2013.

c Certain brands and those with certain markings/stamps (see the Export Policy Schedule (Chapter 40)).

d Pulses may be exported to Sri Lanka under specific permission granted by DGFT. The prohibition does not apply to export of pulses to Bhutan.

e Exemptions apply to: exports of castor oil; exports of coconut oil from all EDI ports and all Land Custom Stations (LCS) on Indo-Nepal, Indo-Bangladesh, Indo-Bhutan and Indo-Pakistan borders; deemed exports of edible oils (as input raw material) from the domestic tariff area (DTA) to 100% to EOUs for production of non-edible goods to be exported; exports of oils produced out of minor forest produce, even if edible; exports of edible oil from DTA to special economic zones (SEZs) for consumption by SEZ units in manufacture of processed food products subject to applicable value addition norms and 10,000 tonnes of organic edible oils per year subject to the conditions notified in Notification No.50 of 3 June 2011. Further export of edible oils in branded consumer packs of up to 5 kg is permitted subject to minimum export price of US$1,100 per tonne (as amended from time to time). The prohibition will not apply to export of edible oil to Bhutan.

Source: WTO Secretariat, based on information provided by the Indian authorities.

Table A3. 5 Export incentive schemes, 2014

Scheme	Description
Duty exemption schemes	
Advance Authorization Scheme (previously Advance Licence Scheme)	An Advance Authorization is issued to allow duty free import of inputs, which are physically incorporated in export product (making normal allowance for wastage). In addition, fuel, oil, catalysts which are consumed/utilized to obtain export product, may also be allowed. DGFT, by means of Public Notice, may exclude any product(s) from the purview of Advance Authorization. Mandatory spares which are required to be exported/supplied with the resultant product can be allowed duty free but up to 10% of c.i.f. value of Authorization. Advance Authorization can be issued either to a manufacturer exporter or a merchant exporter tied to supporting manufacturer(s). Advance Authorization shall be issued for physical exports (including exports to SEZ) and/or intermediate supplies; and/or supply of goods that are allowed in Chapter 8 of the FTP. Supply of "stores" on board of foreign going vessel/aircraft subject to condition that there is specific SION in respect of item(s) supplied. In addition, in respect of supply of goods to specified projects mentioned in paragraph 8.2 (d), (f) and (j) of FTP, an Advance Authorization can also be availed by sub-contractor to such project provided name of sub-contractor(s) appears in main contract. Advance Authorization and/or materials imported thereunder will be with actual user condition. It will not be transferable even after completion of export obligation. However, Authorization holder will have option to dispose of product manufactured out of duty free inputs once export obligation is completed. Advance Authorization necessitates exports with a minimum value addition of 15%, except for items specified in Appendix 11B of HBP v1 and for items in gems & jewellery sector, for which value addition would be as per paragraph 4A.2.1 of HBP v1. Export obligation shall be fulfilled within 18 months except in case of supplies to projects/turnkey projects in India/abroad under deemed exports category where EO must be fulfilled during contracted duration.
Duty-Free Import Authorization (DFIA) Scheme	DFIA is issued to allow duty free import of inputs, fuel, oil, catalyst which are required for production of export product. DGFT, by means of Public Notice, may exclude any product(s) from purview of DFIA. It shall be issued only for products for which Standard Input and Output Norms (SION) have been notified. A minimum 20%-value addition shall be required for issuance of DFIA. However, for items in gems and jewellery sector value addition as prescribed under paragraph 4A.2.1 of HBP v1. shall apply. Similarly, for items where a higher value addition has been prescribed under Advance Authorization Scheme, the same value addition for DFIA shall be applied. DFIA is transferable and once transferability is endorsed, authorization holder may transfer DFIA or duty free inputs, except fuel and any other item(s) notified by DGFT. However, for fuel, import entitlement may be transferred only to companies which have been granted authorisation to market fuel by the Ministry of Petroleum and Natural Gas. Export obligation shall be fulfilled within 18 months except in case of supplies to projects/turnkey projects in India/abroad under deemed exports category where EO must be fulfilled during contracted duration.
Duty Remission Scheme	
Duty Entitlement Passbook (DEPB) Scheme	The scheme was eliminated on 1 November 2011; it aimed at neutralizing the incidence of customs duty on imports of inputs for the manufacture of export products.
Reward schemes	
Served from India Scheme	The objective of the Scheme is to accelerate growth in export of services so as to create a powerful and unique "Served From India" brand, instantly recognized and respected the world over. Indian Service Providers, of listed services are entitled to Duty Credit Scrip at 10% of the net foreign exchange earned. However, services and service providers listed in Para 3.6.1 of Hand Book of Procedures Vol. 1 are not eligible. Import are allowed with actual user condition for import of capital goods including spares, office equipment, consumables, vehicles which are in the nature of professional equipment to the service provider.

