

CHAPTER 6

CUSTOMS PROCEDURES AND TRADE FACILITATION

Article 6.1 Definitions

For the purposes of this Chapter:

“Customs Administration” means any administration that is responsible under law of a Party for customs law and regulations. For Sultanate of Oman, it is Directorate General of Customs, Royal Oman Police and for India, it is the Central Board of Indirect Taxes & Customs;

“customs laws and regulations” means laws and regulations concerning the importation, exportation, transit of goods, or any other customs procedures, whether relating to customs duties, taxes or any other charges collected by the Customs Administrations, or to measures for prohibition, restriction, or control enforced by the Customs Administrations;

“customs procedures” means the measures applied by the Customs Administration of a Party to goods and to the means of transport that are subject to its customs laws and regulations;

“persons” means both natural or legal persons, unless the context otherwise requires;

“Authorised Economic Operators (AEO)” means, in accordance with the Trade Facilitation Agreement, the programme which recognises an operator involved in the international movement of goods in whatever function that has been approved by the national Customs Administration as complying with the World Customs Organisation (WCO) supply chain security standards;

“Mutual Recognition Arrangement (MRA)” means the arrangement between the Parties that mutually recognises AEO authorisations that have been properly granted by the respective Customs Administrations; and

“TFA commitments” means respective commitments of both Parties under the Trade Facilitation Agreement.

Article 6.2
Scope and Objectives

1. This Chapter shall apply, in accordance with each Party's respective laws and regulations, to customs procedures required for clearance of goods traded between the Parties.
2. The objectives of this Chapter are to:
 - (a) promote trade facilitation for goods traded between the Parties while ensuring effective customs controls;
 - (b) ensure transparency of each Party's customs laws, regulations, and procedural requirements and, where possible, conformity thereof with applicable international standards;
 - (c) ensure using of effective methods to combat fraud and promote legitimate trade;
 - (d) simplify and modernise customs procedures of the Parties; and
 - (e) enhance cooperation between the Parties in the field of customs and trade facilitation.

Article 6.3
General Provisions

1. The Parties recognise the importance of customs and trade facilitation matters in the evolving global trading environment. The Parties shall reinforce cooperation in this area with a view to ensuring that the relevant legislation and procedures, as well as the administrative capacity of the relevant administrations, fulfil the objectives of promoting trade facilitation while ensuring effective customs control.
2. The Parties agree that their customs laws and regulations and customs procedures shall be transparent, non-discriminatory, consistent and avoid unnecessary procedural obstacles to trade.
3. The Parties affirm their rights and obligations under the Trade Facilitation Agreement.
4. The Parties shall ensure that their customs procedures conform, where possible, to the standards and recommended practices of the WCO.
5. The Parties shall ensure that their Customs Administration, to the extent possible, periodically review its customs procedures with a view to their further simplification and development to facilitate bilateral trade.

6. The Parties recognise that legitimate public policy objectives, including in relation to security, safety and fight against fraud shall not be compromised in any manner.

Article 6.4 **Transparency measures**

1. Each Party shall ensure that its laws, regulations, guidelines, procedures, tariffs, fees and administrative rulings governing customs matters are promptly published, on the internet in the English language, to the extent possible.
2. Each Party shall designate, establish, and maintain one or more enquiry points consistent with its TFA commitments to address reasonable enquiries from interested persons pertaining to customs matters, and shall endeavour to make available publicly through electronic means, information concerning procedures for making such enquiries.
3. Nothing in this Agreement shall require any Party to publish internal operational guidelines including those related to conducting risk analysis and targeting methodologies.
4. Each Party shall, to the extent practicable, and in a manner consistent with its law and TFA commitments, ensure that new or amended laws and regulations of general application related to the movement, release, and clearance of goods, including goods in transit, are published or information on them made otherwise publicly available, as early as possible before their entry into force, so that interested parties have the opportunity to become acquainted with the new or amended laws and regulations. Such information and publications shall be made available in the English language.
5. Each Party to the extent possible shall in a manner consistent with its law, ensure that new or amended customs laws and regulations are published online, or information on them made otherwise publicly available, as early as possible before their entry into force to enable traders and other interested parties to become acquainted with them.
6. Changes to duty rates or tariff rates, measures that have a relieving effect, measures the effectiveness of which would be undermined as a result of compliance with paragraph 4, measures applied in urgent circumstances, or minor changes to law are each excluded from the obligations in paragraphs 1 to 5.

