

THE FOREIGN TRADE (DEVELOPMENT AND REGULATION) ACT, 1992

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THE FOREIGN TRADE (DEVELOPMENT AND REGULATION) ACT, 1992

ACT NO. 22 OF 1992

[7th August, 1992.]

An Act to provide for the development and regulation of foreign trade by facilitating imports into, and augmenting exports from, India and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. Short title and commencement.—(1) This Act may be called the Foreign Trade (Development and Regulation) Act, 1992.

(2) Sections 11 to 14 shall come into force at once and the remaining provisions of this Act shall be deemed to have come into force on the 19th day of June, 1992.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “Adjudicating Authority” means the authority specified in, or under, section 13;

(b) “Appellate Authority” means the authority specified in, or under, sub-section (1) of section 15;

(c) “conveyance” means any vehicle, vessel, aircraft or any other means of transport including any animal;

(d) “Director General” means the Director General of Foreign Trade appointed under section 6;

¹[(e) “import” and “export” means,—

(I) in relation to goods, bringing into, or taking out of, India any goods by land, sea or air;

(II) in relation to services or technology,—

(i) supplying, services or technology—

(A) from the territory of another country into the territory of India;

(B) in the territory of another country to an Indian service consumer;

(C) by a service supplier of another country, through commercial presence in India;

(D) by a service supplier of another country, through presence of their natural persons in India;

(ii) supplying, services or technology—

(A) from India into the territory of any other country;

(B) in India to the service consumer of any other country;

(C) by a service supplier of India, through commercial presence in the territory of any other country;

1. Subs. by Act 25 of 2010, s. 2, for clause (e) (w.e.f.27-8-2010).

(D) by a service supplier of India, through presence of Indian natural persons in the territory of any other country:

Provided that “import” and “export” in relation to the goods, services and technology regarding Special Economic Zone or between two Special Economic Zones shall be governed in accordance with the provisions contained in the Special Economic Zones Act, 2005 (28 of 2005).]

(f) “Importer-exporter Code Number” means the Code Number granted under section 7;

(g) “licence” means a licence to import or export and includes a customs clearance permit and any other permission issued or granted under this Act;

(h) “Order” means any Order made by the Central Government under section 3; and

(i) “prescribed” means prescribed by rules made under this Act.

¹[(j) “services” means service of any description which is made available to potential users and includes all the tradable services specified under the General Agreement on Trade in Services entered into amongst India and other countries who are party to the said Agreement:

Provided that, this definition shall not apply to the domain of taxation;

(k) “service supplier” means any person who supplies a service and who intends to take benefit under the foreign trade policy;

(l) “specified goods or services or technology” means the goods or services or technology, the export, import, transfer, re-transfer, transit and transshipment of which is prohibited or restricted because of imposition of conditions on the grounds of their being pertinent or relevant to India as a Nuclear Weapon State, or to the national security of India, or to the furtherance of its foreign policy or its international obligations under any bilateral, multilateral or international treaty, covenant, convention or arrangement relating to weapons of mass destruction or their means of delivery to which India is a party or its agreement with a foreign country under the foreign trade policy formulated and notified under section 5 of the Act;

(m) “technology” means any information (including information embodied in software), other than information in the public domain, that is capable of being used in—

(i) the development, production or use of any goods or software;

(ii) the development of, or the carrying out of, an industrial or commercial activity or the provision of service of any kind.

Explanation.—For the purpose of this clause—

(a) when technology is described wholly or partly by reference to the uses to which it (or the goods to which it relates) may be put, it shall include services which are provided or used, or which are capable of being used in the development, production or use of such technology or goods;

(b) “public domain” shall have the same meaning as assigned to it in clause (i) of section 4 of the Weapons of Mass Destruction and their Delivery System (Prohibition of Unlawful Activities) Act, 2005 (21 of 2005).]

CHAPTER II

POWER OF CENTRAL GOVERNMENT TO MAKE ORDER AND ANNOUNCE ²[FOREIGN TRADE POLICY]

3. Powers to make provisions relating to imports and exports.—(1) The Central Government may, by Order published in the Official Gazette, make provision for the development and regulation of foreign trade by facilitating imports and increasing exports.

1. Ins. by Act 25 of 2010, s. 2 (w.e.f.27-8-2010).

2. Subs. by s.3, *ibid.*, for “EXPORT AND IMPORT POLICY” (w.e.f.27-8-2010).

(2) The Central Government may also, by Order published in the Official Gazette, make provision for prohibiting, restricting or otherwise regulating, in all cases or in specified classes of cases and subject to such exceptions, if any, as may be made by or under the Order, the ¹[import or export of goods or services or technology]:

²[Provided that the provisions of this sub-section shall be applicable, in case of import or export of services or technology, only when the service or technology provider is availing benefits under the foreign trade policy or is dealing with specified services or specified technologies.]

(3) All goods to which any Order under sub-section (2) applies shall be deemed to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly.

²[(4) Without prejudice to anything contained in any other law, rule, regulation, notification or order, no permit or licence shall be necessary for import or export of any goods, nor any goods shall be prohibited for import or export except, as may be required under this Act, or rules or orders made thereunder.]

4. Continuance of existing orders.—All Orders made under the Imports and Exports (Control) Act, 1947 (18 of 1947), and in force immediately before the commencement of this Act shall, so far as they are not inconsistent with the provisions of this Act, continue to be in force and shall be deemed to have been made under this Act.

³[**5. Foreign Trade Policy.**—The Central Government may, from time to time, formulate and announce, by notification in the Official Gazette, the foreign trade policy and may also, in like manner, amend that policy:

Provided that the Central Government may direct that, in respect of the Special Economic Zones, the foreign trade policy shall apply to the goods, services and technology with such exceptions, modifications and adaptations, as may be specified by it by notification in the Official Gazette.]

6. Appointment of Director General and his functions.—(1) The Central Government may appoint any person to be the Director General of Foreign Trade for the purposes of this Act.

(2) The Director General shall advise the Central Government in the formulation of the ⁴[foreign trade policy] and shall be responsible for carrying out that policy.

(3) The Central Government may, by Order published in the Official Gazette, direct that any power exercisable by it under this Act (other than the powers under sections 3, 5, 15, 16 and 19) may also be exercised, in such cases and subject to such conditions, by the Director General or such other officer subordinate to the Director General, as may be specified in the Order.

CHAPTER III

IMPORTER-EXPORTER CODE NUMBER AND LICENCE

7. Importer-exporter Code Number.—No person shall make any import or export except under an Importer-exporter Code Number granted by the Director General or the officer authorised by the Director General in this behalf, in accordance with the procedure specified in this behalf by the Director General:

⁵[Provided that in case of import or export of services or technology, the Importer-exporter Code Number shall be necessary only when the service or technology provider is taking benefits under the foreign trade policy or is dealing with specified services or specified technologies.]

1. Subs. by Act 25 of 2010, s. 4, for “import or export of goods” (w.e.f.27-8-2010).

2. Ins. by s. 4, *ibid.*(w.e.f.27-8-2010).

3. Subs. by s. 5, *ibid.*, for section 5 (w.e.f.27-8-2010).

4. Subs. by s. 6, *ibid.*, for “export and import policy” (w.e.f.27-8-2010).

5. Ins. by s. 7, *ibid.* (w.e.f.27-8-2010).