

Comparative Study of Indian and Canadian Export-Import Laws

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Abstract

The study is about the Comparative study of Law of India and Canada in respect of Export and Import terms. It reflects the policies adopted by both countries and classification on bases of goods and tariffs. Both imports and exports appear to be highly concentrated among few and seem to have become more so over time. This paper examines the prospects of trade between India and Canada. Globalization and liberalization have brought new opportunities in country in trade, business, services and employment.

Keywords

EXIM Policy, Foreign Trade, Free Trade Agreements, Trade Controls Bureau of Foreign Affairs, Trade and Development Canada, Trade Policy, Global Exports Boom, Economy, Sustainable Development.

I. Introduction

The exports and imports activities contribute significantly towards the healthy growth of any economy. Imports imply bringing of goods into the country to fulfil the domestic need and when the country supplies surplus goods to foreign countries, it is termed as exports. When a wide gap between the exports and imports rate arises then serious economic problems like inflation and balance of payments weakens the integrity of the existing economy. Thus to maintaining appropriate balances between exports and imports the state authority has forged various types of legal frameworks in terms of different Acts and Policies.

In India, there are several Acts and policies enacted to have a uniform practice in export & import trade practices. Among those Acts, Imports and Exports (Control) Act, 1947, Foreign Trade (Development and Regulation) Act, 1992 and Import-Export (EXIM) Policy 1997-2002 are few significant Acts and policies. The Imports and Exports (Control) Act, 1947 has been replaced by Foreign Trade (Development and Regulation) Act, 1992 to empower the central government to have more control on exports and imports activities.

The Government is empowered to enact provisions related to development and regulation of trades for domestic as well as international market and can restrict and regulate all forms of exports and imports in case of requirements and declare tariff exemption by accessing special needs.

India's import and export system is governed by the Foreign Trade (Development & Regulation) Act of 1992 and India's Export Import (EXIM) Policy. Imports and exports of all goods are free, except for the items regulated by the EXIM policy or any other law currently in force. Registration with regional licensing authority is a prerequisite for the import and export of goods. The customs will not allow for clearance of goods unless the importer has obtained an Import Export Code (IEC) from the regional authority.

II. Import and Export Policy

The Indian Trade Classification (ITC)-Harmonized System (HS) classifies import goods into three categories:

- A. Restricted
- B. Canalized
- C. Prohibited

Goods not specified in the above mentioned categories can be freely imported without any restriction, if the importer has obtained a valid IEC. There is no need to obtain any import license or permission to import such goods. Most of the goods can be freely imported in India.

A. Restricted Goods

Restricted goods can be imported only after obtaining an import license from the relevant regional licensing authority. The goods covered by the license shall be disposed of in the manner specified by the license authority, which should be clearly indicated in the license itself. The list of restricted goods is provided in ITC (HS). An import license is valid for 24 months for capital goods, and 18 months for all other goods.

B. Canalized Goods

Canalized goods are items which may only be imported using specific procedures or methods of transport. The list of canalized goods can be found in the ITC (HS). Goods in this category can be imported only through canalizing agencies. The main canalized items are currently petroleum products, bulk agricultural products, such as grains and vegetable oils, and some pharmaceutical products.

C. Prohibited Goods

These are the goods listed in ITC (HS) which are strictly prohibited on all import channels in India. These include wild animals, tallow fat and oils of animal origin, animal rennet, and unprocessed ivory.

Just like imports, goods can be exported freely if they are not mentioned in the classification of ITC (HS). Below follows the classification of goods for export:

1. Restricted
2. Prohibited
3. State Trading Enterprise

1. Restricted Goods

Before exporting any restricted goods, the exporter must first obtain a license explicitly permitting the exporter to do so. The restricted goods must be exported through a set of procedures/conditions, which are detailed in the license.

2. Prohibited Goods

These are the items which cannot be exported at all. The vast majority of these include wild animals and animal articles that may carry a risk of infection.

3. State Trading Enterprise (STE)

Certain items can be exported only through designated STEs. The export of such items is subject to the conditions specified in the EXIM policy [1].