Article 6.5
Risk Management

1. Each Party shall adopt a risk management approach using electronic data processing techniques in its customs activities, based on its risk evaluation criteria concerning goods and supply chain entities, in order to facilitate the clearance of low-risk consignments, while focusing its customs control on high-risk goods.
2. Each Party shall design and apply risk management in a manner so as to avoid arbitrary or unjustifiable discrimination, or disguised restrictions on international trade.

Article 6.6
Automation

1. For the purposes of trade facilitation, the Parties shall endeavour to provide an electronic environment that supports business transactions between the Customs Administrations and trading entities.
2. The Parties shall exchange views and information on realising and promoting paperless communications between the Customs Administrations and trading entities.
3. The Customs Administration of each Party, in implementing initiatives which provide for the use of paperless communications, shall take into account the methodologies agreed at the WCO.

Article 6.7
Single Window

1. Each Party shall establish or maintain single window systems enabling traders to submit documentation or data requirements for importation, exportation, or transit of goods through a single entry point to the participating authorities or agencies.
2. Each Party shall endeavour to inform an applicant using single window of the status of the release of goods in a timely manner.

Article 6.8
Advance Rulings

1. In accordance with its TFA commitments, each Party shall provide for the issuance of an advance ruling, prior to the importation of a good into

its territory, to an importer of the good in its territory, or to an exporter or producer of the good in the territory of the other Party.

2. Each Party shall publish online, at least:
 - (a) the requirements for the application for an advance ruling, including the information to be provided and the format;
 - (b) the time period by which it will issue an advance ruling; and
 - (c) the length of time for which the advance ruling is valid.
3. For the purposes of paragraph 1, each Party shall issue rulings as to whether the good qualifies as an originating good or to assess the good's tariff classification. Each Party shall issue its determination regarding the origin or classification of the good within a reasonable and time-bound manner from the date of receipt of a complete application for an advance ruling.
4. The importing Party shall apply an advance ruling issued by it under paragraph 1 on the date that the ruling is issued or on a later date specified in the ruling. The ruling shall remain in effect for a reasonable period of time and in accordance with the national procedures on advance rulings.
5. Where a Party revokes, modifies, or invalidates the advance ruling, it shall provide written notice to the applicant setting out the relevant facts and the basis for its decision. Where a Party revokes, modifies or invalidates advance rulings with retroactive effect, it may only do so where the ruling was based on false or misleading information.
6. The advance ruling issued by the Party shall be binding only on the person to whom the ruling is issued.
7. A Party may decline to issue an advance ruling if the facts and circumstances forming the basis of the advance ruling are the subject of a post clearance audit or are under review before any governmental agency or an administrative, judicial, or quasi-judicial review or appeal. A Party that declines to issue an advance ruling shall promptly in accordance with its national procedures notify, in writing, the person requesting the ruling, setting out the relevant facts and circumstances and the basis for its decision.
8. The importing Party may:
 - (a) modify an advance ruling in such respects as it considers appropriate and as per its laws and regulations or system on

- advanced ruling, if the ruling was based on incorrect facts or mistake of law;
- (b) revoke or find the advance ruling non-binding if there is a change in the material facts or circumstances or law on which the ruling was based; or
 - (c) revoke the advance ruling from when it was issued if the advance ruling has been obtained by fraud or misrepresentation of facts.
9. Where a Party revokes or modifies an advance ruling, it shall provide written notice to the applicant setting out the relevant facts and the basis for its decision.
10. Each Party shall provide that any modification or revocation of an advance ruling shall be effective on the date on which the modification or revocation is issued, or on such later date as may be specified therein, and shall not be applied to importations of a good that have occurred prior to that date, unless the advance ruling was based on incomplete, incorrect, false, or misleading information.
11. Each Party shall provide, upon written request of an applicant, an opportunity to review an advanced ruling, or the decision to revoke, modify or invalidate it.¹
12. For the purpose of the Article, each Party shall issue advance rulings in accordance with the provisions of Chapter 3 (Rules of Origin).
13. Each Party may require that the applicant have legal representation or registration in its territory. To the extent possible, such requirements shall not restrict the categories of persons eligible to apply for advance rulings, with particular consideration for the specific needs of small and medium-sized enterprises. These requirements shall be clear and transparent and not constitute a means of arbitrary or unjustifiable discrimination.

¹ Under this paragraph, a review may, either before or after the ruling has been acted upon, be provided by the official, office, or authority that issued the ruling, a higher or independent administrative authority, or a judicial authority; and a Party is not required to provide the applicant with recourse to paragraph 1 of Article 6.16 (Review and Appeal).

