

CHAPTER 2 TRADE IN GOODS

Article 2.1 Scope

Except as otherwise provided in this Agreement, this Chapter applies to trade in goods between the Parties.

Article 2.2 Definitions

For the purposes of this Chapter:

“Customs Administration” means the authority that, according to the laws and regulations of each Party, is responsible for the administration and enforcement of the customs laws and regulations of that Party. For Oman, it shall be the Royal Oman Police, Directorate General of Customs and for India, it shall be the Central Board of Indirect Taxes and Customs; and

“customs duty” refers to any duty or charge of any kind imposed in connection with the importation of a product, but does not include any:

- (a) charge equivalent to an internal tax imposed in conformity with Article III of the GATT 1994;
- (b) anti-dumping or countervailing duty that is applied consistently with the provisions of Article VI of the GATT 1994, the Agreement on the Implementation of Article VI of the GATT 1994, and the Agreement on Subsidies and Countervailing Measures in Annex 1A to the WTO Agreement respectively, and; safeguard measures under Article XIX of the GATT 1994 and the Agreement on Safeguards in Annex 1A to the WTO Agreement; or
- (c) fee or other charge in connection with importation commensurate with the cost of services rendered in conformity with Article VIII of the GATT 1994.

Article 2.3

National Treatment on Internal Taxation and Regulation

1. The Parties shall accord national treatment in accordance with Article III of the GATT 1994, including its interpretative notes. To this end, Article III of the GATT 1994 and its interpretative notes are incorporated into and form part of this Agreement, *mutatis mutandis*.
2. The treatment to be accorded by a Party under paragraph 1 means, with respect to a sub-central level of government, treatment no less favourable than the most favourable treatment that sub-central level of government accords to any like, directly competitive, or substitutable goods, as the case may be, of the Party of which it forms a part.

Article 2.4

Customs Duties

1. The Parties shall not nullify or impair any of the tariff concessions made by them under this Agreement, except as provided in this Agreement.
2. Upon the entry into force of this Agreement, India shall eliminate or reduce its customs duties applied on goods originating from Oman in accordance with Annex 2A (Schedule of Specific Tariff Commitments of India) and Oman shall eliminate or reduce its customs duties on goods from India in accordance with Annex 2B (Schedule of Specific Tariff Commitments of Oman).
3. Where and for so long as a Party's applied most favoured nation customs duty is lower than the rate calculated in accordance with Annex 2A (Schedule of Specific Tariff Commitments of India) or Annex 2B (Schedule of Specific Tariff Commitments of Oman), an importer may claim the lower most favoured nations customs duty and the Party shall apply the lower rate to the originating good of the other Party.

Article 2.5

Classification of Goods and Transposition of Schedules

1. The classification of goods traded between the Parties shall be in conformity with the HS code and its amendments. Each Party shall ensure consistency in applying its laws and regulations on tariff classification of originating goods of the other Party.

2. Pursuant to paragraph 1, each Party shall ensure that the transposition of its tariff commitments, undertaken in order to implement Annex 2A (Schedule of Specific Tariff Commitments of India) or Annex 2B (Schedule of Specific Tariff Commitments of Oman) in the nomenclature of the revised HS Code following periodic amendments to the HS Code, is carried out without impairing or diminishing the tariff commitments set out in its Schedule of Tariff Commitments in Annex 2A (Schedule of Specific Tariff Commitments of India) or Annex 2B (Schedule of Specific Tariff Commitments of Oman).
3. The Parties shall publish such revisions in a timely manner.
4. Each Party shall, on the request of the other Party and within a reasonable period of time after receiving the request, provide the other Party with a brief explanation in response to any concerns raised regarding the transposition of its tariff commitments.

Article 2.6 Temporary Admission

1. Each Party shall, in accordance with its laws and regulations, grant temporary admission free of customs duties for the following goods imported from the other Party regardless of their origin:
 - (a) professional and scientific equipment and materials, including their spare parts, and goods for sports purposes, that are necessary for carrying out the business activity, trade, or profession of a person who qualifies for temporary entry pursuant to the laws of the importing Party;
 - (b) goods intended for display or use at playgrounds, theatres, exhibitions, fairs or other similar events, including commercial samples, advertising materials including printed materials, films and recordings;
 - (c) containers and pallets in use or to be used for refilling;
 - (d) machinery and equipment for completion of projects or for conducting the experiments and tests relating to such projects, or for repair; and
 - (e) goods entered for completion of processing.
2. A Party shall not impose any condition on the temporary admission of a good referred to in paragraph 1, other than to require that such good:

- (a) be accompanied by a security deposit in an amount no greater than the customs duty or charges that would otherwise be owed on importation, releasable on exportation of the good;
 - (b) be exported on the departure of the person referred to in subparagraph 1(a) or within such period of time as is reasonably related to the purpose of temporary admission in accordance with the laws of a Party;
 - (c) be capable of identification when exported;
 - (d) not be sold or leased while in its territory;
 - (e) not be imported in a quantity greater than is reasonable for its intended use; and
 - (f) be otherwise admissible into the importing Party's territory under its laws.
3. If any condition that a Party imposes under paragraph 2 has not been fulfilled, that Party may apply the customs duty and any other charge that would normally be owed on importation of the good.
4. Each Party shall, at the request of the importer and for reasons deemed valid by its Customs Administration, extend the time limit for temporary admission beyond the period initially fixed.
5. Each Party shall relieve the importer of liability for failure to export a temporarily admitted good upon presentation of satisfactory proof to the Party's Customs Administration that the good has been destroyed within the original time limit for temporary admission or any lawful extension. A Party may condition relief of liability under this paragraph by requiring the importer to receive prior approval from the Customs Administration of the importing Party before the good can be so destroyed.
6. Each Party shall endeavour, through its Customs Administration and in accordance with its laws and regulations, to adopt and maintain procedures providing for the expeditious release of goods admitted under this Article.

Article 2.7

Duty-Free Entry of Commercial Samples of Negligible Value and Printed Advertising Materials

1. Each Party shall, in accordance with its laws and regulations, grant duty-free entry to commercial samples of negligible value, and to printed

advertising materials, imported from the territory of the other Party, regardless of their origin, but may require that:

- (a) such samples be imported solely for the solicitation of orders for goods, or the solicitation of orders for services provided from the territory, of the other Party or a non-Party; or
- (b) such advertising materials be imported in packets that each contain no more than one copy of each such material and that neither such materials nor packets form part of a larger consignment.

Article 2.8

Goods Returned or Re-Entered After Repair or Alteration

1. Neither Party may apply a customs duty to a good, regardless of its origin, that re-enters its territory within 1 year after that good has been exported from its territory to the territory of the other Party for repair or alteration, regardless of whether such repair or alteration could be performed in its territory, except that a customs duty may be applied to the addition resulting from the repair or alteration that was performed in the territory of the other Party.
2. Neither Party may apply a customs duty to a good, regardless of its origin, admitted temporarily from the territory of the other Party for repair or alteration, provided such good is exported from the territory of the importing Party within 1 year of its entry.
3. For the purposes of this Article, "repair" or "alteration" means any operation or process undertaken on a good to remedy operational defects or material damage and entailing the re-establishment of the good to its original function, or to ensure its compliance with technical requirements for its use. Repair or alteration of a good includes restoring, renovating, cleaning, re-sterilising, maintenance, or other operation or process, regardless of a possible increase in the value of the good, that does not:
 - (a) destroy a good's essential characteristics or create a new or commercially different good;
 - (b) transform an unfinished good into a finished good; or
 - (c) change the function of a good.

4. The Parties shall commence a review of this Article within 2 years of the date of entry into force of this Agreement and, thereafter, every 3 years, or as the Parties agree otherwise.

Article 2.9
Import and Export Restrictions

Unless otherwise provided in this Agreement, neither Party shall adopt or maintain any prohibition or restriction on the importation of any good of the other Party or on the exportation or sale for export of any good destined for the territory of the other Party, except in accordance with Article XI of GATT 1994. To this end Article XI of GATT 1994 is incorporated into and made part of this Agreement, *mutatis mutandis*.

Article 2.10
Import Licensing

1. Each Party shall ensure that all automatic and non-automatic import licensing procedures are implemented in a transparent and predictable manner and applied in accordance with the Import Licensing Agreement.
2. Each Party shall adopt, maintain, or administer its import licensing procedures in a manner consistent with Articles 1 through 3 of the Import Licensing Agreement.
3. A Party that institutes licensing procedures or makes changes to existing licensing procedures, shall notify the other Party of such procedures within 60 days of publication. The notification shall include the information specified in Article 5.2 of the Import Licensing Agreement. A Party shall be deemed to be in compliance with this provision if it has notified the relevant import licensing procedure, or any modifications thereof, to the Committee on Import Licensing provided for in Article 4 of the Import Licensing Agreement.
4. Upon request of a Party, the other Party shall promptly provide any relevant information specified in Article 5.2 of the Import Licensing Agreement, regarding any import licensing procedure that it has adopted or maintains, and wherever feasible the procedures that it intends to adopt, or changes to existing licensing procedures.
5. Nothing in this Article shall be construed in a manner that would require a Party to grant an import license.

6. If a Party denies an import license application with respect to a good of the other Party, it shall, on request of the applicant and within a reasonable period after receiving the request, provide the applicant with a response unless that information is not publicly available and accessible.

Article 2.11
Customs Valuation

Each Party reaffirms its commitment to the provisions of Part I and Annex I of the Customs Valuation Agreement for determining the customs value of the goods traded between the Parties.

Article 2.12
Subsidies

The rights and obligations of the Parties relating to subsidies and countervailing measures shall be governed by Articles VI and XVI of the GATT 1994 and the Agreement on Subsidies and Countervailing Measures, set out in Annex 1A to the WTO Agreement.

Article 2.13
Transparency

Article X of the GATT 1994 is incorporated into and forms part of this Agreement, *mutatis mutandis*.