Scheme	Description
Special Agricultural and Village Industry Scheme (Vishesh Krishi and Gram Udyog Yojana)	Objective of this scheme is to promote employment generation in rural and semi urban areas. Duty Credit Scrip benefits are granted with an aim to compensate high transport costs, and to offset other disadvantages. Vishesh Krishi And Gram Udyog Yojana has been gradually expanded to include export of Agricultural Produce and their value added products; Minor Forest Produce and their value added variants; Gram Udyog Products; Forest based products and Other Products, as notified under Appendix 37A of HBP v1, from time to time. Exporters of notified products are entitled for Duty Credit Scrip equivalent to 5% of f.o.b. value of exports (in free foreign exchange) for export. Few products are also eligible to additional 2% over & above 5% as admissible for specified products in Appendix 37A of HBP v1.
Agri-Infrastructure Incentive Scheme[c]	Status Holders (having status recognition) exporting products covered under ITC HS Chapters 1 to 24 , shall be granted Duty Credit Scrip equal to 10% of f.o.b. value of agricultural exports (including VKGUY benefits entitled under Policy Para 3.13.2) for exports made during a particular year. This shall be subject to the condition that the total benefits for all status holders put together does not exceed Rs 100 Cr (i.e. Rs 50 Cr for each half year) and the conditions specified in Para 3.7.2 of HBPv1 are satisfied. The following capital goods/equipment shall be permitted for import: (i) Cold storage units (including Controlled Atmosphere (CA) and Modified Atmosphere (MA) Stores); precooling units and mother storage units for onions, etc.; (ii) Pack houses (including facilities for handling, grading, sorting and packaging etc.); for items notified in Appendix 37 F. (iii) Reefer van/containers; and (iv) Other capital goods/equipment as may be notified in Appendix 37 F.
Focus Market Scheme	Focus Market Scheme has been launched for offsetting high freight cost and other externalities to select international markets with a view to enhance India's export competitiveness in these countries. Exporters of all products to notified countries (as in Table 1 & Table 2 of Appendix 37C of HBPv1) shall be entitled for Duty Credit Scrip equivalent to 3% of f.o.b. value of exports. However, additional duty credit scrip at 1% f.o.b. value of exports is given to markets listed in Table 3 of Appendix 37C under Special Focus Market Scheme. New markets have been added to the Special Focus Market Scheme from time to time.
Focus Product Scheme	Focus Products Scheme is aimed to incentivise export of such products which have high export intensity/employment potential, so as to offset infrastructure inefficiencies and other associated costs involved in marketing of these products. Exports of notified products (as in Appendix 37D of HBPv1) to all countries (including SEZ units) shall be entitled for Duty Credit Scrip equivalent to 2% or 5% of f.o.b. value of exports (in free foreign exchange). Export of Products/Sectors of high export intensity/employment potential (which are not covered under present FPS List) would be incentivized at 2% of f.o.b. value of exports (in free foreign exchange) under FPS when exported to the Linked Markets (countries), which are not covered in the present FMS list. Such products will be listed in Table 2 or Table 3 of Appendix 37D of HBPv1. Incentive to the products listed in Table 3 will be in addition to any benefit which the same item may be entitled to under Table 1 or Table 2 of Appendix 37D.
Status Holder Incentive Scheme	The scheme was discontinued on 1 April 2013. The scheme was aimed at promoting investment for technology upgrading in the leather, textile and jute, handicrafts, engineering, plastics, and basic chemical (excluding pharma) subsectors; Exporters were granted a duty credit equivalent to 1% of the f.o.b. value of exports over 2009-10. The duty credit had also been granted to exporters of additional subsectors in 2010-12[f]; Exporters who had benefited from the Technology Upgradation Fund Scheme of the Ministry of Textiles, were not eligible.
Export Promotion Capital Goods Scheme	
Zero-duty rate	Exporters of specific products may import capital goods duty free to manufacture export products, subject to an export obligation of six times the amount of the duty saved, to be met within six years. Exporters who have benefited from the Status Holder Incentive Scheme or the Technology Upgradation Fund Scheme (of the Ministry of Textiles) are not eligible; The scheme was in place until 31 March 2013. Subsequently w.e.f. 18.4.2013 only one scheme i.e. the zero duty EPCG scheme is in force and is available to all sectors and irrespective of whether TUFS benefit has been availed or not.

Scheme	Description
Concessional rate	Manufacturers of exports may import capital goods at a 3% duty rate, subject to an export obligation of: (i) eight times the amount of the duty saved, to be met within eight years; (ii) six times the amount of the duty saved for agri units, to be met within 12 years; and (iii) six times the amount of the duty saved for micro and small enterprises, to be met within eight years, and the c.i.f. value of imports should not exceed Rs 5 million and total investment after imports should not exceed the limits prescribed to maintain the micro and small enterprises status (Chapter II(4)(i)(c)). If the duty saved amounts to at least Rs 1 billion, the export obligation is to be met within 12 years for all manufacturers; Service providers certified as common service provider by the DGFT may also import capital goods to export services at a 3% duty rate. The export obligation is eight times the amount of the duty saved, to be met within eight years. The 3% duty rate EPCG scheme was substituted by the Zero duty EPCG scheme w.e.f. 18.04.2013 which is available to all sectors and is irrespective of whether TUFS benefit has been availed or not.
Schemes for gems and jewellery	
	Exporters of gold/silver/platinum jewellery and articles thereof may import their essential inputs such as gold, silver, platinum, mountings, findings, rough gems, precious and semi-precious stones, synthetic stones and unprocessed pearls etc. in accordance with the procedure specified in this behalf. They can obtain gold/silver/platinum as an input for export products from nominated agencies in advance or as replenishment after exports in accordance with specified procedure.
Replenishment authorization	Replenishment authorizations are granted against exports of gold, platinum and silver jewellery and articles made of gold, platinum and silver. Application shall be filed within six months following the month during which the export proceeds are realized. Gem REP Authorizations shall also be valid for import of empty jewellery boxes up to 5% of value of Authorization within its overall c.i.f. value. Gem REP authorizations issued against export of studded gold/silver/platinum jewellery articles, shall also be valid for import of cut and polished precious/semi-precious stones other than emerald up to 10% of c.i.f. value of Authorization within its overall c.i.f. value. Such Gem REP authorizations are freely transferable. Exporters can also import duty free consumables, tools and other items namely, tags and labels, security censor on card, staple wire, poly bag (as notified by Customs) for jewellery made out of precious metals (other than gold & platinum) equal to 2% and for cut and polished diamonds and jewellery made out of gold and platinum equal to 1% of f.o.b. value of exports of the preceding year under replenishment authorization However, in case of Rhodium finished silver jewellery, entitlement will be 3% of f.o.b. value of exports of such jewellery. This Authorization shall be non-transferable and subject to actual user condition.
Advance Authorization Scheme for gems and jewellery	Procedure applicable to Advance Authorization under Chapter 4 of HBP shall generally apply to this scheme except norms for Value addition/EO period and regularisation of default. Value addition for Gems and Jewellery items shall be as per para 4A.2 of HBPV1. Advance authorization holder may obtain gold/silver/platinum from nominated agencies in lieu of direct imports.
Export and Trading Houses Scheme	Merchant as well as manufacturer exporters, service providers, Export Oriented Units (EOUs) and units located in Special Economic Zones (SEZs), Agri. Export Zones (AEZs), Electronic Hardware Technology Parks (EHTPs), Software Technology Parks (STPs) and Bio-Technology Parks (BTPs) shall be eligible for recognition as a status holder. Status recognition depends upon export performance. An applicant shall be categorized as status holder upon achieving export performance indicated in para 3.10.2 of FTP. The criterion is based on export performance. The export performance is counted on the basis of FOB value of export proceeds realized during current plus previous three years (taken together).For Export House (EH) status, export performance is necessary in at least two out of four years. exporters in Small Scale Industry (SSI)/tiny sector/cottage sector, units registered with KVICs/KVIBs, units located in North Eastern States, Sikkim and Jammu & Kashmir, units exporting handloom/handicrafts/hand knotted or silk carpets, exporters exporting to countries in Latin America/CIS/sub-Saharan Africa as listed in Appendix-9, Units having ISO 9000 (series)/ISO 14 000 (series)/WHOGMP/HACCP/SEI CMM level-II and above status granted by agencies listed in Appendix-6 of HBP v1, exports of services and exports of agro products shall be entitled for double weightage on exports made for grant of status. Double weightage shall be admissible to merchant as well as manufacturer exporters. However, a shipment can get double weightage only once in any one of above categories.

