India, the United States and the Future of the International Trade Order

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Regardless of the party in power, successive U.S. administrations have agreed that China poses a threat to the United States-led order. Consequently, the United States has looked not just to its formal allies, but also to partners to shore up its global power. The United States' partnership with India has been a significant part of this strategy. While U. S. overtures to India are long-standing—dating back to the George W. Bush administration—India, on the other hand, responded sporadically. It was really under the first Trump administration that the relationship took off, with India, often slow to commit, signing three defense agreements with the United States in just four years. The Biden administration continued to make this partnership even more central to its Indo-Pacific strategy, and its "friendshoring" agenda, reaching out to key partners and allies to divert important supply chains away from China. Given how complex and layered the U.S.-India partnership has become and the bipartisan support for continuing to develop it, President Trump is unlikely to deviate from the U.S. outreach to India. However, the United States still has a very tenuous grasp on India's interests, particularly on where India stands with respect to the different norms underpinning the U.S.-created liberal international order. Without this understanding, it is futile to expect India to pose a true counterbalance to China. This is particularly the case with respect to the international trade order.

The rapid development of U.S.-India defense ties has sometimes obscured the fact that the bilateral trade relationship has been strained for a while. The United States objects to India's protectionism, while India sees the United States as insufficiently accommodational of its position as a developing country. President Trump has invited Prime Minister Modi to visit Washington this week to meet with him. Top of the agenda will be the issue of bilateral trade. India has a $35 billion trade surplus with the United States, and President Trump has complained about the U.S. trade deficit with India and others. But, although tariffs are likely to be the looming issue given President Trump's threats towards Canada, Mexico, China, and Europe, the U.S. administration also needs to understand where India stands on important norms in the international trade order. Particularly if, as reports suggest, a trade deal is in the offing.

The following Council on Foreign Relations (CFR) memos by trade experts in three countries are part of a project assessing India's approach to the international order and illustrate India's position on

important trade issues— digital trade, the World Trade Organization (WTO), and industrial policy— both globally and with respect to the United States.

Kholofelo Kugler (Geneva, Switzerland) argues that India's positions deviate sharply from the global norm of liberalization in digital trade, and, despite its growing technology sector, consistently undermine its information communications and technology (ICT) interests. Conversely, India aligned with the United States on many aspects of digital trade under the Biden administration, as the United States became increasingly protectionist with respect to cross-border data flows, data localization, and source code. The Trump administration's views on this issue are still unclear.

Inu Manak (Washington DC) argues that the United States' pullback from the WTO has opened up space for India to exert leadership. Claiming the mantle of Global South leader, India has been extremely obstructionist and made efforts to disrupt the WTO agenda, undermining progress in important areas such as agriculture negotiations and fisheries subsidies. Paradoxically, its efforts have earned the ire of many Global South countries and undermined its own potential to reap benefits from the international trade system.

Sarthak Pradhan (Bengaluru, India) argues that India has a long-standing practice of implementing industrial policy measures to boost domestic manufacturing. While these measures often lead to trade disputes, hamper foreign firms operating in India, and violate WTO rules, they have come to be in keeping with emerging global trade norms that are being put forth by not just the United States, but also the European Union and China. But India's measures are currently even more stringent than these countries' and importantly, have not fulfilled India's goal of boosting its manufacturing sector.

The Great Disconnect in India's Digital Trade Policy

Kholofelo Kugler, University of Lucerne

Introduction

While the COVID-19 pandemic devastated many economic sectors, it catapulted the growth of the information communications and technology (ICT) sector. Between 2018 and 2022, the world gained 1.5 billion new internet users. In 2020, the first year of the COVID-19 pandemic, the share of global internet users increased by 6 percent—some 500 million people. This is the highest increase in history. Although growth slowed in 2021 and 2022, the number of internet users still grew faster than most years during the past two decades. The vast majority of this growth is attributed to low-income and lower-middle-income countries—countries such as India.

Yet, unlike other countries, India has not pursued market access or favorable regulatory environments through preferential trade agreements (PTAs), standalone digital trade agreements, or digital economy agreements. In fact, India consistently undermines its ICT interests in multilateral discussions at the World Trade Organization (WTO). This behavior sets it apart from the emerging global norms toward liberalization in digital trade. However, India's approach aligns with an increasingly protectionist actor: the United States.

India's Growing Technology Sector

The ICT sector is hugely important to the Indian economy, contributing approximately 13 percent to its gross domestic product (GDP). India seeks to grow this sector to $1 trillion by 2025, or 20 percent of GDP. All subsectors of India's technology industry, including information technology (IT) and business process management, IT-enabled services, engineering research and development, hardware, software products, and ecommerce, recorded double-digit growth in 2022.

Additionally, India is renowned for its highly skilled and mobile ITC professionals. In the 2019 fiscal year, Indian nationals accounted for 74.5 percent H-1B visa petitions for both initial and continuing employment in the United States.[1] In 2021 and 2022, the top three sponsors of H-1B employees were Amazon, Google, and Meta.[2] India has significant interests in the ICT sector, and should want to ensure that it does not face trade barriers and global immigration policies that inhibit the expansion of its ICT sector and the mobility of its ICT professionals.

India and Digital Trade at the WTO: The Consistent Objector

Digital trade issues have been important to the WTO's agenda since its early days. In 1998, WTO members adopted the Declaration on E-Commerce, which established a comprehensive "Work Program" to examine all trade-related issues relating to global ecommerce. The declaration also provided for a provisional moratorium on customs duties on electronic transmissions pursuant to which members agreed not to impose customs duties on digital transmissions (this ecommerce work program was formally adopted by the General Council in 1998).

However, the customs duty moratorium has become extremely contentious in recent years. It was the subject of intense negotiations—led by India—at the Twelfth Ministerial Conference in June 2022. While members finally agreed to maintain the moratorium until the Thirteenth Ministerial Conference in 2024, it did not survive that conference: the customs duty moratorium is set to expire at the WTO's Fourteenth Ministerial Conference or March 31, 2026, whichever is earlier.[3]

India's opposition to maintaining the customs duty moratorium stems from its long-standing belief that the practice significantly impairs developing countries' ability to generate revenue. India first raised concerns about the moratorium in 2001. But its more recent opposition is rooted in arguments laid out in several papers circulated with South Africa since 2018. India considers that developing countries in the WTO could generate forty times more tariff revenue by imposing customs duties on electronic transmissions compared to developed members, many of which have low-bound duties on the physical imports of digital products.[4] Further, India emphasized a paper commissioned by the UN Conference on Trade and Development (UNCTAD) argued, based on forty-nine digital products, that the potential annual tariff revenue loss for developing-country members would be $10 billion using average-bound duties and $5.1 billion using average most-favored-nations applied rates.[5]

Other Issues and the E-Commerce JSI

Outside the customs duty moratorium, India has submitted over forty papers in various WTO forums on consumer protection, digital public infrastructure, and competition. India identifies the digital divide as the common denominator underlying the challenges facing developing countries in those and other digital-economy areas. India also posits that increased data flows provide established online platforms with a competitive advantage, further entrenching the digital divide between developed and developing countries.[6]

The lack of tangible progress and growing disagreement in the WTO E-commerce Work Program spurred a few members to pursue an alternate route, called the Joint Statement Initiative on E-commerce (E-Commerce JSI).[7] Those negotiations began in January 2019, and in July 2024 the co-conveners (Australia, Japan, and Singapore) produced the Agreement on E-Commerce. Currently, ninety-one WTO members, accounting for 90 percent of global trade, are contemplating how to incorporate this agreement into their WTO commitments. They face a gargantuan task after India blocked the adoption of another JSI on investment facilitation.[8] India did not participate in the E-Commerce JSI, nor is it party to the E-Commerce Agreement. In fact, India and South Africa have argued that JSIs are neither plurilateral nor multilateral agreements within the WTO Agreement because they are not the result of consensus-based decision-making as enshrined in that treaty.[9]

India's Digital Trade Policy in Its Preferential Trade Agreements

India has concluded twenty-one reciprocal PTAs. Except for the latest agreements that it concluded with the United Arab Emirates (UAE), Australia, and the European Free Trade Association (EFTA) countries (which include Iceland, Liechtenstein, Norway, and Switzerland), India's agreements are typically shallow, limited to goods, and exclude sensitive sectors. (See table 1 below.)

