

«Provided that the provisions of this sub-section shall be in force in case of import or export of services or technology; or by when the service or technology provider is availing benefits under the foreign trade policy or is dealing with specified services specified technologies. n. (b) after subsection the following substitution shall be inserted, namely "(4) without prejudice to anything contained in any other law, notification or order, no permit or licence shall be necessary for import or export of any goods: and any goods shall be prohibited for export except as may be required under this or any other law made thereunder» 5. for section 5 of the principal Act the following section shall be substituted, namely: "5. The Central Government may from time to time, formulate and announce, by notification in the Official Gazette 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. section 6 of the principal Act in subsection for the words "export and import policy", the words "foreign trade policy" shall be substituted. 7. section 7 of the principal Act the proviso shall be namely:— "Provided that in case of services technology; the exporter Code Number shall be necessary only when the service or technology provider is taking benefits under the foreign trade policy dealing with services specified in the schedule of the Foreign Trade Policy Amendment of section 6. Amendment of section 4 THE GAZETTE OF INDIA EXTRAORDINARY In section 4 of the principal Act. (PART Amendment of section 9. insertion of new Chapter Power of Central Government to impose quantitative restrictions. (A) for sub-section the following sub-section shall be substituted, namely:— (a) any person has contravened any of the provisions of this Act or any rules or orders made thereunder of the foreign trade policy or any other law for the time being in force relating to Central excise or customs or foreign exchange has committed any other economic offence under any other law for the time being in force as may be specified by the Central Government by notification in the Official Gazette; or (b) the Director General or any other officer authorised by him has reason to believe that any person has made an export or import in a manner prejudicial to the interests of India or to the interests of other persons engaged in imports or exports or has brought discredit to the credit of goods or services or technology provided from, the country; or (c) any person who imports or exports specified goods or services or technology, in contravention of any provision of this Act or any rules or orders made thereunder of the foreign trade policy, the Director General or any other officer authorised by him may call for and record or any other information from that person and may after giving to that person a notice in writing informing him of the grounds on which it is proposed to suspend or cancel importer's export Code Number and after giving him a reasonable opportunity of making a representation in writing -within such reasonable time as may be specified in the notice and if that person so desires of being heard suspend for a period, as may be specified in the order, or cancel the Code Number granted to that person; (B) in subsection for the words "import or export any goods", the words "import or export any goods or services or technology" shall be substituted. 9. in section 9 of the principal Act (a) in sub-sections (3) and (3A) for the word "licence", wherever occurs, the words "licence: certificate" shall be substituted. (b) for subsection the following sub-section shall be substituted— The Director General or an officer authorised by him may, on an application, and after making such inquiry as he may think fit grant, renew or refuse to grant or renew a licence to import or export such classes of goods or services or technology as may be prescribed and, grant or renew or refuse to grant or renew a certificate, or any instrument bestowing financial or fiscal benefits after recording in writing his reasons for such refusal. After Chapter III of the principal Act the following Chapter shall be inserted, namely.—

CHAPTER RESTRICTIONS ON IMPORTS. (1) If the Central Government after conducting such enquiry as it deems fit, is satisfied that any goods are imported into India in such increased quantities and under such conditions as to cause or threaten to cause serious injury to domestic industry, it may, by notification in the Official Gazette impose such quantitative restrictions on import of such goods as it may deem fit: Provided that no such quantitative restrictions shall be imposed on any goods originating from a friendly country so long as the share of imports of such goods from that country does not exceed three per cent: where such goods originate from SEE. THE GAZETTE OF EXTRAORDINARY more than one developing country, then, so long as the aggregate of the imports from all such countries taken together does not exceed nine per cent of the total imports of such goods into India. (2) The quantitative restrictions imposed under this section unless