Source: WTO Secretariat, based on information provided by the Indian authorities.

Table A3. 6 Amount forgone/disbursed on imports under export promotion schemes, 2011-14

(Rs million)

Scheme	Amount forgone-disbursed		
	2011-12	2012-13	2013-14
Advance Authorization Scheme (previously Advance Licence Scheme)	183,060	189,710	209,560
Duty-Free Import Authorization Scheme	12,440	17,350	33,650
Duty Entitlement Passbook (DEPB) Scheme	104,090	27,090	4,340
Served from India Scheme	5,560	5,900	6,390
Special Agricultural and Village Industry Scheme (Vishesh Krishi and Gram Udyog Yojana)	22,630	23,820	24,420
Focus Market/Product Scheme	39,510	61,780	101,820
Export Promotion Capital Goods Scheme	96,720	112,180	89,900
Duty-Free Entitlement Credit Certificate Scheme	1,900	1,420	2,350
Duty-Free Replenishment Certification Scheme	400	210	20
Target Plus Scheme	4,360	5,920	8,840
Total	**470,670**	**445,380**	**481,290**

Source: Government of India online information. Viewed at: http://indiabudget.nic.in/budget2013-2014/ub2013-14/statrevfor/annex12.pdf and http://indiabudget.nic.in/ub2014-15/statrevfor/annex12.pdf.

Table A3. 7 Selected incentive schemes/programmes for MSMEs, 2014

Scheme/programme	Eligibility	Description	Introduction/ validity
Implemented by the Ministry of Micro, Small, and Medium Enterprises			
Entrepreneurship Development Institutions (EDIs) Scheme	EDIs[a]	Assistance is provided to create, strengthen or expand infrastructure (including opening of new branches) and to meet deficits. The subsidy amounts to 50% of the cost of building, training, and other support services, up to Rs 10 million.	2010/ongoing
Rajiv Gandhi Udyami Mitra Yojana[b]	New micro and small entrepreneur	Financial assistance to Udyami Mitras[c] is provided by selected agencies[d]. It amounts to Rs 4,000/trainee for service enterprises and Rs 6,000/trainee for manufacturing enterprises (with investment in plants and machinery up to Rs 2.5 million). Trainees contribute to Rs 1,000 to the financial assistance. The beneficiary's contribution of Rs 1,000 shall be provided as a Grant under RUGMY for the beneficiaries from special category.	2008/ongoing
Implemented by the Development Commissioner			
Management Development Programme	Prospective/ existing MSMEs	The programme is aimed at training prospective/existing entrepreneurs by upgrading their managerial skills. No financial incentives are provided.	1952/ongoing
Credit Guarantee Fund Scheme for Micro and Small Enterprises	All MSEs, except retail trade and self-help groups	Credit is guaranteed by financial institutions[e]. The guarantees to new and existing micro and small enterprises up to Rs 10 million per borrowing unit. The guarantee cover provided up to 75% of the credit facility up to Rs 5 million (85% for loans up to Rs 0.5 million provided to micro enterprises, 80% for MSEs owned/operated by women and all loans to NER) with a uniform guarantee at 50% of the credit exposure above Rs 5 million and up to Rs 10 million.	2000/ongoing
Credit Linked Capital Subsidy Scheme for Technology Upgradation	Manufacturing MSEs	The subsidy amounts to 15% of the capital acquired to upgrade technology, up to Rs 1.5 million.	2001/ongoing
Micro and Small Enterprises Cluster Development Programme[f]	All MSEs	Grant of maximum Rs 250,000 will be provided for preparation of diagnostic study report (DSR) for one cluster. For the field organizations of the Ministry of MSME, this financial support will be Rs 100,000. For soft interventions, maximum limit for project cost would be Rs 2.5 million per cluster. The Government's grant for the soft interventions will be 75% of the sanctioned amount of the project cost. For NE & Hill States, clusters with more than 50% (a) micro/village (b) women owned (c) SC/ST units, the grant will be 90%. For preparation of "detailed project report", a grant of maximum Rs 500,000 will be provided for preparation of a technically feasible and financially viable project report for setting up of a common facility centre for a cluster of MSE units and/or infrastructure development project for new industrial estate/area or for upgrading of existing infrastructure in existing industrial estate/area/cluster. For hard interventions (setting up of CFCs), grant will be restricted to 70% of the cost of project of maximum Rs 1.5 million.	2010/ongoing