India's Preferential Trade Agreements

Name of Agreement	Member Countries (Includes India)	Year of Entry into Force
EFTA-India FTA	European Free Trade Association*	2024
India-United Arab Emirates (UAE) Comprehensive Economic Partnership Agreement	United Arab Emirates	2022
Australia-India Economic Cooperation and Trade Agreement (ECTA)	Australia	2022
India-Mauritius Comprehensive Economic Cooperation and Partnership Agreement	Mauritius	2021
ASEAN-India (Services) Agreement	ASEAN	2015
India-Japan FTA	Japan	2011
India-Malaysia ECA	Malaysia	2011
Association of Southeast Asian Nations (ASEAN) - India Framework Agreement	ASEAN (Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam)	2010
India-Korea FTA	Korea	2010
ASEAN-India (Goods) Agreement	ASEAN	2010
Finland-India Economic Cooperation Agreement*	Finland	2010
India – Mercado Común del Sur (MERCOSUR) FTA	MERCOSUR (Argentina, Bolivia, Brazil, Paraguay, Uruguay)	2009
India-Nepal Treaty of Trade	Nepal	2009
Chile India PTA	Chile	2007
Asia Pacific Trade Agreement	Bangladesh, China, Laos, Korea, Sri Lanka	2006
Bangladesh-India FTA	Bangladesh	2006
Bhutan-India Trade, Commerce, and Transit Agreement	Bhutan	2006
South Asian Free Trade Area (SAFTA)	Bangladesh, Bhutan, Maldives, Nepal, Pakistan, Sri Lanka	2006
India-Singapore Comprehensive Economic Cooperation Agreement (CECA)	Singapore	2005
India-Thailand Framework Agreement	Thailand	2004
India- Afghanistan PTA	Afghanistan	2003

* Agreement signed but not yet in force

Source: Trade Agreements Provisions on Electronic-commerce and Data (TAPED)

COUNCIL on FOREIGN RELATIONS

Thus far, India has included ecommerce or digital trade–related provisions in seven agreements, with dedicated digital trade chapters in only two PTAs: the India-Singapore Comprehensive Economic Cooperation Agreement (CECA) and the India-UAE Comprehensive Economic Partnership Agreement (CEPA).[10] The ecommerce chapter of the India-Singapore CECA, which was signed in 2005, contains only six provisions. Interestingly, one of the main substantive provisions is the incorporation of a bilateral customs duty moratorium on electronic transmissions. (The prohibition does not apply to internal taxes or other non-discriminatory internal charges.) Each party has the right to determine "the customs value of imported carrier media bearing digital products according to the cost or value of the carrier medium alone, without regard to the cost or value of the digital products stored on the carrier medium." This view is consistent with India's stance at the WTO. The PTA also includes nondiscrimination obligations with respect to digital products.

The digital trade chapter of the India-UAE CEPA, which was signed in 2022, is considerably more developed. Even though it contains soft obligations, it remains India's most comprehensive digital trade chapter: it contains twenty provisions on topics such as authentication, online consumer protection, and personal data protection. Noticeably absent is any provision on the nondisclosure of source code.

Notable provisions in the India-UAE CEPA include soft commitments on data protection and cross-border data flows. Under the latter provisions, the parties maintain the right to restrict cross-border data flows and impose data localization requirements. Those data-related provisions have become standard in new-generation digital trade agreements, although with divergent levels of legal bindingness. The prohibition on applying customs duties on electronic transmissions is also of note. Ironically, this prohibition is subject to the outcome of the WTO discussions under the E-Commerce Work Program.[11] In other words, the customs duties moratorium between India and the UAE could expire with the WTO customs duty moratorium that India worked to eliminate.

The negotiations in which India has managed not to undertake digital trade obligations are just as important, and potentially more revealing, than those in which it has. Specifically, India's most recent PTAs—the Australia-India Economic Cooperation and Trade Agreement and the EFTA-India Free Trade Agreement—do not contain digital trade chapters. This is an anomaly, particularly for Australia, which is a digital trade champion. One glaring similarity between those agreements is that India's negotiating partners are advanced developed economies.

Moreover, India took an active role in the negotiation of the Regional Comprehensive Economic Partnership, but did not sign it. Reports suggest that India had reservations about certain provisions in the ecommerce chapter.[12] Although subject to generous exceptions, this chapter includes hard commitments on data localization and cross-border data, unlike the India-UAE CEPA.[13]

India is currently negotiating PTAs with several other trading partners. Negotiations with the European Union and the United Kingdom are advanced, and both are anticipated to include dedicated chapters on digital trade. The EU has presented a proposal for a chapter on digital trade with provisions on cross-border data flows and protection of source codes.[14] The UK, meanwhile, considers digital trade a priority sector where India maintains barriers in the form of source code

disclosures and data localization requirements.[15] How much policy space India can carve out in those agreements with two of its most important trade partners remains to be seen.

India's Digital Alignment With the United States

India and the United States have become increasingly aligned on digital trade issues, albeit for different reasons. While the United States has a distinct national security rationale underpinning its policymaking, India's interests are principally driven by mercantilism. For example, India has refused to join the trade pillar of the U.S.-led Indo-Pacific Economic Framework (IPEF), which was envisaged to address digital trade issues.[16] According to reports, India did not find sufficient benefit in being a party to it.[17] Other countries shared India's misgivings. In October 2023, the United States changed its hitherto liberal stance on digital trade and withdrew its proposals on cross-border data flows, data localization, and source code within the context of the E-Commerce JSI negotiations. Subsequently, in November 2023, the Joe Biden administration suspended negotiations on digital economy under the trade pillar. It is too early to predict Donald Trump 's digital trade agenda in his second administration. However, the postponement of the TikTok ban could signal a less confrontational approach to digital trade with China. On the other hand, it also remains to be seen whether the strong tech influence in his administration will cool down the domestic antitrust proceedings and focus only on ones taking place abroad.

India is also more comfortable engaging with the United States on bilateral deals. Specifically, in May 2022, Indian Prime Minister Narendra Modi and U.S. President Biden informally launched the Initiative for Critical and Emerging Technology. Led by the Indian National Security Council Secretariat and the U.S. National Security Council, the initiative looks to "expand partnership in critical and emerging technologies."[18] Although it is not focused on digital trade between the two countries, it supports U.S.-India collaboration in ensuring supply-chain resilience in critical minerals and semiconductors, which are crucial to the digital economy. It also supports steps that provide enhanced access to top Indian artificial intelligence scientists, engineers, and entrepreneurs to go to the United States, including policies and regulations that streamline visa processing, modernize the H-1B application process, and clarify the rules for O-1 visas.[19]

Conclusion: Reconciling India's Approach to Digital Trade

India's digital trade policy appears to be replete with contradictions. While it is a major exporter of digital skills and services with one of the fastest-growing ICT markets in the world, India has pursued policies that appear inimical to its own interests and contrary to many of the emerging global norms on digital trade. At the multilateral level, India has induced the expiry of the customs duty moratorium, which has been a mainstay in digital trade for almost thirty years. It has refused to join digital trade-related negotiations and has instead chosen to criticize them at every turn and even jeopardize the E-Commerce Agreement's incorporation into the WTO rulebook. While India has done better in its PTAs, it has avoided entering into hard obligations on issues such as cross-border data flows and data localization. It has also evaded digital trade agreements with advanced economies. But it has also aligned with the United States' own changing norms on digital trade and proved willing to bilaterally partner with the United States to produce technologies critical for digital trade.

