

# An Overview Of Indian Precursor Control Laws

***Dr. M.C. Mehanathan (Former Deputy  
Legal Advisor to Narcotics Control Bureau)***

Precursor control laws in India have been framed considering both the needs of the society and the nation's obligations under the international conventions. In India, precursors are controlled under three different enactments:

1. Customs Act, 1962
2. Narcotic Drugs and Psychotropic Substances Act, 1985 and
3. Foreign Trade (Development and Regulation) Act, 1992

Section 11-I of the Customs Act empowers states to specify goods which are restricted in areas prone to smuggling and the areas in which the goods are specified. Acetic anhydride has been brought under the control of this section in an area of 100 km along Indo-Myanmar border in 1988 and has been notified in an area of 50 km along Indo-Pak border in 1991. The implications of these controls are:

- ◆ Anyone acquiring acetic anhydride whose value exceeds Rs. 15,000- should beforehand, intimate the jurisdictional customs officer about the proposed place of storage.
- ◆ Transportation within the area should be accompanied by transport voucher
- ◆ Anyone possessing acetic anhydride of value above Rs. 15,000- should maintain accounts.
- ◆ Shortage of Acetic anhydride- presumption that the quantity found short was illegally exported
- ◆ Except in cases of payment by cheque, seller/transferor to take the signature and full address of the buyer
- ◆ The seller has to satisfy himself regarding the identity of the buyer- in case of fictitious buyer presumption that Acetic anhydride has been illegally exported.

## **Narcotic drugs and Psychotropic Substances Act, 1985:**

The term used under this Act for precursors is 'controlled substances'. Section 9A of this Act empowers the government to issue an order prohibiting or regulating the production, manufacture, supply and distribution thereof and trade and commerce of any of the controlled substances. Section 25A prescribes a punishment of up to 10 years R.I. and a fine of up to Rs. 100,000 for any violation of an order

issued under section 9A.

Five precursors have been notified as 'controlled substances' viz., acetic anhydride, N-acetyl anthranilic acid, ephedrine, pseudoephedrine and anthranilic acid.

Only one order has been issued under Section 9A of the NDPS Act viz., NDPS (Regulation of Controlled Substances) Order, 1993. This order introduces a record based control over precursors. The salient features of this order are:

- ♦ All manufacturers (Form 1) distributors, sellers, importers, exporters or consignors (Form 2) should maintain a daily record of activities. They should send quarterly returns to the jurisdictional Zonal Directors (ZD) of the Narcotics Control Bureau (NCB) (Form 4/ Form 5).
- ♦ Loss or disappearance should be reported to the Director General, NCB and a copy of the report should be sent to ZD, NCB.
- ♦ Controlled substances can be transported only accompanied by a consignment note (Form 3) issued by the consignor or by a bill of entry if it is being transported from the port of import to the first destination
- ♦ All tankers carrying controlled substances should be sealed with tamper-proof seals
- ♦ If the consignor in the jurisdiction of one zone of the NCB sends a consignment of controlled substance to a consignee in another zone, in respect of such consignments, the consignor has to send a quarterly return (Form 6) to the zonal director NCB in whose jurisdiction the consignee falls.
- ♦ The seller of controlled substance cannot sell it unless the buyer establishes his identity through some documents.
- ♦ All containers carrying controlled substances should be truthfully labeled.
- ♦ Schools, colleges, universities, Govt/autonomous institutions, scientific societies and hospitals are exempt from maintaining records and sending reports
- ♦ All records maintained should be preserved for at least two years.

### **Foreign Trade (Development & Regulation) Act, 1992 and the EXIM Policy:**

The EXIM Policy framed under the Foreign Trade (Development & Regulation) Act, 1992 empowers the government to regulate imports into and exports out of the country. The Export- Import Policy (EXIM Policy) lays down the restrictions on imports and exports of various commodities. Any changes in the policy are made by the government through 'Public Notices'. Import and export of precursor chemicals in India are also regulated through this mechanism.

#### *Acetic anhydride, Ephedrine and Pseudoephedrine*

As per Public notice no. 79 Exp. (PN) 92-97 dt. 2.1.96, a No Objection Certificate from the Narcotics Commissioner of India is an essential prerequisite for export of acetic anhydride, ephedrine & pseudoephedrine. This NOC is required

individually for every export. As soon as an application for an NOC is received, the Narcotics Commissioner issues a 'Pre-Export Notification' to his counterpart in the importing country and waits for a reasonable time for confirmation of the genuineness of the export before issuing an NOC.

*Potassium permanganate, 1-phenyl-2-propanone, 3,4-methylenedioxyphenyl-2-propanone and Methyl ethyl ketone*

As per Public notice no. 35 (RE) 1997-2002 dt. 1.9.98- export of these four precursors also requires a No Objection Certificate from the Narcotics Commissioner. The procedure followed for these exports is similar to the one mentioned in the preceding paragraph.

*Import of acetic anhydride, ergometrine, ergotamine and piperonal*

Import of these four precursors requires a No Objection Certificate from the Narcotics Commissioner as per Public notice no. 28 (RE-99) 1997-2002 dt. 18.8.99. The Narcotics Commissioner verifies the genuineness of the import requirement before permitting it.