Scheme/programme	Eligibility	Description	Introduction/ validity
		Grant will be 90% for CFCs in NE & Hill States, clusters with more than 50% (a) micro/village (b) women owned (c) SC/ST units. The cost of project includes cost of land (subject to max. of 25% of project cost), building, pre-operative expenses, preliminary expenses, machinery and equipment, miscellaneous fixed assets, support infrastructure such as water supply, electricity and margin money for working capital.	
ISO 9001/14001 and HACCP Certification Reimbursement Scheme	All MSEs	Reimbursement of 75% of the certification expenses up to a maximum of Rs 75,000 to each unit as one-time reimbursement only to those MSEs which have acquired Quality Management Systems (QMS)/ISO 9001 and/or Environment Management Systems (EMS)/ISO 14001 and/or Food Safety Systems (HACCP) Certification.	1994/ongoing
Marketing Development Assistance Scheme (SSI-MDA)	Exporting manufacturing MSMEs	MSMEs participating in international exhibitions/trade fairs, are reimbursed 75% of the economy air fare and 50% of the space rental charges (100% for special categories), up to Rs 125,000.	2000/ongoing
Mini Tool Rooms	Individual MSEs/MSE consortium	Discontinued	Discontinued from the period subject to the 12th Five Year Plan
Scheme for Micro Finance Programme	Micro finance institutions	The Government provides a Portfolio Risk Fund to the Small Industries Development Bank Of India (SIDBI). The Fund is used to guarantee loans taken by micro finance institutions or NGOs.	2004/ongoing
Implemented by the National Small Industries Corporation (NSIC)			
Government Stores Purchase Programme	MSEs registered with NSIC	The units registered under Single Point Registration Scheme of NSIC are eligible to receive benefits under "Public Procurement Policy for MSEs Order 2012". These include: issue of the Tender Sets free of cost; exemption from exemption from payment of Earnest Money Deposit (EMD); in tender participants, MSES quoting price within price band of L1+15% will be allowed to supply a portion up to 20% of requirement by bringing down their price to L1 price where L1 is non-MSEs'; every central ministries/departments PSUs shall set an annual goal of minimum 20% of the total annual purchase of the products or services produced or rendered by MSEs; out of the annual requirement of 20% procurement from MSEs, 4% is earmarked for units owned by Schedule Caste/Schedule Tribes; 358 items are reserved for exclusive purchase from SSI Sector.	1955/ongoing
Marketing Assistance Scheme	All MSMEs (Maximum amount towards air fare, space rental and shipping/transportation charges)	General category: for micro enterprises, Rs 240,000 in Latin America and Rs 200,000 in other countries; for small enterprises, Rs 210,000 in Latin America and Rs 175,000 in other countries; and for medium enterprises, Rs 125,000 in Latin America and Rs 100,000 in other countries.	Ongoing

Scheme/programme	Eligibility	Description	Introduction/ validity
		Enterprises belonging to NE Region/Women/SC/ST Category: for micro enterprises, Rs 270,000 in Latin America and Rs 225,000 in other countries; for small enterprises, Rs 240,000 in Latin America and Rs 200,000 in other countries; and for medium enterprises, Rs 160,000 in Latin America and Rs 125,000 in other countries.	
Performance and Credit Rating Scheme	All MSEs	MSEs may select a rating agency to obtain a credit rating. The subsidy amounts to 75% of the fee charged by the rating agency, up to Rs 40,000.	2005/ongoing
Raw Materials Assistance Scheme	MSMEs	Short term credit finance is available for 90 days at concessional interest rates. The rate of interest and assistance against the security of BG/SDR/FDR[g], effective 1 February 2013, are: 11.95% (units having valid SE !A rating under NSIC's rating scheme); 12.45% (units having valid SE 2A or SE 1B rating under NSIC's rating scheme); and 12.95% (other units).	2004/ongoing
Implemented by the Khadi and Village Industries Commission (KVIC)			
Prime Minister's Employment Generation Programme[b]	New micro entrepreneurs	The subsidy amounts to 15% of the cost of establishing new micro enterprises in urban areas (25% for special categories); and 25% of the cost of establishing new micro enterprises in rural areas (35% for special categories). Maximum cost is Rs 2.5 million for setting up new manufacturing micro enterprises and Rs 1 million for setting up new micro enterprises engaged in services.	2008/ongoing
Implemented by the Coir Board			
Rejuvenation, Modernization, and Technological Upgradation of Coir Industry	Micro and small coir enterprises	The financial assistance or government grant/subsidy will be 40% of the Project cost. The maximum amount of admissible cost of the project is enhanced to Rs 1 million for the purpose of government subsidy, excluding working capital which must not exceed 25% of the project cost.	2008/ongoing

a National Institute for Micro, Small and Medium Enterprises, National Institute for Entrepreneurship and Small Business Development, and Indian Institute of Entrepreneurship.
b The Rajiv Gandhi Udyami Mitra Yojana scheme and the Rural Employment Generation Programme were merged into the Prime Minister's Employment Generation Programme in August 2008.
c Selected lead agencies for rendering assistance and handholding support to potential first generation entrepreneurs.
d Entrepreneurship Development Institutions, the National Small Industries Corporation (NSIC), the Khadi and Village Industries Commission (KVIC), and the Coir Board.
e Public and Private Sector Banks, Regional Rural Banks, Foreign Banks, and other Financial Institutions.
f The Micro and Small Enterprises Cluster Development Programme was merged with the Integrated Infrastructure Development Scheme in February 2010.
g BG: Bank Guarantees; SDR: Short Deposit Receipts; and FDR: Fixed Deposit Receipts.

Note: "Special categories" refer to MSMEs operated/owned by women or scheduled castes/scheduled tribes or located in the north eastern region.

Source: WTO Secretariat, based on information provided by the Indian authorities.

Table A3. 8 Top 20 patent applicants, 2014

Sl.No.	Patent owner	Country
1	Council for Scientific and Industrial Research	India
2	Qualcomm Incorporated	United States
3	Samsung Electronics Co. Ltd.	Republic of Korea
4	Hindustan Unilever	India
5	Ericsson Ltd.	Sweden
6	Siemens	Germany
7	Tata Group	India
8	Bharat Heavy Electricals Ltd.	India
9	BASF Aktiengesellschaft	Germany
10	Motorola	United States
11	Philips	Netherlands
12	General Motors Global	United States
13	Thomson Licensing	France
14	LG Electronics	Republic of Korea
15	Nokia Corporation	Finland
16	SONY Corporation	Japan
17	Honda Giken Kogyo Kabushiki Kaisha	Japan
18	IBM	United States
19	Research in Motion	Canada
20	Proctor and Gamble	United States

Source: WTO Secretariat, based on information provided by the Indian authorities.