India's rather coquettish approach to hard rules and commitments in digital trade is rooted in how it has historically seen its interests. Although it has become a leading services economy, India has always been reluctant to liberalize trade in services. In fact, it opposed services liberalization

during the Uruguay Round.[20] A principal reason is that most services in India, including financial services and communications, were historically provided through state-owned monopolies.

Obviously, the Indian state had a strong interest in maintaining its uncontested market share. As the domestic services economy dominated the nonservices sectors, India liberalized its domestic services market, including by softening its domestic policy on investment flows in software services. In contrast, India limited its offerings to potential foreign competitors in those digital-facing sectors at the WTO. India's hawkish stance on digital trade liberalization continues to shape its external digital trade policy to date.[21]

Going forward, it is unclear whether India can continue to dance around digital trade obligations in its advanced negotiations with the EU and UK. Their deep interest in binding digital trade commitments makes it unlikely that India can elude all hard commitments, especially on cross-border data flows and the EU's uncompromising stance on data protection. What is patently clear, however, is that India prefers to maintain as much policy space as possible when it comes to digital trade.

The United States and India, on the other hand, have increasingly converging views on digital trade issues. They both eschew obligations on cross-border data flows, data localization, and source code to maximize their domestic policy space. They are also both less interested in the WTO's digital trade agenda. Although the Biden administration took the digital economy off the table in IPEF, both countries should explore dialogue on digital trade in other, less formal forums, including bilaterally. Each country has what the other needs: India offers digital skills and innovation, while the United States brings capital, know-how, and advanced technology to the table. They could, for example, conclude a light-touch agreement similar to the India-UAE CEPA. This deal could include enhanced access to the U.S. ICT labor market for India's skilled professionals by creating an increased India-only H-1B visa allocation (however, this could be jeopardized by the recent intra-Republican spat over those visas). Although unlikely allies from afar, the United States and India are more similar in digital trade issues than they are different. It could serve each of them well to at least initiate bilateral talks on this topic.

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How India Disrupts and Navigates the World Trade Organization

Inu Manak, Council on Foreign Relations

Introduction

India is a contradiction in the World Trade Organization (WTO): both a norm-breaker and a dealmaker. When the WTO was established in 1995, India had already begun a series of economic reforms to help it take advantage of the benefits of global trade and grow into a force to be reckoned with in international institutions. However, India has both resisted and embraced multilateralism depending on the balance of its offensive and defensive trade interests. As reforms slowed down in the 2000s and the multilateral trade negotiations called the Doha round failed in 2011, India became a force for obstruction, partnering with different groups of countries to lead by disrupting the WTO. Furthermore, the notable decline of U.S. power in the organization and disinterest in the multilateral trading system has left a substantial governance gap and increased India's influence.

In three important normative areas of WTO discussion—plurilaterals, agricultural negotiations, and special and differential treatment (SDT)—India has tried to carve out an ostensibly principled position as the voice of Global South nations. However, its actions have undermined progress at the WTO and weakened India's own potential to reap, in the long run, further benefits from the international trading system.

The Plurilateral Game in Town That India Does Not Want to Play

Plurilateral deals have become an important component of the WTO's rulebook, a normative practice India opposes.[1]
Plurilateral deals allow a subset of members to pursue talks on a specific subject, provided they meet a critical mass or sufficient portion of members. Plurilateralism arose in response to criticism that the WTO had become irrelevant due to its principle of decision by consensus—that is, when negotiating new high-standard trade rules to keep up with changing times, all members had to sign off on deals whether or not they were part of negotiations.[2] With 166 WTO members it is increasingly difficult to conclude multilateral talks among all. Furthermore, some members do not have the capacity to negotiate or have not established a presence in the market under consideration.

Plurilaterals, like multilaterals, can extend benefits to all members even if they are not part of negotiations, or they can discriminate against members not party to the deal.[3] Some plurilaterals create new rules; others do not.[4] Overall, they have become crucial to the WTO architecture.

India, alongside South Africa, has objected to all plurilateral deals, claiming erroneously that they are illegal in the WTO.[5] For example, India opposes the Investment Facilitation for Development (IFD) Agreement, a deal reached by 125 (mostly developing-country) members to improve transparency and good governance in domestic investment procedures, in order to create a sound investment

climate and attract foreign direct investment. Some estimates suggest that deal could generate global welfare gains between $250 billion and $1,120 billion, primarily benefiting poorer countries.[6] Yet, India, while publicly stating a desire for increasing foreign investment, has vehemently opposed it.[7]

India's opposition references a decision by the General Council (the WTO's highest-level decision-making body)—that negotiations on the "Relationship Between Trade and Investment, Interaction Between Trade and Competition Policy and Transparency in Government Procurement" would not be part of the Doha round of negotiations—as evidence there is no mandate to discuss trade-related investment issues.[8] But India has similarly opposed other recent plurilaterals on the basis that there is no express mandate to negotiate them.

However, the Government Procurement Agreement (a plurilateral only extending benefits to signatories) entered into force in 1994 and has been subsequently modified, with no similar objection made. Few WTO members support a return to multilateral negotiating rounds covering a broad range of issues, often referred to as a single undertaking. Furthermore, any mandate the WTO has is decided by its membership, and therefore, a decision by the General Council is not law but a guiding framework subject to change by members if they find an alternative way forward. In citing the General Council's statement as evidence and opposing plurilaterals, which nearly all members support, India largely stands alone as a norm-breaker. Unfortunately, it also holds the key to closing any deal other members want to undertake, because India can effectively block a deal's adoption unless it receives something in return.

India's Objections to Agricultural Negotiations

India also disrupts changing norms in agricultural negotiations. Distortions in agricultural markets and the entry of new major players have caused norms to evolve, as has the need to address modern, emerging concerns such as climate change. India is committed to the Doha work program, which emphasized the specific challenges that developing countries faced in implementing WTO commitments and has joined a group of developing countries in resisting both exploration of a new agenda and "fresh thinking" in agriculture.[9]

The new agenda on agriculture goes beyond old debates over reducing space for trade-distorting agricultural support.[10] It also includes balancing members' domestic agricultural concerns related to food security and repurposing subsidies to enable them to address climate change.[11] Members providing domestic support to their own agricultural sectors is one of the most contentious ongoing debates at the WTO, despite the fact that the Agreement on Agriculture strikes a fine balance between giving members space to address domestic agricultural concerns, while at the same time ensuring that trade distorting practices are limited.