revoked earthen cease to have on the expiry of four years from the date of such imposition: Provided that if the Central Government is of the opinion that the domestic industry has taken measures to adjust to such injury or threat thereof and it is necessary that the quantitative restrictions should continue to be imposed to prevent such injury or threat and to facilitate the it may extend the said period beyond five years; Provided further that in no case the quantitative restrictions shall continue to be imposed beyond a period of ten years from the date on which such restrictions were first imposed. (3) The Central Government may, by rules provide the manner in which goods the import of which shall be subject to quantitative restrictions under this section may be identified and the manner in which the causes of serious injury or threat to serious injury in relation to such goods may be determined, (4) For the purposes of this section (a) "developing country" means a country notified by the Central Government in the Official Gazette in this regard; (b) "domestic industry" means the producers of goods (including producers of agricultural goods or goods or competitive goods in India; or (c) whose collective output of the like goods directly competitive goods in India constitutes a major share of the total production of the said goods in (e) "serious injury" means an injury causing significant overall impairment to the position of a domestic industry (5) "serious injury" means a loss of serious injury in relation to the principal Act for substitution: the following sub-section Amendment shall be substituted, namely:— 1) Central Government may, by the Gazette, authorise any person for the purposes of exercising such powers with respect to (a) entering such premises where the goods are kept, or processed, manufactured, traded or supplied or received for the purposes of import or export and searching, inspecting and seizing of such goods, documents, things and conveyances connected with such import and export of goods; (8) entering such premises from which securities or technology being produced, supplied, received, consumed or utilised and searching, inspecting and seizing of such goods, documents, things conveyances connected with such import and export of services and technology subject to such requirements and conditions as may be prescribed: Provided that the provisions of clause (h) shall be applicable in case of import or export of services or technology, only the service or technology provided is availing benefit under the foreign trade policy or is unfavourable with specified services or specified technologies. 6 THE CUSTOMS ACT OF INDIA EXTRAORDINARY [PART Substitution of 12. For section of the principal Act the following section shall be substituted, section namely.— for section 11. Contravention Of provisions of this Act, rules, orders and foreign trade policy. (1) No export or import shall be made by any person except in accordance with the provisions of this Act the rules and orders made thereunder and the foreign trade policy for the time being in force (2) Where any person makes or abets or attempts to make any export or import in contravention of any provision of this Act or any rules or orders made thereunder or the foreign trade policy he shall be liable to a penalty of not less than ten thousand rupees and not more than five times the value of the goods or services or technology in respect of which any contravention is made or attempted to be made, whichever is more. (3) Where any signs or use of causes to be made signed used. any declaration, statement or document submitted to the Director General or any officer authorised by him under this Act, knowing or having reason to believe that such declaration, statement or document forged or tampered with or false in any material particular he shall be liable to a penalty of not less than ten thousand rupees or more than five times the value of the goods or services or technology in respect of which such declaration, statement or document had been submitted, whichever is more. (4) Where any person on notice to him by the adjudicating authority admits any contravention, the Adjudicating Authority may, in such class or classes or cases and in such manner as may be prescribed determine by way of settlement, an amount to be paid by that person. (f) A penalty imposed under this Act may, if it is not paid by any person, be recovered by any one or more of the following modes, namely:— (a) the Director General may deduct or require any officer subordinate to him to deduct the amount payable under this Act from any money owing to such person which may be under the control of such officer; or (b) the Director may require any officer of customs to deduct the amount payable under this Act from any money owing to such person which may be the control of such officer of customs. as if the said amount is payable under the Customs Act, 1962: of 1962. (c) the Director may require the Assistant Commissioner of Customs or Deputy Commissioner of Customs or any other officer of Customs to the amount payable by detaining or by goods (including the goods connected with services or technology) belonging to such person which are under the control of the Assistant Commissioner or Customs or Deputy Commissioner or Customs or any other officer of Customs as if the said amount is payable under the Customs Act, 1962; or 52 of 1962. if cannot be recovered from such person in the manner provided in

