

# IMPORT-EXPORTS

## Restrictions and Prohibitions

The Central Government has been empowered u/s 11(1) to prohibit the export or import of goods of any specified description, if it is satisfied that it is necessary to do so for any of the purposes specified in section 11(2) of the Customs Act, 1962. For such prohibition the Central Government shall issue a notification in the official Gazette which will specify the goods, import or export of which have been prohibited. Such prohibition may either be absolute or subject of certain conditions.

### □ Objects or purposes of prohibition

As per section 11(2), *the purposes of prohibitions are the following :—*

1. Maintenance of the Security of India.
2. Maintenance of Public order and standards of decency and morality.
3. Prevention of Smuggling.
4. Prevention of shortage of goods of any description.
5. Conservation of foreign exchange and safeguarding the balance of payments.
6. Prevention of injury to economy on account of uncontrolled import/export of gold and silver.
7. Prevention of surplus in agricultural product or the product of fisheries.
8. Maintenance of standards for classification, grading and marketing of goods in international market.
9. Establishment of any industry.
10. Prevention of serious injury to domestic production.
11. Protection of life and health of man, animal and plant.
12. Protection of national treasures of artistic, historic or archaeological values.
13. Conservation of exhaustible natural resources.
14. Protection of patents, trade marks and copyrights, designs and geographical indications.
15. Prevention of deceptive practices.
16. Entrusting foreign trade to the state machinery.
17. Fulfilment of U.N. Charter.
18. Implementation of any treaty agreements or convention with other countries.
19. Compliance of imported goods with the laws governing indigeneous goods.
20. Prevention of dissemination documents affecting our prestige or relationship with other countries.
21. Prevention of contravention of Indian law.
22. Any other purpose in public interest.
23. As per section 11(3), *any prohibition or restriction or obligation relating to imports or exports of any goods or class of goods or clearance thereof provided in any other law for the time being in force, or any rule or regulation made of any order or notification issued thereunder shall be executed under the provisions of that Act only provided such is notified under Customs Act also.*



## ❑ Prohibited goods

As per section 2(33), 'prohibited goods' means any goods the import or export of which is subject to any prohibition under this act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with.

## ❑ Detection of illegally imported goods and prevention of the disposal thereof

Section 11A to 11G deals with the followings :—

- (1) Detection of illegally imported goods
- (2) Prevention of the disposal of such goods

For this section 11A defines the following terms :—

- (a) 'Illegal import' means the import of any goods in contravention of the provisions of Customs Act, 1962 or any other law for the time being in force.
- (b) 'Intimated place' means a place intimated u/s 11C (1), (2) and (3).
- (c) 'Notified date' in relation to goods of any description, means the date on which the notification in relation to such goods is issued u/s 11B.
- (d) 'Notified goods' means goods specified in the notification issued u/s 11B.

## ❑ Power of Central Government to notify goods [Sec. 11B]

When a large quantity of goods of any class or description is being imported illegally, then the Central Government, if satisfied that it is expedient in public interest, it may take *special measures for the following purposes* :—

- (a) For checking the illegal imports,
- (b) For circulation and disposal of such goods, or
- (c) For facilitating the detection of such goods

In order to fulfil these purposes, the Central Government specify goods of such class or description by issuing a notification.

## ❑ Persons possessing notified goods to intimate the place of storage [Sec. 11C]

(1) Disclosure of notified goods—Every person who *owns, possesses or controls*, on the notified date, *any notified goods*, shall, *within seven days from that date*, deliver to the proper officer a statement in the prescribed form, in relation to such notified goods owned, possessed or controlled by him and the place where such goods are kept or stored.

(2) Intimation of place—If *any person acquires any notified goods*, after the date of notification, *then*, he shall intimate, before such acquisition, the full particulars of notified goods to the proper officer alongwith the place where he wants to keep or store it.

The intimation so made shall contain the following details :—

- (a) Full name and address of the person acquiring the notified goods and making intimation;
- (b) Details of the premises where such notified goods are kept or stored;
- (c) Full particulars of the notified goods as specified in Rule 9;
- (d) Date of acquisition of such goods and the name and full address of the person from whom such goods were acquired.

(3) Shifting of notified goods—If any person wants to shift the notified goods to any other place, other than the intimated place, he shall give intimation of his intention to the proper officer alongwith the particulars of the place where he wants to shift the notified goods.



(4) **Storage at intimate place only**—Any person shall not, after seven days from notified date, keep or store any notified goods at any place other than the intimated place.

(5) **Sale or transfer of notified goods**—If any notified goods have been sold or transferred, such goods shall not be taken from one place to another place without the voucher referred to in section 11F.

(6) **Changing the place of notified goods**—If the notified goods is being transferred from one place to another, other than the sale, then such transfer shall accompany a transport voucher prepared by the person who owned, possessed or controlled such goods at the time of transfer.

**Precautions to be taken by persons acquiring notified goods [Sec. 11D]**

Any person shall not acquire any notified goods after the notified date except in the following cases :—

- (i) Such notified goods is acquired under gift or succession from any other individual in India;
- (ii) Such notified goods is accompanied by the voucher as per section 11F, or the memorandum as per section 11G(2), as the case may be;
- (iii) If any person has himself imported any notified goods, then, it should be accompanied by any evidence showing clearance of such goods by the customs authorities;
- (iv) The person has taken, before acquiring such goods from a person other than a dealer having a fixed place of business, such reasonable steps, as may be specified by the rules made in this behalf, to ensure that the goods acquired by him are not illegally imported goods.