WTO rules divide agricultural support into four categories, the first of which is subject to imposed limits: the "amber box," which has a more than minimal trade distorting effect; the "blue box," which addresses distortion of amber subsidies with a production curb; the "green box," which have no or minimal distortive effect on trade; and the "development box," or Article 6.2, which gives special flexibilities to developing countries.[12]

Domestic support measures can increase production and could help improve productivity (e.g., by inducing the use of improved seeds), but they can also introduce new inefficiencies or amplify old ones.[13] Importantly, support is concentrated among a handful of countries because few have the resources to invest heavily in their agricultural sectors, and even those that do usually aid only their largest producers. Furthermore, although some supports—such as research-and-development investments in creating improved seeds—have improved productivity, providing trade-distorting support to inefficient producers keeps them in the market longer than they should be. Higher prices due to price supports also impact consumers or government fiscal expenditures. The former creates greater inequalities in the market, while the latter stresses government budgets.

Trade-distorting agricultural domestic support notified to the WTO has decreased over time in nominal value and as a percentage of the value of agricultural production, while support that has no (or a minimally trade-distorting) effect has seen notable growth.[14] However, that decrease has not meant distorting support is no longer a problem. Pandemic disruptions and post-pandemic tensions fueled some recent spikes in support: for example, between 2021 and 2023, total agricultural subsidies and price support of fifty-four countries reached historic highs of nearly $850 billion a year.[15] According to the Organisation for Economic Co-operation and Development (OECD), agricultural price support and input subsidies are potentially the most distorting forms of support.

Just five to ten WTO members provide the bulk of domestic support to their agricultural sectors. The United States, China, India, Japan, and the European Union account for nearly 90 percent of all notified support.[16] That is because WTO rules in the Agreement on Agriculture have not been sufficiently updated, reflecting market conditions and support levels from a time when China and India did not play as large a role in global agricultural markets, and also provided less support to their own sectors than the major developed economies. The shift in conditions without a corresponding change in the WTO rules now makes adjusting global inequities produced by that domestic support more difficult.

Today, India has banded with China and some other developing countries to resist reductions in, and even expand, their space for domestic support measures. India's primary concern has been to address food security needs and support its farmers, a large and politically powerful constituency of 260 million people (about 1 in 5 Indians).[17] Recent figures put India's support measures at $48 billion, the highest in the WTO.[18]

India also maintains significant price support for rice and wheat through "public stockholding." That practice involves acquiring stock from farmers at set prices, retaining those stocks to maintain steady prices and supply on the production side, and providing those food grains to low-income households at subsidized cost. Estimates suggest China and India together hold two-thirds of global grain stocks.[19] Simultaneously, India is the leading global exporter of rice, raising concerns over how its subsidies could be supporting its export growth in this market.[20]

The table below provides an overview of current support levels by the largest support-providing WTO members. Notably, because of its stockholding-related market-price support, India continues to be the only member in breach of its support limits, which has frustrated other members and revitalized the debate on how support limits are calculated. [21]

Agricultural Support Reported by Largest Contributors (Billions of Dollars)

Table with 6 columns and 12 rows. (column headers with buttons are sortable)

	India	United States	China	European Union	Japan
Reporting Year	2022/23	2022/23	2022	2021/22	2022/23
All Domestic Support	**$105**	**$216**	**$210**	**$99**	**$21**
Green Box	**$45**	**$197**	**$184**	**$81**	**$14**
General Services (para. 2)	$3	$18	$91	$8	$10
Public Stockholding (para. 3)	$34	-	$14	-	-
Domestic Food Aid (para. 4)*		$173	-	$1	-
Payments to Producers (paras. 5–13)	$8	$6	$79	$72	$5
Amber Box	**$12**	**$19**	**$17**	**$12**	**$7**
Product-Specific AMSs	$8	$17	$7	$10	$2
Non-Product-Specific AMS	$5	$1	$9	$2	$4
Development Box (Article 6.2)	**$48**	**-**	**-**	**-**	**-**
Blue Box (Article 6.5)	**-**	**-**	**$9**	**$5**	**-**

Notes: Sums shown in bold may differ from sums of components due to rounding. Nil values or those that round to zero indicated by "–". Green box "paras." refer to Annex 2 of the Agreement on Agriculture. Only AMSs exceeding "de minimis" 5 percent of value of production count against a member's support limit for the EU, Japan, and the United States (8.5 percent for China and 10 percent for India). Support limits are $79 billion for the EU, $36 billion for Japan, and $19 billion for the United States, while China and India are limited to nil. *India reports public stockholding and domestic food aid as a single amount.

Source: Adapted from a table prepared by Lars Brink from member notifications through 2024, updating analysis in Brink and Orden (2023).

COUNCIL on FOREIGN RELATIONS

India Preserves Power Through Special and Differential Treatment

India has also worked with China, South Africa, and Venezuela to strongly object to attempts to reform special and differential treatment (SDT) for developing country members. How best to address the unique needs of developing countries has long institutional roots in the WTO. The preamble of the WTO founding document is clear about the commitment to development "that there is need for positive efforts designed to ensure that developing countries, and especially the least developed among them, secure a share in the growth in international trade commensurate with the needs of their economic development."[22] With 166 members, many of them developing countries, the WTO needs to integrate a diverse set of countries into its rule framework.

However, the WTO faces a unique challenge: unlike other international organizations, it has no objective measures of development but instead relies on members to self-declare whether they are developing countries and need SDT. It allows developing country members greater flexibility in their commitments, including longer phase-in periods for their obligations, carve-outs, and technical support.[23] Yet, this approach does not allow for differentiation among developing country members, and instead lumps them all together (with the exception of the Least Developed Countries).[24] The result is a failure to deliver tailored support reflecting members' specific needs.

In 2019, a new approach to SDT gained support. It called for more granular differentiation to prevent larger developing country members from free-riding on benefits that should not accrue to them. The United States led the reshaping of the accepted norm, though it failed to achieve wholesale reforms.[25] The U.S. proposal called for limiting access to SDT if members are part of OECD or have begun the accession process to become so, are part of the Group of Twenty, are classified as high-income countries by the World Bank, or account for 0.5 percent or more of global merchandise trade (imports and exports). At the time of the proposal, more than thirty WTO members that consider themselves to be developing countries, including India, would fall under at least one of those criteria. [26]

India strongly objected to any changes, arguing not only that SDT was a treaty-given right but also that significant development gaps persist that warrant preserving the status quo.[27] Most WTO members disagreed. Many were developing country members who complained that some developing countries with a significantly greater presence in global markets, such as India, were silencing attempts to generate more targeted developing-country support in order to preserve maximum levels of flexibility for themselves.[28]

Despite broad agreement that SDT has failed to help countries meet their commitments, India continues to push for greater flexibility. For example, India is largely responsible for the inability to conclude a comprehensive agreement to rein in harmful fisheries subsidies: it demanded phase-in periods for developing countries that were so long as to render its commitments meaningless.[29] In the final, pared-back deal, India quickly declared victory, noting it was able to preserve subsidies for its own fishermen.[30] A deal on the second phase of harmful fisheries subsidies remains elusive due to India's continued opposition to high-standard disciplines.[31]

India does not acknowledge that its unwillingness to take on obligations matching its level of development and economic needs is causing long-term self-harm. Preservation of the status quo, which India also dislikes, therefore becomes a better outcome than any substantive change requiring the country to step up and take on greater responsibility to shape a fairer trading system.