Table A4. 1 Legislation related to pipeline transport for petroleum and natural gas, 2014

Name of legislation
The Petroleum & Minerals Pipelines (Acquisition of Right of User in Land) Amendment Act, 2011
Petroleum and Natural Gas Regulatory Board (Authorizing Entities to Lay, Build, Operate or Expand Natural Gas Pipelines) Regulations, 2008
Petroleum and Natural Gas Regulatory Board (Determination of Natural Gas Pipeline Tariff) Regulations, 2008
Petroleum and Natural Gas Regulatory Board (Affiliate Code of Conduct for Entities Engaged in Marketing of Natural Gas and Laying, Building, Operating or Expanding Natural Gas Pipelines) Regulations, 2008
Petroleum and Natural Gas Regulatory Board (Access Code of Conduct for Common Carrier or Contract Carrier Natural Gas Pipelines) Regulations, 2008
Petroleum and Natural Gas Regulatory Board (Guiding Principles for Declaring or Authorizing Natural Gas Pipelines as Common Carrier or Contract Carrier) Regulations, 2009
Petroleum and Natural Gas Regulatory Board (Technical Standards and Specifications including Safety Standards for Natural Gas Pipelines) Regulations, 2009
Petroleum and Natural Gas Regulatory Board (Determining Capacity of Petroleum, Petroleum Products and Natural Gas Pipelines) Regulations, 2010
Petroleum and Natural Gas Regulatory Board (Integrity Management System for Natural gas Pipelines) Regulations, 2012
Petroleum and Natural Gas Regulatory Board (Imbalance Management Services) Regulations, 2014
Petroleum and Natural Gas Regulatory Board (Development of Model GTA) Guidelines, 2012
Petroleum and Natural Gas Regulatory Board (Capacity Release for Natural Gas Pipeline) Guidelines, 2012
Petroleum and Natural Gas Regulatory Board (Public consultation for Determination of Final Natural Gas Pipeline Tariff) Guidelines, 2012
Modalities of maintaining and operation of Escrow Account under the Petroleum and Natural Gas Regulatory Board (Access Code for Common or Contract Carrier Natural Gas Pipelines)Regulations, 2008
Petroleum and Natural Gas Regulatory Board (Protection of Consumer Interest in respect of Dedicated Pipelines for Natural Gas) Guidelines, 2010
Petroleum and Natural Gas Regulatory Board (Authorizing Entities to Lay, Build, Operate or Expand Petroleum and Petroleum Products Pipelines) Regulations, 2010
Petroleum and Natural Gas Regulatory Board (Determination of Petroleum and Petroleum Products Pipelines Transportation Tariff) Regulations, 2010
Petroleum and Natural Gas Regulatory Board (Determining Capacity of Petroleum, Petroleum Products and Natural Gas Pipeline) Regulations, 2010
Petroleum and Natural Gas Regulatory Board (Guiding Principles for Declaring or Authorizing Petroleum and Petroleum Products Pipelines as Common Carrier or Contract Carrier) Regulations

Source: WTO Secretariat, based on information provided by the Indian authorities.

Table A4. 2 India's banking system, 2011 and 2014

Financial institutions	Number		Definition, function, and laws by which they are governed	Requirements for establishment (if applicable)	
	2011	2014		Nationals	Foreigners
Scheduled commercial banks[a]	81	89	Banks included in the Second Schedule of the Reserve Bank of India 1934	-	-
State bank of India (SBI) and associates	6	6	Governed by the State Bank of India Act 1955. The associates are governed by the State Bank of India (Subsidiary Banks) Act 1959[c]; SBI and associates also governed by the Reserve Bank of India (RBI) Act 1934 and the Banking Regulation Act 1949	Parliamentary approval required; central Government shareholding cannot be less than 51%	FDI and portfolio subject to overall statutory limits of 20%
Nationalized banks	19	19	Governed by the Banking Companies (Acquisition and Transfer of Undertakings) Act 1970 (14 banks) and the Banking Companies (Acquisition and Transfer of Undertakings) Act 1980 (five banks); also regulated by the RBI Act 1934 and the Banking Regulation Act 1949	Parliamentary approval required; central Government shareholding cannot be less than 51%	FDI and portfolio subject to overall statutory limits of 20%
Foreign banks	32	43	Governed by the RBI Act 1934, the Banking Regulation Act 1949, and the Companies Act 1956. The Companies Act 2013 also applies to the extent it is not inconsistent with the Banking Regulation Act 1949	Set up by foreign parent banks	Bank branches of parent banks
Private sector banks	22	20	Companies incorporated under the Companies Act 1956 and licensed under the Banking Regulation Act 1949 (Section 22), to carry on banking business[d]; engaged in activities stipulated in the Banking Regulation Act 1949 (Section 6); governed by the RBI Act 1934, the Banking Regulation Act 1949, and the Companies Act 1956. The Companies Act 2013 also applies to the extent it is not inconsistent with the Banking Regulation Act 1949	Guidelines for licensing issued in 1993 (ten banks licensed); revised guidelines issued in 2001 (two banks licensed); and guidelines for licensing of new banks issued in 2013 ("in-principle" approvals to two applicants)	74% is the maximum aggregate of foreign investment from all sources[e]; 26% of paid-up capital must be held by resident Indians
State cooperative banks	31	32	Principal cooperative society in a State; main objective is to finance other cooperative societies in the state as defined in the National Bank for Agriculture and Rural Development (NABARD) Act 1981 (Section 2(u)); also governed by the RBI Act 1934, the Banking Regulation Act 1949 (as applicable to cooperative societies) and the relevant State's Cooperative Societies Act	Established as per the relevant State's Cooperative Societies Act; licensed by the RBI under the Banking Regulation Act 1949, as applicable to cooperative societies (Section 22)	FDI not allowed

