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IMPORTING ALCOHOL IN INDIA
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Regulatory landscape and tax structure
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1. OVERVIEW

International brands looking to explore the India market as a first step usually adopt the route of identifying an importer cum distributor in India with whom the brand can develop a marketing strategy so as to initiate exports. The importer cum distributor typically works with the international company helping them register the brand and comply with the food safety laws and standards as laid down by FSSAI (Food Safety & Standards Authority of India) and the respective State Excise Department and market the product to the target consumer base. The importer cum distributor also works out the logistics and clearing of the product when the export consignment arrives at the port. For the same purpose almost all importer cum distributors (except a few) usually work with a third-party logistics company.

Aside from the commercial landscape and the growth potential India offers in the consumer space, it is important for international brand owners / companies looking to export to India to understand the basic regulatory framework that encompasses the alcoholic beverages industry.

'Importing Alcoholic Beverages – India' is a guide that highlights some of the factors from a regulatory standpoint that is vital for companies looking to export. In the guide, we have elaborated the custom duty and tax structure allocated for alcoholic beverages, which eventually plays a major role in terms of determining the overall pricing of alcoholic beverages, and also the labelling and food safety laws which can at times be contrasting to some of the other Asian markets.

The alcoholic beverages industry is highly regulated by the Government in India, not just at the federal level but each and every State and Union Territory have their own specific set of laws and excise duty set by the respective State Excise Department. The sale of alcohol has always been a strong source of revenue inflow for States/Union Territories – one of the reasons why the Federal Government never brought it under the purview of GST (Goods and Services tax) regime which is applicable for all other consumer products.

2. ROLE OF FSSAI

Food Safety and Standards Authority of India (FSSAI) – www.fssai.gov.in is a statutory body established under the **Ministry of Health & Family Welfare, Government of India** headquartered in **New Delhi**. FSSAI has been established under the **Food Safety and Standards Act, 2006** and is responsible for design and implementation of regulatory guidelines and policies concerning the food and beverage industry.

3. ROLE OF CBIC

Central Board of Indirect Taxes and Customs (CBIC) - www.cbic.gov.in is a part of the Department of Revenue under the Ministry of Finance, Government of India. CBIC is tasked with the formulation of policy



concerning levy and collection of Customs, Central Goods & Services Tax and IGST (Integrated Goods and Services Tax).

4. ROLE OF EXCISE DEPARTMENT

The 29 States along with seven Union Territories in India approach liquor taxation differently. Some of the States auction retail and wholesale licenses, while others have their own monopolies. Each and every State/Union Territory has an excise department that decides on the excise duty and VAT rates in a financial year. Excise and VAT rate levied by the Excise Department of respective State is different from one another and is not a uniform rate across India. This is the reason why the price of a bottle of whiskey or wine keeps changing from one State to another and also fluctuates from time to time.

Alcohol was not brought under the purview of GST regime as sale of alcohol accrues enormous inflows of revenue to the State Governments.

5. PRACTICAL POINTS FOR SALES & DISTRIBUTION

5.1 ADVERTISING IN INDIA

Advertisement of alcoholic beverages is prohibited in **mainstream media** (television, newspapers, magazines banner or hoardings, etc.). Surrogate advertisement is what most brands opt for in the India market. This rule is not yet applicable for social media platforms such as Instagram, Facebook, etc., so brands do promote themselves freely on these platforms. Alcoholic beverage brands do run promotions, organize events within pubs, cafes in order to attract and retain customers.



E.g.: Carlsberg advertisement in a local newspaper.

Image Source: The Storypedia, Carlsberg advertisement.

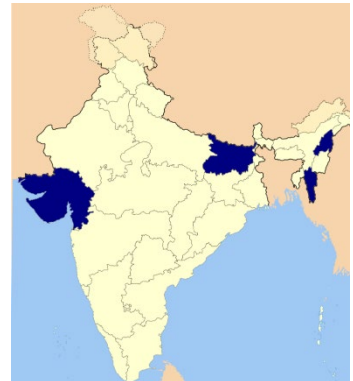
www.thestorypedia.com/entertainment/surrogate-advertising-should-celebrities-accept-moral-responsibility/

5.2 DRY STATES IN INDIA

There are several dry States (**Gujarat, Nagaland, Mizoram, Part of Manipur & Bihar**) in India where alcohol is prohibited for sale and distribution. In Gujarat, alcohol can be served in hotels, so alcoholic beverages can be imported for that purpose.