The Way Forward for the United States and the WTO

A discussion of how India navigates three issues at the WTO—plurilaterals, agriculture talks, and SDT—shows how the country has willingly disrupted the rules-based trading system through its consistent norm breaking, as well as how it effectively vetoes progress in fashioning itself a dealmaker in different groupings. What is striking is India's opposition not just to established norms but also to changing norms and emerging consensuses. India's strategy is driven by two goals. First, in opposing plurilaterals it is ensuring that compromises are struck on the lowest common denominator, which means India aims to oppose high-standard rules so that its own discriminatory trade practices will go untouched. It is also ensuring no new rules will be developed on modern issues of importance. In fact, Indian Minister Piyush Goyal has also gone on record opposing discussions on gender, climate change, and labor.[32] Second, in categorizing itself as part of a vulnerable group without actually sharing its vulnerabilities, India preserves a high degree of flexibility in the domestic actions it can pursue. For example, statistically speaking, the levels of domestic supports in agriculture that India can provide exceed those of most developing countries.

The primary problem in getting India to play a more constructive role is that the chief architect of that system, the United States, has been asking for additional flexibilities for itself and has openly flouted the rules. To be fair, the United States has pushed back on India in some cases, if in limited form. Notably, the United States, which is not part of the IFD agreement, reacted firmly to India's objection during a December 2023 General Council meeting. The U.S. delegate stated, "We disagree with . . . South Africa, India and Namibia; we do believe that the WTO system does provide for and can sustain plurilateral initiatives."[33] However, when U.S. Trade Representative (USTR) Katherine Tai visited India the following month, the readout provided little indication that the issue was ever discussed, missing an opportunity to raise the topic bilaterally and convey U.S. concerns to India.[34]

Building consensus would require the United States to convince India to drop its objection to plurilaterals.[35] Alternatively, discussions could move out of the WTO, but members would lose institutional provisions, such as secretariat support, transparency through a committee, and dispute settlement. Until then, WTO negotiations remain at a virtual standstill as India refuses to let modern issues progress while failing to flexibly address long-standing concerns.

In November 2024, the United States, along with Argentina, Australia, Canada, and Ukraine, accused India of "providing significant market price support . . . for rice and wheat," claiming India's market price supports of 87 percent for rice and 67 to 75 percent for wheat vastly exceeded its allowable levels of 10 percent (see table 1).[36] Still, the United States needs to push India and the WTO at large to rethink domestic support to account for growing WTO membership and changes in the agricultural trade landscape. Economists Lars Brink and David Orden outline a few suggestions for reform, including making the WTO rules more consistent across members, improving how price support is

measured, and modifying rules to more effectively address modern priorities such as biosecurity, biodiversity, and climate change.[37]

For a fairer trading system, the United States should not decrease its own commitments but ask others to increase theirs. That means completing the WTO reform discussions and making progress on the three areas highlighted above. Crafting new high-standard rules on digital trade and convincing India to drop its opposition will send a strong signal to China and other nonmarket economies that a free and open internet is an essential component of the trading system and healthy societies. Breaking the deadlock on agriculture negotiations will also help the United States curb abuses of agricultural support measures and ensure legitimate food security concerns receive the attention they deserve. It will also allow for discussions of how to retool existing subsidies to support more efficient farming practices. Finally, agreeing to clearer distinctions between developing-country members will help guarantee more targeted and equal treatment in line with development needs, ensuring also that developing countries with significant market shares in specific sectors under negotiation cannot escape high-standard rules.

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Endnotes

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3. The Trade Facilitation Agreement is an example of the former, the Government Procurement Agreement is an example of the latter.
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10. Furthering that objective beyond what was initially agreed is embedded in Article 20 of the WTO's 1994 Agreement on Agriculture (AoA), which called on members to continue negotiations to reduce trade barriers in agriculture and gradually decrease agricultural support. The AoA focused on three pillars: market access issues affecting imports; "domestic support," or subsidies for agriculture production, direct payments to farmers, and price supports; and export subsidies. See "Agriculture: Fairer Markets for Farmers," World Trade Organization, accessed January 8, 2025, https://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm3_e.htm.
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12 The amber box, which encompasses most policies that have a more-than-minimal trade-distorting effect. Amber box support includes most input subsidies, payments made to producers tied to prices or production levels, and market price supports. Amber box support, also known as support measured in an Aggregate Measure of Support (AMS), can also be specific to a product, or not. Green box subsidies have no or minimal distortive effect on trade, these include general services, such as research and development or pest and disease control, as well as domestic food aid programs and certain payments to producers, such as income support not tied to prices or production decisions, certain risk insurance, and environmental programs. Under Article 6.2 of the Agreement on Agriculture, developing countries (with China an exception) are given specific flexibilities, without limits, to assist poor farmers, such as through investment subsidies and input subsidies for fertilizer, electricity, and irrigation. For a description of the domestic support categories see: Peter Ungphakorn, "Technical Note: Agricultural Domestic Support Categories in the WTO," *Trade Beta Blog*, updated January 2, 2024, https://tradebetablog.wordpress.com/technical-note-agricultural-domestic-support-categories-in-the-wto.
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India's Industrial Policies: Rejecting the Old Status Quo and Creating the New

Sarthak Pradhan, Takshashila Institution

Introduction

Of India's 1.4 billion people, approximately 565 million are part of the workforce, the majority in agriculture.[1] The country's working-age population is expected to increase significantly, and if it is to create sufficient jobs for its youth, facilitate economic growth, and increase exports, it will need a robust, growing manufacturing sector.[2] India has long prioritized targeted industrial policy measures to boost manufacturing. While those measures occasionally obstruct foreign firms operating in India, violate World Trade Organization (WTO) rules, and lead to trade disputes, they are also in keeping with the emerging global trade norms championed by the United States, the European Union, and China. However, some of India's measures are even more stringent than those of other countries, and those industrial policy measures have not significantly boosted India's manufacturing sector, which has remained stagnant.