Article 2.14
Restrictions to Safeguard the Balance-of-Payments

1. The Parties shall endeavour to avoid the imposition of restrictive measures for balance-of-payments purposes.
2. Any such measures taken for trade in goods shall be in accordance with Article XII of the GATT 1994 and the Understanding on the Balance-of-Payments Provisions of the General Agreement on the Tariffs and Trade 1994, the provisions of which are incorporated into and form part of this Agreement, *mutatis mutandis*.

Article 2.15
Administrative Fees and Formalities

1. Each Party shall ensure, in accordance with Article VIII:1 of the GATT 1994 and its interpretive notes and Article 6 of the Trade Facilitation Agreement, that all fees and charges of whatever character (other than import and export duties, charges equivalent to an internal tax or other internal charges applied consistently with Article III:2 of the GATT 1994, and anti-dumping and countervailing duties applied pursuant to its laws and regulations) imposed by that Party on, or in connection with, importation or exportation, are limited in amount to the approximate cost of services rendered to imports or exports and do not represent a direct or indirect protection for domestic goods or a taxation of imports for fiscal purposes.
2. Each Party shall promptly publish details and shall make such information available on the internet regarding the fees and charges it imposes in connection with importation or exportation and shall make such information available to the other Party, upon written request, in the English language.

Article 2.16
Non-Tariff Measures

1. Neither party shall adopt or maintain any non-tariff measures on the importation of any goods of the other Party or on the exportation of any goods destined for the territory of the other Party except in accordance with its rights and obligations under Annex 1A of the WTO Agreement or in accordance with other provisions of this Agreement.
2. Each Party shall ensure that the non-tariff measures under paragraph 1 are not prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to trade in goods between the Parties.

Article 2.17
State Trading Enterprises

Nothing in this Agreement shall be construed to prevent a Party from maintaining or establishing a state trading enterprise in accordance with Article XVII of the GATT 1994 and the Understanding on the Interpretation of Article XVII of the General Agreement on the Tariffs and Trade 1994.

Article 2.18
Revision Clause

1. Upon request of a Party, the Parties shall consult to consider accelerating, or broadening the scope of the elimination of customs duties as set out in Annex 2A (Schedule of Specific Tariff Commitments of India) and Annex 2B (Schedule of Specific Tariff Commitments of Oman). Further commitments between the Parties to accelerate the elimination of a customs duty on a good, or to include a good in Annex 2A (Schedule of Specific Tariff Commitments of India) and Annex 2B (Schedule of Specific Tariff Commitments of Oman), shall supersede any duty rate or staging category determined pursuant to their respective Schedules of Tariff Commitments. These commitments shall enter into force on the date specified by the Parties following the exchange of notifications certifying that they have completed their internal legal procedures.
2. Nothing in this Agreement shall prohibit a Party from unilaterally accelerating or broadening the scope of the elimination of customs duties set out in its Schedule of Tariff Commitments in Annex 2A (Schedule of Specific Tariff Commitments of India) or Annex 2B (Schedule of Specific Tariff Commitments of Oman). Any such unilateral acceleration or broadening of the scope of the elimination of customs duties will neither permanently supersede any duty rate or staging category determined pursuant to their respective Schedule nor will serve to waive that Party's right to impose at a later time the duty rate or staging category that is determined for that later time by their respective Schedule.
3. For greater certainty with respect to paragraph 2, a Party may:
 - (a) raise a customs duty back to the level established in its respective Schedule of Tariff Commitments in Annex 2A (Schedule of Specific Tariff Commitments of India) or Annex 2B (Schedule of Specific Tariff Commitments of Oman) following a unilateral reduction; or
 - (b) maintain or increase a customs duty as authorised by the Dispute Settlement Body of the WTO.

Article 2.19
Exchange of Data

1. The Parties recognise the value of trade data in accurately analysing the implementation of this Agreement. The Parties shall cooperate with a

view to conducting periodic exchanges of data relating to trade in goods between the Parties.

2. The Parties may engage in such periodic exchanges within the CTG for such purposes and for any other purposes in furtherance of the obligations described in this Chapter as the CTG may determine.
3. A Party shall give positive consideration to a request from the other Party for technical assistance for the purposes of the exchange of data under paragraph 1.

Article 2.20
Committee on Trade in Goods

1. The Parties hereby establish CTG under the Joint Committee.
2. The functions of the CTG shall include:
 - (a) the monitoring and review of measures taken and implementation of commitments under this Chapter;
 - (b) the exchange of information and review of developments;
 - (c) the preparation of technical amendments, including HS Code updating, and otherwise assisting the Joint Committee;
 - (d) any other matter referred to it by the Joint Committee; and
 - (e) the preparation of recommendations and reports to the Joint Committee, as necessary.
3. The CTG shall establish such subcommittees as may be necessary under this Agreement, including on Customs Procedures and Trade Facilitation, Technical Barriers to Trade, Sanitary and Phytosanitary Measures, Rules of Origin and Trade Remedies. All such subcommittees shall report to the CTG.
4. Each Party has the right to be represented in the CTG. The CTG shall act by consensus.
5. The CTG shall meet annually or more frequently as the Parties agree otherwise. The meetings of the CTG shall be chaired jointly by Oman and India.
6. The Parties shall examine any difficulties that might arise in their trade in goods and shall endeavour to seek appropriate solutions through dialogue and consultations.