Image Source: Wikipedia,

https://en.wikipedia.org/wiki/Alcohol_prohibition_in_India



States marked in navy blue still have a ban on sale of alcoholic

5.3 SENDING PRODUCT SAMPLES TO INDIA



All regulations applicable for the import of alcoholic beverages into India, are also applicable for the import of samples. This applies to the defined standards of the alcoholic beverage and to the labelling on the packages. The product also has to be registered in the State where it will be consumed.

The main exemption on this basic rule is alcoholic beverages imported for the purpose of exhibitions and tastings, subject to certain conditions. This exemption cannot be used for sending samples to a potential Indian importer.

Alcoholic beverages can be sent in limited quantities to an individual who will not use the goods for commercial purposes.

5.4 PRODUCT TESTING

Prior to starting exports to India, your product is liable to be tested in an [FSSAI approved lab](#). If approved by the lab, the product gets registered with FSSAI and is allotted an FSSAI number. All food and beverage shipments arriving in India are eligible for random sample testing at the port.

5.5 PRODUCT CLASSIFICATION

Alcoholic beverages in India are broadly classified as **beers, wines, spirits (distilled)** and **liqueurs**. In general terms **beers** and **wines** are considered as **milder alcoholic beverages** as their ABV (alcohol by volume) is relatively less in comparison to **spirits** and **liqueurs**.

For beers specifically, here is how the alcoholic beverage is classified/categorized by FSSAI.

- **Regular or mild beers** – ABV more than 0.5% up to 5.0%.
 - **Strong beers** – ABV more than 5.0% up to 8.0%.
- (All products labelled and classified as beers can have a maximum of 8% ABV).
- **Alcohol free beer** – ABV 0.0 % (for other parameters such as ingredients and additives, alcohol free beer shall comply with the limits specified for beer).
(Alcohol free beer/non-alcoholic beers marketed in India do not have an ABV as high as 1.2% like Europe. The ABV is usually very low, sometimes even negligible).

5.6 SHELF LIFE & PREFERRED PACKAGING (FOR BEERS ONLY)

- A long shelf life (specifically for beers) is important for the importers due to the complexity of the market for alcoholic beverages.
- There is a greater demand for cans mainly for beers, alcohol free beers and wine. It is preferred over bottles for logistical reasons.

6. REGISTRATION OF YOUR PRODUCT

Product registration in India is State/Union Territory and product unit specific. Your importer should ideally register the product respectively for each State where you decide to distribute. Each registration attracts an annual fee, the registration is only valid for 12 months upon issue and can be renewed upon expiry. The cost for the product registration again varies from one State to another.

E.g.: you are planning to export the wit variety of beer, in two product units: 330ml glass bottle and 500ml can. The glass bottle and the can will require separate registrations.

This is not an industry standard but the importer cum distributor you identify might ask you as a manufacturer to bear the cost for product registration. This is dependent on the terms and conditions you agree on with your importer cum distributor.

7. LICENSES FOR SALES & DISTRIBUTION

The importer cum distributor you identify to work with should have

- FSSAI license.
- An alcoholic beverage license for distribution within the State. E.g.: if your importer cum distributor has a distribution network in **Maharashtra, Karnataka and Delhi**, he/she should have 3 licenses for 3 States. Distribution licenses for alcoholic beverages are again State specific.

The importer cum distributor is usually issued a license covering spirits and hard liquor and a separate one for wines and beers. Under these licenses the importer cum distributor can import multiple brands. Again the importer cum distributor's alcoholic beverage licenses are valid for a financial year and requires renewal every year. Each license attracts an annual cost, but this is usually borne by the importer cum distributor. The license renewal duration and cost again is subject to revision depending on the State government and Excise Department.