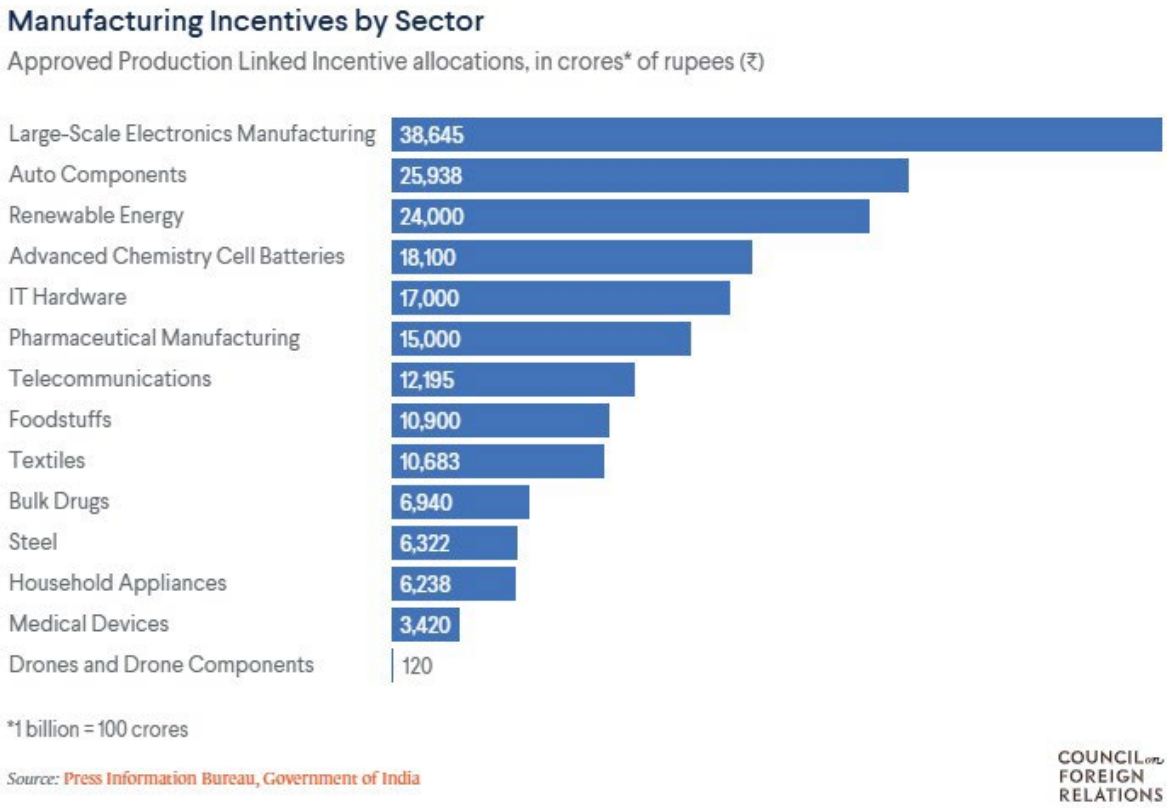
Industrial Policies in India

The Indian government has increasingly relied on three types of industrial policy measures to boost manufacturing: production-linked incentives (PLIs), tariffs, and domestic content requirements (DCRs).

Production-linked Incentives

In March 2020, the Indian government introduced the PLI Scheme to provide financial incentives to manufacturers based on measurable outcomes—such as sales of products manufactured in India—and to offset the manufacturing cost disabilities in India.[3] The objective of the policy is to "boost domestic manufacturing in sunrise and strategic sectors, curb cheaper imports and reduce import bills, improve cost competitiveness of domestically manufactured goods, and enhance domestic capacity and exports" and "create global champions in manufacturing."[4] Domestic firms are eligible for PLIs, as well as Indian factories or subsidiaries owned by foreign companies.

Initially, PLIs were intended for the manufacturing of mobile and allied equipment, pharmaceutical ingredients, and medical devices.[5] Over time, they have been expanded to cover a total of fourteen sectors with an outlay of 1.97 trillion rupees ($22.76 billion) spread over five years.[6] To be eligible for PLIs, a firm has to meet some qualifications, primarily related to the scale of production.



Tariffs

India's trade policy in the last decade has emphasized import substitution to increase domestic production and make the country less dependent on foreign goods. For instance, the simple average of tariff rates increased from 12 percent in fiscal year 2011 (FY 2011) to 13 percent in FY 2015 and
14.3 percent in FY 2021.[7]

The proportion of tariff lines (i.e., products that can be assigned tariffs) with a rate above 15 percent increased from 13.6 percent in 2015 to 25.4 percent in 2021. While the simple average tariff rate on nonagricultural products increased from 9.5 percent to 11.1 percent between 2015 and 2021, some sectors see a significantly higher level of protection: the tariff on automobiles has risen from 60 percent in FY 2011 to 125 percent in FY 2016. Mobile phones, which had not been subjected to any custom duty until 2015–16, were hit with a 20 percent duty by 2018.

Not only have average tariff rates increased, but they tend to be higher than those of other economies. The difference between India's tariff rates and those of other competing economies is even more stark for nonagricultural products. The proportion of tariff lines with zero tariffs is relatively low, emphasizing India's reservations about opening up any sector of its economy.

Domestic Content Requirements

India has instituted laws that impose Domestic Content Requirements (DCR)—that is, certain projects require their component parts to be manufactured domestically. For example, from 2010 to 2013, under the government's Jawaharlal Nehru National Solar Mission program to reduce reliance on fossil fuels, projects using crystalline silicon solar technology were required to procure solar modules domestically. Thin-film solar technologies, however, were exempt. After 2013, the DCR became increasingly stringent to expand to both solar cells and modules and restricted access to government subsidies and schemes.[8]

Similarly, the Domestically Manufactured Iron and Steel Products policy requires the government to give preference for procurement to steel and iron products with a minimum of 15 to 50 percent value addition.[9] That is to say, if the lowest bidder is a domestic supplier, the supplier is awarded the contract for the full amount. However, if the lowest bidder is a foreign supplier, only 50 percent of the contract quantity is awarded, while the remaining is awarded to the lowest bidder among the domestic suppliers.

This policy now includes consumer electronic devices as well: in 2020, India extended public procurement preference to domestic suppliers of desktops, laptops, tablets, servers, and mobile phones.[10]

Violating Some Global Trade Norms

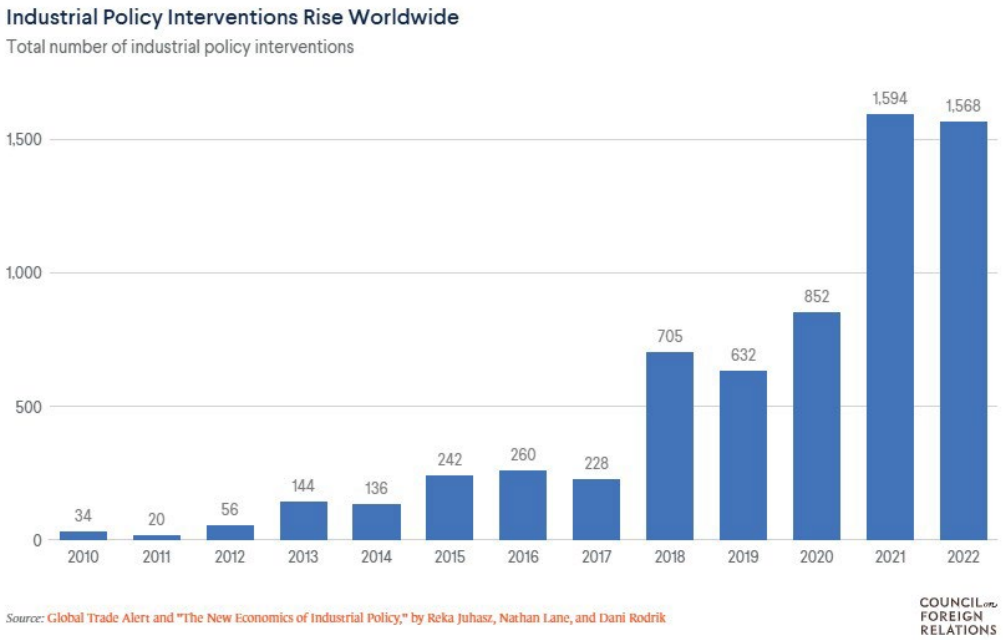
India's industrial policies occasionally disadvantage foreign competitors in India, contravene WTO rules, and spark trade disputes. On one hand, India's PLIs are not linked to exports, and there is no express requirement for the use of domestic goods over imported goods. Thus, by being nondiscriminatory and neutral with respect to exports and domestic sales, PLIs are compliant with WTO rules. On the other hand, some PLIs, such as those on mobile phones, require the applicant to declare "a plan for domestic value addition". In other words, the applicants need to specify the extent that domestic goods are utilized in their production. Despite the reporting requirement, the quantum of incentive is not linked to or contingent on utilizing domestic goods. However, such measures can be interpreted differently, potentially risking countervailing action from importing countries.[11]

Though India's tariff regime is characterised by high rates and frequent changes, it broadly aligns with its bound commitments. But in some instances, India's tariffs have been found to be violate WTO norms. For example, India's introduction of customs duties of up to 20 percent on information and communication technology products in 2014 led to a dispute at the WTO.[12]

WTO rules also prohibit countries from discriminating between imported and domestic goods.[13] In 2014, the United States launched a trade dispute against India's Jawaharlal Nehru Solar Energy Mission for providing incentives to domestically produced solar cells and modules. The WTO's Appellate Body upheld the U.S. complaint against India.[14]

In Sync With Emerging Trade Norms

Despite violating some established trade practices, India's adoption of industrial policies aligns with the global rise in protectionism.[15] Not only has the number of industrial policies increased, but their proportion of total policies has also grown. Some of India's largest trading partners have implemented significant industrial policies themselves, such as the United States' CHIPS and Science Act, Inflation Reduction Act, and Infrastructure Investment and Jobs Act; China's Made in China 2025 initiative; and the European Union's Green Deal Industrial Plan.