clauses (a) and (b) and (3) the Director General or any officer authorised by him may prepare a certificate signed by him specifying the amount due from such person and send it to the Collector of the District in which such person owns any property or resides or carries on business and the said Collector on receipt of such certificate shall proceed to recover from such person the amount specified thereunder as if were an arrear of land revenue; or (30) the Director General or any officer authorised by him (including an officer of Customs who shall then exercise his powers under the Customs Act, and accordance with the rules made in this behalf) may detain any movable or immovable property belonging to or under the control of such person and detain the same until the amount payable is paid, as if the said amount is payable under the Customs Act, 1962; and in 21 of 1962. THE GAZETTE OF EXTRAORDINARY, any person of the said amount payable at the cost of the distress or keeping of the property, remains unpaid for a period of thirty days next after any such distress may cause the said property to be sold and with the proceeds of such sale, may satisfy the amount payable and costs including cost of sale remaining unpaid and shall register the same in the name of such person. (6) Where the terms of any bond or other instrument executed under this Act any rules made provide that any amount due under such instrument may be recovered in the manner laid down in a sub-section the amount may with due diligence to any other mode of recovery, be recovered in accordance with the provisions of that sub-section (7) without prejudice to provisions contained in this section the Importer Exporter Code Number of any person who fails to pay any penalty imposed under this Act, may be suspended by the Adjudicating Authority till the penalty is paid or recovered, as the case may be (8) Where any contravention of any provision of this Act or any rules or orders made (hereunder or the foreign trade policy has been, is being or is attempted to be, made; the goods (including the goods connected with services or technology) together with any package, covering or receptacle and any conveyances shall be subject to such conditions and requirements as may be prescribed, be liable to confiscation by the Adjudicating Authority. (9) The goods (including the goods connected with services or technology) the conveyance confiscated under subsection (8) may be released by the Adjudicating Authority in such manner and subject to such conditions as may be prescribed, on payment by the person concerned of the redemption charges equivalent to the market value of the goods or conveyance as the case may be under section 11 of the principal Act. the following sections be inserted, namely— I A. All sums realised by way of penalties under this Act shall be paid to the Consolidated Fund of India, 1B. Goods and duty and interest thereon as ordered by the Settlement Commission as constituted under section 32 of the Central Excise Act, 1944 shall be deemed to be a settlement under this Act," 14. In section 14 of the principal Act. the word "goods" shall be substituted by the words and brackets (including goods connected with services or technology) shall be substituted. CHAPTER IV OF THE PRINCIPAL ACT* CHAPTER {VA OF GOODS, SERVICES AND TECHNOLOGY} (j) In regard to controls on export of specified goods, services and technology referred to in this the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005 shall apply to exports, transfers or conveyances, brought in transit by shipment of, and brokering in specified goods, technology or services* insertion of new sections concerning persons engaged by WZV of penalties Co-ordinated Fugate Empowering Commission for of export obligation de jure of section 14, new Chapter IVA. Controls export of specified goods, services and technology 8 THE GAZETTE OF INDIA EXTRAORDINARY (2) All terms, expressions or provisions of the Weapons of Mass Destruction Transfer Controls, Catch-all controls. Suspension or cancellation of a licence. Offences and penalties Amendment of the Chapter V Amendment of section 15, and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005 shall apply to the specified goods, services or technology with such exceptions, modifications and adaptations as may be specified by the Central Government by notification in the Official Gazette. (3) The Central Government may, by notification in the Official Gazette* direct any of the provisions of this (a) shall not apply to any goods or services of technologies, or (b) shall apply to any goods, services or technologies with such exceptions, modifications and adaptations as may be specified in the 14B. (1) The Central Government by notification in the Official Gazette* make rules in conformity with the provisions of the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005 or, in 21 of 2005. in connection with, the imposition of controls in relation to transfer of specified goods or services or technology. (2) No goods, services or technology notified under this Chapter shall be exported* transferred, retransferred, brought in transit or transhipped except in accordance with the provisions of this Act, the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005 or any other law of 2005. relevant