Financial institutions	Number		Definition, function, and laws by which they are governed	Requirements for establishment (if applicable)	
	2011	2014		Nationals	Foreigners
Urban cooperative banks	1,674	1,606	Cooperative societies established and registered under the respective States' Cooperative Societies Act; they are present in 29 states/union territories; under the RBI regulation and supervision since 1 March 1966 when the Banking Regulation Act 1949 applied to them for banking-related functions; other aspects governed by the respective State's Cooperative Societies Act. Co-operative societies having operation in more than one state are governed by the Multi State Co-operative Societies Act 2002	Set up by their members who are Indian nationals	FDI not allowed
Central cooperative banks	371	371	Principal cooperative bank in a district in a State. Main objective is to finance other cooperative societies in that district as defined in the National Bank for Agriculture and rural Development (NABARD) Act 1981 (Section 2(d)). They are also governed by the RBI Act 1934, the Banking Regulation Act 1949 (as applicable to cooperative societies), and the relevant State's Co-operative Societies Act, under which the bank is established	Established as per the relevant State's Cooperative Societies Act; licensed by the RBI under the Banking Regulation Act 1949, as applicable to cooperative societies (Section 22)	FDI not allowed
Regional rural banks	82	57	Governed by the Regional Rural Banks (RRBs) Act 1976, the RBI Act 1934, and the Banking Regulation Act 1949; established to develop the rural economy by providing credit and other facilities, in particular to small and marginal farmers, agricultural labourers, artisans, and small entrepreneurs	Under RRBs Act 1976, central Government may, if requested by a sponsor bank, by notification in the *Official Gazette*, establish one or more RRBs in a State or union territory, and specify the local limits for operation	FDI not allowed

Financial institutions	Number		Definition, function, and laws by which they are governed	Requirements for establishment (if applicable)	
	2011	2014		Nationals	Foreigners
Other institutions					
Development finance institutions	5	..	Promoted or assisted by the Government to provide development finance to one or more sectors or subsectors of the economy; classified as term-lending institutions, refinancing institutions, and sector specific institutions; governed by the RBI Act 1934 and the respective acts enacted by Parliament (the National Housing Bank Act, the Exim Bank Act, the NABARD Act, and the Small Industries Development Bank of India Act)	Only nationals (Parliamentary approval required). Shareholding is by banks, financial institutions, the Government, or RBI	FDI not allowed
Non-banking financial companies (NBFCs)	12,409	11,922	Registered under the Companies Act 1956 to provide loans and advances, acquisition of shares/stock/bonds/debentures/securities issued by the Government or local authorities or other securities of like marketable nature, leasing, hire-purchase, insurance business, and chit business[f]; non-banking institutions whose main business is to receive deposits defined as NBFCs (residuary non-banking company); NBFCs are governed by the RBI Act 1934 (with the RBI as regulator); NBFCs classified as assent finance companies (AFCs)[g], investment companies, loan companies, and infrastructure finance companies (IFCs)[h]; Systematically Important Core Investment Company (CIC-ND-SI)[l]; NBFCs-Factors[m]; NBFC-MFI (Micro Finance Institution)[n]; Infrastructure Debt Fund (IDF)[o]; Mortgage Guarantee Companies (MGC)[p]; and Non-operative Financial Holding Company (NOFHC)[q].	Under RBI Act 1934 (Section 45-IA), must register with the RBI to start or carry on any business of NBFC as defined in the RBI Act 1934 (Section 45-I, clause (a)), and must have minimum net owned fund of Rs 20 million; to prevent dual regulation, certain NBFCs categories, regulated by other regulators, are exempt from the registration requirement[i]	FDI allowed up to 100% of the paid-up capital, subject to minimum capitalization norms: (i) foreign equity ≤ 51%, US$0.5 million minimum capitalization requirement; (ii) foreign equity > 51% but ≤ 75%, it is US$5 million; (iii) foreign equity > 75%, it is US$50 million; can set up step down subsidiaries for specific NBFC activities, without any restriction on the number of operating subsidiaries and without bringing in additional capital.

Financial institutions	Number		Definition, function, and laws by which they are governed	Requirements for establishment (if applicable)	
	2011	2014		Nationals	Foreigners
Primary dealers (PDs)	17[j]	18[k]	System of PDs in Government securities (G-Sec) market, comprising independent entities undertaking PD activity; expected to play an active role in the G-Sec market (primary and secondary market segments); required to support auctions for issue of Government dated securities and treasury bills as per the minimum norms prescribed by the RBI from time to time; stand-alone PDs registered as NBFCs under the RBI Act 1934 (Section 45-IA); their operations regulated by RBI guidelines issued from time to time; banks' PD activities governed by guidelines issued by the RBI	Non-bank applicant must have net owned funds (NOFs) of at least Rs 1.5 billion; a PD undertaking other permissible activities must have NOFs of at least Rs 2.5 billion; banks may undertake PD business departmentally subject to: (i) minimum NOF of Rs 10 billion; (ii) minimum CRAR of 9%; and (iii) net NPAs of less than 3% and a profit-making record for the last three years	Subsidiaries or joint-ventures set up by entities incorporated abroad need approval of the Foreign Investment Promotion Board for PD activities

.. Not available.

a Includes the State bank of India and associates, nationalized banks, foreign banks, and private sector banks.
b Including six associates.
c The State Bank of Hyderabad is governed by the State Bank of Hyderabad Act 1956.
d Accepting for the purpose of lending or investment of deposits of money from the public, repayable on demand or otherwise and withdrawable by cheque, draft or order or otherwise.
e FDI, foreign institutional investors, and non-resident Indians.
f NBFCs do not include institutions whose principal business is that of agriculture or industrial activities, and sale/purchase/construction of immovable property.
g AFCs are financial institutions. Their principal business is the financing of physical assets supporting productive/economic activity (e.g. automobiles, tractors, later machines, generator sets, earth-moving, and material handling equipment) moving on own power and general purpose is defined as aggregate of financing real/physical assets supporting economic activity and income arising therefrom is not less than 60% of total assets and total income, respectively.
h IFCs are non-deposit-taking NBFCs that fulfil the following criteria: (i) at least 75% of the total assets should be deployed in infrastructure loans, as stipulated in the Non-Banking Financial (Non-Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions 2007 (Para 2(viii)); (ii) minimum net owned funds of Rs 3 billion; (iii) minimum credit rating "A" or equivalent of CRISIL, FITCH, CARE, ICRA or equivalent rating by other accrediting rating agencies; and (iv) CRAR of 15% (with minimum tier I capital of 10%).
i Venture capital fund, merchant banking companies, stock-broking companies registered with the Securities and Exchange Board of India, insurance companies holding a valid certificate of registration issued by IRDA, Nidhi companies as notified under the Companies Act 1956 (Section 60A), chit companies as defined under the Chit Funds Act 1982 (Section 2, clause (b)) or housing finance companies regulated by the National Housing Bank.
j Of which, 8 stand-alone PDs and 9 bank PDs.
k Of which, 7 stand-alone PDs and 11 bank PDs.
l CIC-ND-SI is an NBFC carrying on the business of acquisition of shares and securities which satisfies the following conditions: (a) it holds not less than 90% of its total assets in the form of investment in equity shares, preference shares, debt or loans in group companies; (b) its investments in the equity shares (including instruments compulsorily convertible into equity shares within a period not exceeding 10 years from the date of issue) in group companies constitutes not less than 60% of its total assets; (c) it does not trade in its investments in shares, debt or loans in group companies except through block sale for the purpose of dilution or disinvestment; (d) it does not carry on any other financial activity referred to in Section 45I(c) and 45I(f) of the RBI act 1934 except investment in bank deposits, money market instruments, government securities, loans to and investments in debt issuances of group companies or guarantees issued on behalf of group companies; (e) its asset size is Rs 1 billion or above; and (f) it accepts public funds.