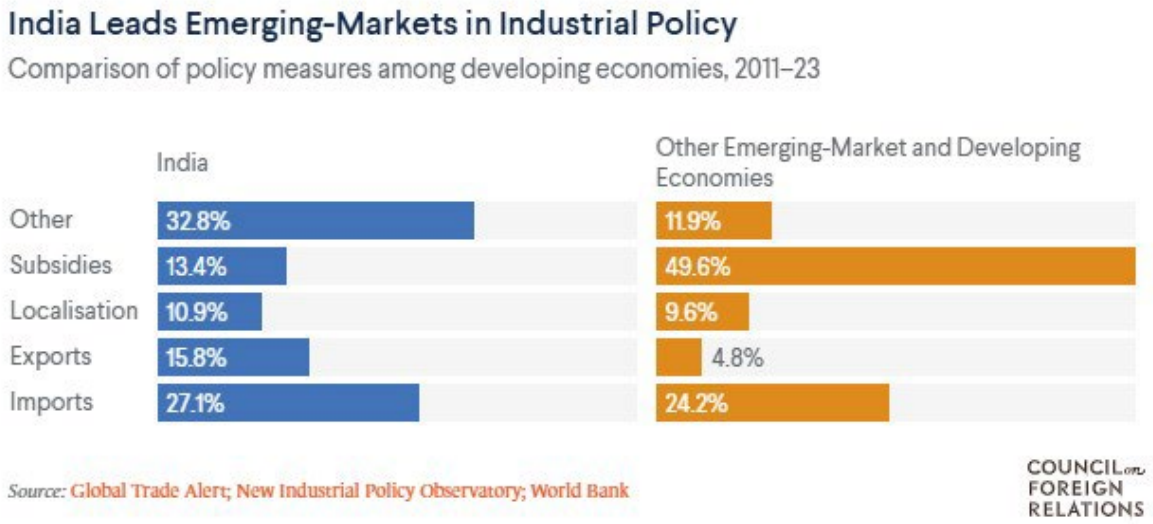


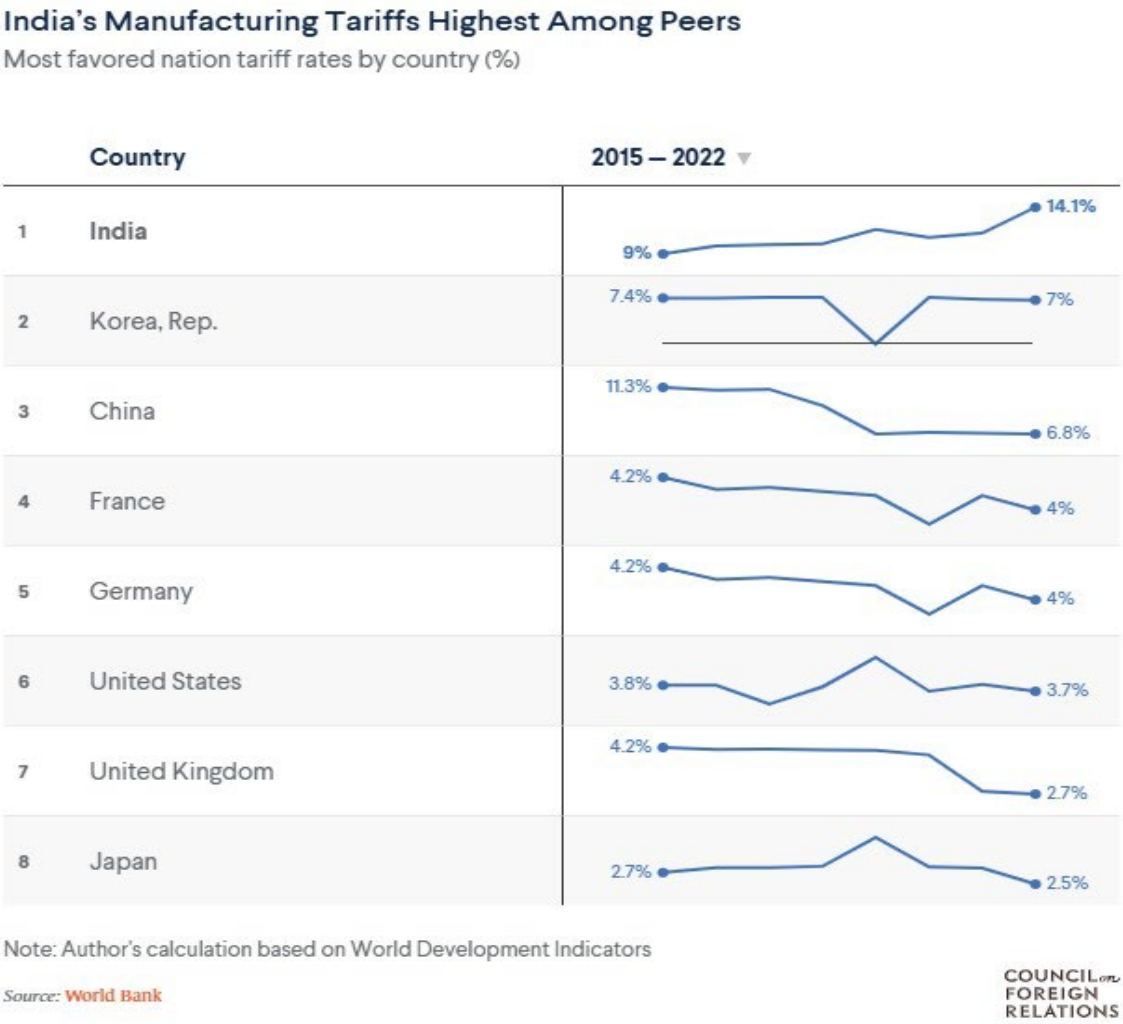
Furthermore, in comparison to those industrial policies, India's incentives seem small and thinly spread. For example, India's PLI for chipmakers is one-fifth of the $53 billion in incentives that the CHIPS and Science Act offers for firms building chip factories in the United States.[16] China's annual spending on its industrial policies is around $700 billion.[17]

Globally, subsidies tend to be the most preferred industrial policy intervention, accounting for more than half of all industrial policy measures worldwide in 2023.[18] A study of subsidy awards by China, the European Union, and the United States revealed 11,861 subsidy changes and awards between 2011 and 2019, and 3,754 between 2020 and 2021 alone.[19] Analysis of the corporate subsidies database shows that less than 1.05 percent of the subsidy policy changes involved the elimination of subsidies, termination of a subsidy scheme, or reduction in subsidy payments. Thus, once initiated, subsidies tend to remain in place. Further, when an economy adopts a set of subsidies, other economies typically adopt a similar set six months later, reflecting a tit-for-tat pattern that has led to a global subsidy race (as seen in semiconductors).[20]

Furthermore, subsidies are less dominant in India than in other emerging market and developing economies. Instead, India prefers trade-related barriers. [21] Corporate subsidies (PLIs) in India are also less transparent than elsewhere; less than 5 percent of Indian subsidies were direct transfers.