Act. 14C* No person shall export any materials equipment or technology knowing that such material, equipment or technology is intended to be used in the design or manufacture of a biological weapon, chemical weapon, nuclear weapon or other nuclear explosive devices or in their missile delivery systems. The Director General or an officer authorised by him may, by order, suspend or cancel a licence to import or export specified goods or services or technology without giving the holder of the licence a reasonable opportunity of being heard but such person shall be given reasonable opportunity of being heard within six months of such order and thereupon, the Director General or the officer so authorised may, if necessary, by order in writing, confirm, modify or revoke such order. 14E+ (1) In case of a contravention relating to specified goods or services or the penalty shall be according to the provisions of the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Activities) Act, 2005. (2) Where any person contravenes or attempts to contravene any of the provision(s) of this Chapter in relation to import or export of any specified goods or services or technology, he shall, in addition to any penalty which may be imposed on him, be punishable with imprisonment for term stipulated in the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Activities) Act, 2005. (3) No person shall take cognizance of any offence punishable under this Chapter without the previous sanction of the Central Government or any officer authorised in this behalf by the Central Government by general or special order. In the principal Act, in sub-heading below, 'CHAPTER V' the word 'REVISION' the word 'REVIEW' shall be substituted. In section 15 of the principal Act in sub-section (2), in the proviso, for the words 'goods', the words and brackets 'goods (including the goods connected with service or technology)' shall be substituted. GAZETTE OF INDIA EXTRAORDINARY 9-18-2010. For section 16 of the principal Act the following shall be substituted, namely:— 6. Central Government, in the case of any decision or order made by the Director General or the Director General in the case of any decision or order made by any officer subordinate to him, may on its or his own motion or otherwise, and examine the records of any proceeding, for the purpose of satisfying itself or himself as the case may be, as to the legality of such decision or order and make such orders thereon as may be deemed fit. Provided that decision or order shall be varied under this section so as not to prejudicially affect any person unless such person— (a) has, within period of two years from the date of such decision or received a notice to show cause why such decision or order shall not be varied; and (b) has been given a reasonable opportunity of making representation and, if he so desires, of being heard in his defence," in section 17 of the principal Act, for the word "Order" wherever it occurs, the word "Review" shall be substituted. 20. In section 8 of the principal Act, the following shall be inserted, namely:— 8A. The provisions of this Act shall be in addition to, and in derogation of, the provisions of any other law for the time being in force. In section 9 of the principal Act, in sub-section (2), (a) in clause (iii) the word "licence, certificate, scrip or any instrument financial or fiscal benefits" shall be substituted; (b) for clause (iv) the following clause shall be substituted, namely:— the class or classes of goods (including the goods connected with service or technology) for which a licence, certificate, scrip or any instrument bestowing financial or fiscal benefits be granted under subsection (2); (c) for clause (v) the words "licence, certificate, scrip or any instrument bestowing financial or fiscal benefits" be substituted; after clause (v) the following clause shall be inserted, namely:— "(e) the matter which goods the which be subject quantitative restriction may be identified and the manner in which the causes of restriction injury or causes of threat of serious injury in relation to such goods may be determined under section 9A;" (e) in clause (vi) for the word "goods", the words and brackets "goods (including the goods connected with service or technology)" shall be substituted; (f) for clause (vii) the words, brackets and figures "Of section 9A;" shall be substituted; (g) for clause (viii) the words "the goods connected with the service or technology" shall be substituted; (h) the requirements and subject to which goods the goods connected with the service or technology be to confiscation under subsection (8) of section 11 in clause (i) the following clause shall be substituted, namely: manner in which the conditions subject to which goods (including the goods connected with the service or technology) and conveyances may be released on payment of redemption charges under subsection (9) of section 11. Secy to Govt. PY OF 2000 Substitution Of new section section 16 Review. Amendment of section 17. insertion of Application of other not barred Amendment of section 19. 1992 22 9 2010 2010 (2010 25) 119 2010 1 1992 2010 1 2. 1992 2 (11) (q) for (ii) 2005 1; -qtd (z) fgt&, 2005 2005 21 3 38 AT fqqf (q) fffz qznt (4) 5 IO. 3 6 11 11 11. () (4) gTtT ! 962 i 962 •51 \$2 .1962 52 1962 (q) (qi), afr (O *qfrT t fäq 1962 1962 #gff 8 11 32 t ait t)" 1 •2005, 2005 2005 14xr. 1944 2005 2005 2005 \$t21 19 10 21. 19 (2) (3) 11 (3) 11 (4) 11 (8) t 11 (9) 2010 The above translation in Hindi of the Foreign

Trade (Development and Regulation) Amendment Act, 2010 has been authorised by the President to be published in the Official Gazette under clause (a) of sub-section (1) of section 5 of the Official Languages Act, 1963. Secretary to the Government of India.