**Persons possessing notified goods to maintain accounts [Sec. 11E]**

(1) Every person who, on or after the notified date, owns, possesses, controls or acquires any notified goods, shall maintain proper accounts as specified which may reveal a true and complete account of such goods and shall record in it :—

- (a) entry as often as he acquires any notified goods; or
- (b) part with any notified goods;
- (c) particulars of the person from whom such goods have been acquired;
- (d) particulars of the person in whose favour such goods have been parted with.

Such accounts shall be kept at the place where such notified goods is kept or stored.

(2) If the person who owns, possesses or controls any notified goods, and *who uses any such goods for the manufacture* of any other goods, shall maintain separate accounts in respect of such goods stating therein all such particulars as are specified under the rules. Such accounts shall be kept at the intimated place.

**Sale etc. of notified goods to be evidenced by vouchers [Sec. 11F]**

No person shall sell or otherwise transfer any notified goods, on and from the notified date, unless such sale or transfer is evidenced by a voucher in specified format.

**Goods in personal use [Sec. 11G]**

- (1) Sections 11C, 11E and 11F shall not apply to any notified goods which are:—
  - (a) in personal use of the person by whom they are owned, possessed or controlled, or
  - (b) kept in the residential premises of a person for his personal use.



(2) If any person, who is in possession of any notified goods, sells or otherwise transfers any such goods for a valuable consideration, he shall issue to the purchaser or transferee, a memorandum containing notified particulars. Any transfer of such goods from one place to another place shall be accompanied by such memorandum.

**□ Prevention or Detection of illegal export of goods**

Sections 11H to 11M contain provision in respect of prevention or detection of illegal export of goods. First of all certain terms, which have been defined in section 11H, are to be understood in its legal meaning.

- (a) "illegal export" means the export of any goods in contravention of the provisions of the Customs Act, 1962 or any other law for the time being in force;
- (b) "intimated place" means a place intimated u/s 11(1), (2) or (3), as the case may be.
- (c) "specified area" includes the Indian Customs water, and such inland area, not exceeding one hundred kilometres in width from any coast or other border of India as notified by the Central Government, having regard to vulnerability of that area to smuggling. If only a part of any village, town or city falls within a specified area, the whole of such village, town or city shall be deemed to be included in such specified area.
- (d) "Specified date" in relation to specified goods means the date on which any notification is issued u/s 11-I in relation to those goods in any specified area.
- (e) "Specified goods" means goods of any description specified in the notification issued u/s 11-I in relation to a specified area.

**Provisions regarding specified goods**—Provisions for prevention and detention of illegal exports of specified goods are similar to the provisions of illegal imports of notified goods. These provisions are contained in sections 11-I to 11-M under similar headings as of notified goods as follows :—

Section 11I—Power of Central Government to specify goods.

Section 11J—Person possessing specified goods to intimate the place of storage.

Section 11K—Transport of specified goods to be covered by vouchers.

Section 11L—Persons possessing specified goods to maintain accounts.

Section 11M—Steps to be taken by persons selling or transferring any specified goods.

**DIFFERENCE BETWEEN 'NOTIFIED GOODS' AND 'SPECIFIED GOODS'**

Basis	Notified goods	Specified goods
1. Applicable sections	Governed by sections 11A to 11G chapter IV-A of the Customs Act, 1962 and notified goods (Prevention of illegal imports) Rules, 1969.	Governed by sections 11H to 11M chapter IV-B of the Customs Act, 1962 and specified goods (Prevention of illegal exports) Rules, 1969.
2. Imports/ Exports	Goods expected to illegal imports (Not prohibited goods)	Goods expected to illegal exports (Not prohibited goods)
3. Notification	Notified by the Central Govt., u/s 11B	Notified by the Central Govt., u/s 11-I
4. Area	Applicable throughout India	Applicable to specified area



5. Place of storage	Place of storage must be intimated to custom deptt. irrespective of the value of goods	Place of storage be intimated when the value of goods exceeds ₹ 15,000.
6. Accounts	Accounts of stock to be kept and maintained irrespective of the value of stock. No monetary limit.	Stock accounts to be maintained if value of stock exceeds ₹ 15,000.
7. Transfer voucher	Transfer voucher is essential	Transfer voucher needed if sales value exceeds ₹ 1,000.
8. Buyer's signature	Sale is evidenced by voucher. No need of buyer's signature and identity.	Buyer's signature is essential. Buyer's identity is to be ensured by seller.
9. Goods covered	No goods mentioned under the list.	Only 'Acetic Anhydride' is given in the list.

### QUESTIONS

1. What are the powers of the Central Government to prohibit importation and exportation of goods ? Discuss few examples.
2. Discuss the provisions of Customs Act, 1962 relating to detection of illegal imported goods and prevention of the disposal thereof.
3. Why are importation & exportation of certain goods prohibited under Customs Act, 1962.
4. Briefly explain the provisions regarding 'specified and notified goods' under Custom Duty Act, 1962.
5. Difference between 'Specified and Notified Goods'.