India also prioritizes tariffs, which are increasingly popular globally. In 2018, the first Donald Trump administration raised tariffs on several products, especially those from China, to "protect domestic industries and to incentivize foreign countries to change their practices."[22] China, Canada, and the European Union responded with retaliatory tariffs. The Joe Biden administration stopped increasing those tariffs in 2020, but did not reduce them. In 2024, it raised tariffs on other items such as steel, medical equipment, electric vehicles, lithium-ion batteries, and solar cells. President Trump has now announced he will impose an additional tariff of 10 percent on China and 25 percent on Canada and Mexico.[23] Meanwhile, China's average tariffs toward exporters from all countries except the United States have declined from 8 percent to 6.5 percent, while over the same period average U.S. tariffs increased from 2.2 percent to 3.0 percent.[24]





A recent study of 40 economies identified that they employed 146 localization measures between 2008 and 2014.[25] Most of the measures were used by economies with large gross domestic product (GDP) and population. DCR is not restricted to closed economies; the DCR-imposing countries collectively accounted for nearly 52 percent of world exports. For the high- and middle-income countries, DCRs were ranked among the top ten industrial policy measures.[26]

The United States, Brazil, Canada, and South Africa have all used DCRs to justify environmental goals, such as those in the renewable energy sector.[27] Many countries use DCRs as a compulsory eligibility and scoring criterion in public electricity tenders and also for bonus payments on top of an existing feed-in tariff in case the investor is meeting the DCR.[28] Countries such as Canada, China, France, Italy, and Spain introduced local content incentives in public procurement and feed in tariffs in the late1990s and 2000s. However, a 2018 study found India to be the most prominent user of DCR.[29]

India's Industrial Policies: Evaluating the Outcomes

One of the key objectives of an economy's industrial policy is to boost domestic manufacturing. India's manufacturing sector, however, has remained stagnant. Its share of GDP remains the same in 2024 as it was in 2014 (17.3 percent).[30] In addition, India's exports as a share of GDP have fallen from 25.2 percent in 2014 to 22.7 percent in 2024. Apart from the broader picture, it could be worthwhile to look at the implications for specific sectors.

In 2010, India and Vietnam exported similar value of electronic items. In the following ten years, Vietnam's exports grew to nine times India's. Currently, India is a minor player in the global electronics trade, and India's share of high-tech exports relative to the rest of its manufacturing is a mere 12 percent compared to 23 percent, 22 percent, and 39 percent for China, Israel, and Vietnam, respectively.[31] High import duties and localization requirements prevent Indian manufacturers from accessing cheaper intermediate inputs, preventing India's electronics sector from scaling up. An Indian Council for Research on International Economic Relations study recommended the removal of "localization policies from programs like PLI and PMP and not increasing custom duties further" and suggested "prioritizing exporting at scale to the global market (globalize) to increase the share of domestic value addition (localize)."[32]

An India Cellular and Electronics Association report identified "higher tariffs of India on inputs result in higher costs of production and lower competitiveness."[33]

The DCR measures have also adversely affected the solar power sector. A study of Indian solar auctions from 2014 to 2017 found that DCR increased the cost of solar power by about 6 percent per kWh generated from those projects. While there was an increase in the domestic manufacturing capacity, Indian solar panels remained 14 percent more expensive. The solar panel industry also failed to increase market share or break into export markets.[34]

While the smartphone PLI has helped boost the domestic production of phones from 2.14 trillion rupees to 4.1 trillion rupees between FY 2020 and FY 2024, the progress has been slow for PLI in textiles, advanced chemistry cells, solar modules, and automobiles.[35] A few months back, an interministerial panel found that investment growth has been "significantly slow" in textiles, IT hardware, and specialty steel. Even in phone manufacturing, the focus has been on assembly, not local value addition.[36] Moreover, the achievements in phone manufacturing seem to result from government efforts beyond PLI. The Indian government facilitated the expansion of Apple's local value chain in iPhone and electronics manufacturing by providing clearances to several of Apple's Chinese suppliers to form joint ventures in India.[37] India's current approach seems to focus on facilitating the entry of prominent players into domestic production. Another instance worth highlighting is Tesla; the government set provisions for reducing import duties on electric vehicles if certain preconditions on local manufacturing are met.[38] India seems to be opting for a probusiness approach over a pro-market approach. With the business environment not undergoing fundamental changes, what happens once the PLI period ends remains to be seen.

There have also been concerns about PLI allocations.[39] In some instances, PLI has been allocated to newcomers. In others, PLI support has flown to conglomerates, increasing their already sizable market power. Execution has been poor and disbursement slow, with just 4.92 percent of 1.97

trillion rupees being disbursed.[40] The PLI scheme assumes that what works for a particular sector, such as smartphones, will work for other sectors, such as IT hardware, but experience has proven otherwise, necessitating course correction.[41]

The Way Ahead: How to Understand India's Interests

Though India's industrial policy measures have created friction with existing trade norms, those kind of policies are now the global norm. In fact, India's measures remain much smaller in scale compared to other major economies. Furthermore, while the measures employed are not much different, their composition differs. Globally, subsidies are preferred, whereas India's industrial policy toolkit is primarily dominated by trade-related barriers alongside subsidies.

The demand for trade-related barriers stems from the prevalence of a large number of less competitive firms, which are a result of a historically difficult business environment characterized by high tax rates, policy instability, limited scalability, and excessive regulations. As the benefits of protectionist measures are typically concentrated among domestic producers, compared to those of liberalization measures that are spread thinly over a large consumer base, the political economy ensures that the demand for protectionist policies is high.

Moreover, protectionist measures are easier and quicker to implement, often requiring only executive orders. In contrast, reforms to improve the overall business environment are complex and tedious. For instance, building infrastructure takes years, improving law and order requires interventions at different government levels, and bolstering state capacity requires consistent efforts. In the absence of independent fiscal institutions, such as a fiscal council, public expenditure tends to be shaped by pressure group politics rather than factors such as social productivity.

Compounding those issues, liberalization is not widely perceived to be beneficial in India, as reflected in predominant government narratives such as Vocal for Local and Atmanirbhar Bharat, or Self-Reliant India. Geopolitical factors reinforce this perception. As protectionism rises globally, spearheaded now by global leaders such as the United States, the incentives for policymakers in India to pursue liberalization reduce further.

Ironically, India also provides a cautionary tale for other countries—its industrial policies have not been able to increase its competitiveness. The manufacturing sector remains stagnant, and exports have declined. While the PLI scheme has been a mixed bag, measures such as increased tariffs and DCR have adversely impacted India's competitiveness.

India's pursuit of industrial policy appears to be a reaction to its domestic economic situation, encouraged by global trends, rather than any attempt to reshape the prevailing international order. Its industrial policies fall short of expectations for boosting India's manufacturing sector, foster economic growth, or creating more jobs.

To boost manufacturing, India needs to get its fundamentals right.[42] This includes removing obstacles to private investments, such as high corporate taxes and uncertainty associated with the

tax regime; implementing measures to attract, nurture and retain talent from within and outside the country; removing restrictive regulations, such as those on land and labor; and preventing protectionist measures like high tariffs that hinder firms from scaling up. India should also incentivize private firms to invest in research and development through measures such as tax credits. India's 1991 reforms set it on a growth trajectory. Now, it is time for the next set of factor market reforms.

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