E.g. – Maharashtra Government's move to hike 15% license fee for 2022-23 stuns cash strapped restaurant and bar industry, Jan 2022.

www.freepressjournal.in/mumbai/maharashtra-govts-move-to-hike-15-license-fee-for-2022-23-stuns-cash-strapped-restaurant-and-bar-industry

8. IMPORT DUTIES & EXCISE

Imported alcoholic beverages (beers, wines, spirits, liqueurs) attract custom duties in India. At the port of entry, along with custom duties, certain levies and surcharges are also applicable. The custom duty is calculated based on the HS Code. When a particular alcoholic beverage product is further distributed inland, excise and VAT for that specific State/Union Territory is applicable in addition to the import duties.



IMPORT DUTIES (Federal level taxes)	EXCISE AND VAT (Imposed by respective states)
<p>Import duties are a federal level tax in India. The duties are HS Code specific.</p> <p>The imported alcoholic beverage attracts the following duties –</p> <ul style="list-style-type: none"> • Basic Custom Duty (BCD) • Social Welfare Surcharge (SWC is 10% on BCD) • Custom Health Cess. 	<p>All beverages attract –</p> <ul style="list-style-type: none"> • Excise Duty. • VAT. <p>- States/Union Territories levy either Excise Duty or VAT (Value added tax) or both.</p>
<p>*Total Custom Duty Rate (For fiscal year 2022-2023)</p> <p>Beer – 100%</p> <p>All other alcoholic beverages (wines, spirits & liqueurs) – 150%</p> <p><i>*rates are subjected to revision in the next budget announcement by Government of India.</i></p>	<p>- The rates for excise and VAT differ from one state to another in a fiscal year and also varies for different types of alcoholic beverages.</p> <p>- Excise Duty is usually calculated on a per-unit basis. Excises are mostly not calculated based on the alcohol percentage in the product</p> <p>- VAT (Value-added Tax) is charged on the proportion of the product. E.g.: if a bottle costs INR 100, and the state levies 10% VAT, the price rises to INR 110.</p>

*Fiscal Year = in India its usually April to March.
INR – Indian Rupee.*



9. LABELLING YOUR PRODUCT

Labels for alcoholic beverages need to have the following information. These data have to be on imprints (no stickers) when the goods arrive at the port.

- Name of the product.
- Manufacturer's name and address.
- Date of Manufacture (production date).
- Lot/Batch number.
- % of alcohol.
- List of Ingredients (in descending order) **but not required for whiskey's.*
- Net quantity (Volume content).
- Allergen warning (*Eg: If the wine contains more than 10 mg sulfur dioxide per litre, the label must declare "Contains sulfur dioxide or Contains sulfite"*).
- Best before or Use by date or Date of Expiry (not necessary if % of alcohol greater than 10%). **This is not required for wine & spirits and liquor.*
- Shelf life requirement: All products entering India should have a valid shelf life of:
 - ✓ not less than 60% of its original shelf life OR
 - ✓ 3 months before expiry,
 - ✓ whichever is less at the time of import.



Picture for illustration only

If the shelf life requirement is not fulfilled, the goods will **NOT** be allowed to enter the country.

- Health caution to be printed on the product label when goods enter the Indian territory - *'Consumption of alcohol is injurious to health Be safe-don't drink and drive'*.
- Some labelling can be done in a bonded warehouse prior to the checks done by Customs, seeking permission beforehand. Stickers are allowed for the following information:
 - Importers FSSAI license number.
 - Customer care info.
 - Importers name & address.

10. WAY FORWARD

India's alcoholic beverage market faces challenges revolving around steep duties, liquor licensing and sourcing.

States differ widely in their governance and pricing of alcohol. Excise policies are used by states to control the entire supply chain of alcoholic beverages, from manufacturing and distribution to retail and registration. These policies are ad-hoc and frequently changing, creating uncertainty.

Regulatory barriers, price control and high import tariffs have tremendously impacted the growth aspects of the industry. Stakeholders and manufacturers agree that alcoholic beverages are a capital intensive industry and there needs to be greater transparency, predictability, and clarity in the tax scheme to ensure smooth functioning of the overall sector.

There is recommendation from industry bodies and confederations for gradual reduction in duties and tariffs and for the government to take active measures in establishing uniform regulatory policy in consultation with the alcoholic beverages industry.

Disclaimer:

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