m NBFC-Factor is a non-deposit taking NBFC engaged in the principal business of factoring. The financial assets in the factoring business should constitute at least 50% of its total assets and its income derived from factoring business should not be less than 50% of its gross income.

n NBFC-MFI is a non-deposit taking NBFC having not less than 85% of its assets in the nature of qualifying assets which satisfy the following criteria: (a) loan disbursed by an NBFC-MFI to a borrower with a rural household annual income not exceeding Rs 60,000 or urban and semi-urban household income not exceeding Rs 120,000; loan amount does not exceed Rs 35,000 in the first cycle and Rs 50,000 in subsequent cycles; total indebtedness of the borrower does not exceed Rs 50,000; tenure of the loan not to be less than 24 months for loan amount in excess of Rs 15,000 with prepayment without penalty; loan to be extended without collateral; aggregate amount of loans, given for income generation, is not less than 70% of the total loans given by the MFIs; and loan is repayable on weekly, fortnightly or monthly instalments at the choice of the borrower.

o IDF-NBFC is a company registered as NBFC to facilitate the flow of long term debt into infrastructure projects. An IDF-NBFC raises resources through issue of rupee or U.S. dollar denominated bonds of minimum 5-year maturity. Only Infrastructure Finance Companies (IFC) can sponsor IDF-NBFCs.

p MGC are financial institutions for which at least 90% of the business turnover is mortgage guarantee business or at least 90% of the gross income is from mortgage guarantee business and net owned fund is Rs 1 billion.

q Non-Operative Financial Holding Company (NOFHC) is financial institution through which a promoter or promoter groups will be permitted to set up a new bank. It is a wholly-owned Non-Operative Financial Holding Company (NOFHC), which will hold the bank as well as all other financial services companies regulated by RBI or other financial sector regulators, to the extent permissible under the applicable regulatory prescriptions.

r As on June 2011.

s As on November 2014.

Source: WTO Secretariat, based on information provided by the Indian authorities.

Table A4. 3 Telecom licensing regimes, 2014

Financial requirement	Obligation	Fee
Unified access service (UAS) for fixed and mobile telephony		
Financial bank guarantee (Rs 20-440 million) and performance bank guarantee (Rs 100-200 million)	Minimum 10% District Head Quarter/Towns coverage during the first year and 50% within three years in urban areas[a]; and up to 30% Block head Quarters in 5 year	Application processing fee (Rs 50,000), one-time entry fee (Rs 5 million-Rs 150 billion), and annual fee (8% of adjusted gross revenue)[b]
National long-distance		
Financial bank guarantee (Rs 50 million); and minimum net worth and paid-up equity capital (Rs 25 million)	Interconnection to international long-distance service providers	Application processing fee (Rs 50,000), one-time entry fee (Rs 25 million), and annual fee (8% of the adjusted gross revenue)
International long-distance		
Financial bank guarantee (Rs 50 million); and minimum net worth and paid-up equity capital (Rs 25 million)	Interconnection to national long-distance service provider	Application processing fee (Rs 50,000), one-time entry fee (Rs 25 million), and annual fee (8% of adjusted gross revenue)
Internet service providers[c]		
Category A		
Financial bank guarantee (Rs 1 million) and performance bank guarantee (Rs 20 million)	n.a.	Application processing fee (Rs 50,000), one-time entry fee (Rs 3 million), and annual fee (8% of adjusted gross revenue
Category B		
Financial bank guarantee (Rs 100,000) and performance bank guarantee (Rs 1 million)	n.a.	Application processing fee (Rs 15,000), one-time entry fee[c] (Rs 2 million), and annual fee (8% of adjusted gross revenue
Category C		
Financial bank guarantee (Rs 10,000) and performance bank guarantee (Rs 50,000)	n.a.	Application processing fee (Rs 10,000), one-time entry fee[c] (Rs 20,000), and annual fee (8% of adjusted gross revenue
Infrastructure providers		
Category I[d]		
n.a.	n.a.	Application processing fee (Rs 5,000)

n.a. Not applicable.

a No coverage requirement in rural areas.
b Since 1 October 2008, operators providing fixed telecom services in rural areas are exempt from the annual fee.
c Internet service providers with net worth of Rs 1 billion are allowed to provide internet protocol television service (at present, two providers).
d Lease/rent out/sell dark fibre, right of way, duct space, and tower to telecom service providers.
e Lease/rent out/sell end-to-end bandwidth, i.e. digital transmission capacity capable of carrying a message, to telecom service providers.

Note: The financial bank guarantee ensures the payment of charges/fees by the Government, e.g. spectrum charges and licensing fees. The performance bank guarantee ensures that providers meet their roll-out obligations. The validity of all licences above are 20 years, renewable for 10 years.

Source: Department of Telecommunications online information. Viewed at: http://www.dot.gov.in/sites/default/files/amended%20%20UL%20guidelines.pdf, and information provided by the Indian authorities.