III. Canadian Regime

Canada has a private to public property ratio of 60:40 and one of the highest levels of economic freedom in the world. Today Canada closely resembles the U.S. in its market-oriented economic system and pattern of production [2]. International trade makes up a large part of the Canadian economy, particularly of its natural resources. In 2009, exports accounted for approximately 30% of Canada's GDP. The United States is by far its largest trading partner, accounting for about 73% of exports and 63% of imports as of 2009. Canada's combined exports and imports ranked 8th among all nations in 2006 [3]. Canada is holding free trade agreements with many nations in the world.

The issuance of export permits under the Export and Import Permits Act is administered by the Trade Controls Bureau of Foreign Affairs, Trade and Development Canada (DFATD). Canada's participation in multilateral export control regimes and bilateral agreements has brought the way out to study and compare the land laws of the two nations. The study of Canadian economy and market is the information that can help anyone better to understand industry and help to keep one up to date on the latest trends that could impact the business.

Canada is in Free Trade Agreements with many nations and in ongoing Free Trade negotiations with India. A Free Trade Agreement enables to compete on a more even playing field with local firms in the FTA partner country. Under an FTA, a range of Canadian goods and services benefit from the reduction or elimination of tariff and non-tariff barriers to trade, such as quotas or technical barriers. It is important to note that each FTA covers different industry sectors and contains different provisions, depending on the FTA partner.

The Honourable Minister of International Trade of Canada, launched free trade negotiations with India on his visit to New Delhi. At these negotiation the importance of cooperation and creativity in reaching a broad and ambitious free trade agreement were highlighted.

It was said, "A Canada-India free trade agreement has the potential to boost Canada's economy by \$6 to \$15 billion and increase trade between the two countries by 50 percent. The representatives committed in building on already strong ties with India to create a partnership that will lead to new jobs, new opportunities and stronger economies for both Canada and India."

A recent joint study concluded that free trade could boost Canada's economy by \$6 to \$15 billion, increase bilateral trade with India by 50 percent, and directly benefit Canadian sectors ranging from primary agricultural, resource-related and chemical products to transport equipment, machinery and equipment, and services. A free trade agreement would also help Canada and India meet a

mutual goal of increasing bilateral trade to \$15 billion annually within the next five years [4].

Canadian modelling work shows substantial gains in bilateral trade, for Canada as high as 47 per cent and for India as high as 60 per cent. Canada's gains in exports to India would be widely spread across sectors, ranging from primary agricultural and resources-related products, to chemical products, transport equipment, machinery and equipment and services, while India's leading gains in exports to Canada would be concentrated in textile and apparel products and services. India is one of the fastest-growing economies on the planet; it is projected to be the world's third largest economy by 2050. India's growing population, rising per capita income levels, rapidly expanding manufacturing, high-technology and services sectors, and the associated infrastructure and natural resources requirements make it a tremendous market of opportunity for Canadian companies [5].

IV. Scope and Significance of Study

The researcher in the present work will try to work over the comparison between the Indian trade system and the regime followed in Canada. The import and export business is regulated by several international treaties and the research will be an outcome of the study of the basic laws and trade negotiations of two foreign lands ie. India and Canada. The work will help in the enhancement to the people in business to follow the proper process and procedure for economic sanctions on a foreign land. Though Canada is in Free Trade Agreements with other nations the study will reveal its importance with special regard to India.

V. Research Questions

1. How to determine if the goods imported are prohibited from entering Canada?
2. How to determine if the goods are subject to any restrictions that would require obtaining approvals or permits before importing them?
3. How to classify the goods (tariff classification) and how any tariffs, duties or taxes are calculated?
4. What are the requirements of the Canadian labelling and marking?
5. What will be the requirement for the formalities of the paper work towards customs and other taxes in Canada?

VI. Conclusion

The research work holds the work of the global trade and keeping the laws of Canada with a priority to the land laws of India. The present work will help in studying the report that there was sufficient common ground to recommend moving ahead with next steps towards negotiation of a comprehensive agreement of free trade between India and Canada, covering substantially all trade in goods and services; investment; trade facilitation; and other areas of economic cooperation, as a 'single undertaking', leading to additional trade flows and economic gains.

References

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