Table A4. 4 IMO Conventions and protocols ratified by India, 2014

IMO Conventions ratified by India
Name of convention
Convention on the International Maritime Organization (IMO Convention) 1948
International Convention for the Safety of Life at Sea (SOLAS Convention) 1974
International Convention of Load line (Load Lines Convention) 1966
International Convention on Tonnage Measurement of ships (Tonnage Convention) 1969
Convention of the International Regulations for Preventing Collisions at Sea (COLREG Convention) 1972
International Convention for Safe containers (CSC Convention) 1972
International Convention on Standards of Training Certification and Watch-keeping for seafarers (STCW Convention) 1978
International Convention on Maritime Search and Rescue (SAR Convention) 1979
Convention on the International Maritime Satellite Organization (IMSO Convention) 1976
Convention on Facilitation of International Maritime Traffic (Facilitation convention) 1965
International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties (Intervention Convention) 1969
Convention on limitation of liability for Maritime Claims (LLMC Convention) 1976
Convention for suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention) 1988
International Convention on Salvage (Salvage Convention) 1989
International Convention on Oil Pollution Preparedness response and cooperation (OPRC Convention) 1990
Nairobi International Convention on the Removal of Wrecks (Nairobi Convention) 2007
International Convention for the Prevention of Pollution From Ships (MARPOL) 1973, 1978
Protocol to the International Convention on Civil Liability for Oil Pollution Damage (CLC Convention) 1969 (now denounced)
International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (Fund Convention) 1971
Protocols ratified by India
Name of the Protocol
Protocol of 1978 relating to the International Convention for Safety of Life at Sea of 1 November 1974 (SOLAS Protocol) 1978
Protocol of 1988 relating to the International Convention for Safety of Life at Sea (SOLAS Protocol) 1988
Protocol of 1988 Relating to the International Convention of Load Lines 1966 (Load Lines Protocol 1988)
Protocol on Space Requirements for Special Trade Passenger Ships (STP Protocol) 1973
MARPOL Protocol 1997 (Annex VI)
CLC Protocol 1976
CLC Protocol 1992
Fund Protocol 1976
Fund Protocol 1992
LLMC Protocol 1996
SUA Protocol 1988
Agreement ratified by India
Name of agreement
Special Trade Passenger Ships Agreement (STP) 1971
Operating agreement ratified by India
Name of operating agreement
Operating Agreement on the International Mobile Satellite Organization (IMMARSAT) 1976 (as amended)

Source: WTO Secretariat, based on information provided by the Indian authorities.

Table A4. 5 Air service agreements concluded by India, 2014

Name of trading partner	Date of signing of agreements
Afghanistan	26 January 1952
Algeria	26 June 2000
Armenia	5 December 2000
Australia	6 March 2006
Austria	26 October 1989
Azerbaijan	16 April 2012
Bahrain	5 April 2000
Bangladesh	5 May 1978
Barbados[a]	1 July 2010
Belarus	28 September 1997
Belgium	6 April 1967
Bhutan	22 December 2009
Bosnia and Herzegovina	21 May 2010
Brazil	8 March 2011
Brunei	6 November 1995
Bulgaria	16 June 1992
Cambodia	9 April 2002
Canada	20 July 1982
Chile	21 April 2008
China	22 December 1988
Croatia	12 September 2000
Cyprus	18 December 2000
Czech Republic	16 October 1997
Denmark	19 December 1995
Djibouti	19 May 2003
Egypt	9 April 1997
Ethiopia	3 August 1967
Fiji	28 January 1974
Finland	18 July 1995
France	16 July 1947
Georgia	4 November 1997
Germany	31 May 1963
Ghana	25 January 1978
Hong Kong, China	10 October 1996
Hungary	23 February 1966
Iceland	14 January 2010
Indonesia	25 January 2011
Iran	9 July 2010
Iraq	27 July 1955
Ireland	20 February 1991
Israel	4 April 1994
Italy	16 July 1959
Japan	26 November 1955
Jordan	16 October 1989
Kazakhstan	10 September 1993
Kenya[a]	30 September 2009
Kuwait	4 January 1989
Kyrgyzstan	8 September 1993
Latvia	20 October 1997
Lebanon	19 September 1964
Lesotho	16 September 1992
Lithuania	20 February 2001
Luxembourg	8 January 2001
Macao, China	11 February 1998
Madagascar	6 October 2010
Malaysia	22 May 1974
Maldives	24 December 2008
Malta	5 October 1998
Mauritius	28 January 1972
Mongolia	30 November 1998
Mexico	17 April 2008
Morocco[a]	11 December 1996
Myanmar	28 May 2012
Nepal	16 February 2010
Netherlands	24 May 1951
New Zealand	26 August 1997
Nigeria	31 January 1978

Name of trading partner	Date of signing of agreements
Norway	19 December 1995
Oman	31 May 1995
Pakistan	16 July 1976
Philippines	20 October 1949
Poland	25 January 1977
Portugal	6 February 1997
Qatar	14 April 2005
Rwanda[a]	1 July 2010
Republic of Korea	16 March 1992
Russian Federation	21 December 1998
Romania	4 December 1993
Saudi Arabia	26 April 1973
Senegal[a]	2 July 2010
Seychelles	30 October 1978
Singapore	23 January 1968
Slovakia	9 October 1996
Slovenia	16 February 2004
South Africa	4 June 2010
Spain	10 April 1987
Sri Lanka	21 December 1948
Sweden	19 December 1995
Switzerland	2 May 2001
Chinese Taipei	..
Tajikistan	10 May 2001
Tanzania	29 September 1982
Thailand	19 December 1969
Trinidad and Tobago	6 January 2012
Tunisia	8 February 2007
Turkey	10 April 1986
Turkmenistan	14 September 1993
United Arab Emirates	7 January 2014
United Kingdom	8 September 2005
Uganda	5 October 1997
Ukraine	7 July 1995
United States	14 April 2005
Uzbekistan	24 May 1993
Viet Nam	November 2013
Yemen	20 July 1999
Yugoslavia[a]	31 January 2001
Zambia	15 November 1993
Zimbabwe	19 June 2014

.. Not available.

a Initialled.

Source: WTO Secretariat, based on information provided by the Indian authorities.