Article 6.9

Penalties

1. Each Party shall maintain measures imposing criminal, civil or administrative penalties, whether solely or in combination, for violations of the Party's customs laws and regulations or customs procedures.
2. Each Party shall ensure that penalties issued for a breach of its customs laws and regulations or customs procedures are imposed only on the person(s) responsible for the breach under its laws.
3. Each Party shall ensure that the penalty imposed by its Customs Administration is dependent on the facts and circumstances of the case and is commensurate with the degree and severity of the breach, and consistent with its laws and regulations.
4. Each Party shall ensure that it maintains measures to avoid conflicts of interest in the assessment and collection of penalties and duties. Each Party shall ensure that it maintains measures to avoid creating an incentive for the assessment or collection of a penalty that is inconsistent with paragraph 3.
5. Each Party shall ensure that if a penalty is imposed by its Customs Administration for a breach of its customs laws and regulations or customs procedures, an explanation in writing is provided to the person(s) upon whom the penalty is imposed specifying the nature of the breach and the law, regulation or procedure used for determining the penalty amount.

Article 6.10

Pre-arrival Processing

1. Each Party shall adopt or maintain procedures allowing for the submission of documents and other information required for the importation of goods, in order to begin processing prior to the arrival of goods with a view to expediting the release of goods upon arrival.
2. Each Party shall provide, as appropriate, for advance lodging of documents and the other information referred to in paragraph 1 in electronic format for pre-arrival processing of such documents.

Article 6.11
Release of Goods

1. Each Party shall adopt or maintain simplified customs procedures for the efficient release of goods in order to facilitate trade, consistent with its laws, regulations and procedures.
2. Pursuant to paragraph 1, each Party shall adopt or maintain procedures that:
 - (a) provide for the release of goods without unnecessary delay upon receipt of the customs declaration and fulfilment of all applicable requirements and procedures;
 - (b) provide for the electronic submission and processing of documentation and data, including manifests, prior to the arrival of the goods, in order to expedite the release of goods from customs control upon arrival;
 - (c) Allow goods to be released at the point of arrival to the extent possible without requiring temporary transfer to warehouses or other facilities; and
 - (d) require that, to the extent permitted by its customs laws and regulations, the importer be informed if a Party does not promptly release goods, including, the reasons why the goods are not released and which border agency, if not the Customs Administration, has withheld release of the goods.
3. Nothing in this Article requires a Party to release goods if its requirements for release have not been met nor prevents a Party from liquidating or requiring a security deposit in accordance with its customs laws and regulations.
4. Each Party shall adopt or maintain simplified customs procedures for the efficient release of goods in order to facilitate trade, consistent with laws, regulations and procedures, and Article 7.3 of the Trade Facilitation Agreement.
5. Each Party may allow, to the extent practicable and in accordance with its customs laws and regulations, goods intended for import to be moved within its territory under customs control from the point of entry into the Party's territory to another customs office in its territory from where the goods are intended to be released, provided the applicable regulatory requirements are met.
6. Nothing in this Article shall:

- (a) in case of suspicion or as per the risk management, affect the right of a Party to examine, detain, seize, confiscate or refuse entry of goods, or to carry out post-clearance audits, including in connection with the use of risk management systems; or
- (b) prevent a Party from requiring, as a condition for release, the submission of additional information and the fulfilment of non-automatic licensing requirements.

Article 6.12 **Authorised Economic Operators**

1. Each Party shall establish or maintain a trade facilitation partnership programme for operators who meet specified criteria, in accordance with the SAFE Framework of Standards to Secure and Facilitate Global Trade adopted at the June 2005 WCO Session in Brussels and as updated from time to time (the "SAFE Framework").
2. Each Party shall publish its specified criteria to qualify as an AEO. The specified criteria shall relate to compliance, or the risk of non-compliance, in accordance with requirements specified in the Party's customs laws and regulations. The Parties may use the criteria set out in paragraph 7.2(a) of Article 7 of the Trade Facilitation Agreement.
3. The specified criteria to qualify as an AEO shall not be designed or applied so as to afford or create arbitrary or unjustifiable discrimination between operators where the same conditions prevail. The specified criteria shall be designed or applied so as to allow the participation of small and medium-sized enterprises.
4. The programme referred to in paragraph 1 shall include specific benefits for operators that meet the specified criteria, taking into account the commitments of each Party under paragraph 7.3 of Article 7 of the Trade Facilitation Agreement.
5. The Parties shall endeavour to conclude an MRA on the programme referred to in paragraph 1, taking into account paragraphs 2 through 4, as soon as possible, after entry into force of this Agreement.

Article 6.13
Perishable Goods

1. For the purposes of this Article, "perishable goods" means goods that rapidly decay due to their natural characteristics, in particular in the absence of appropriate storage conditions.
2. With a view to preventing avoidable loss or deterioration of perishable goods, each Party shall, in normal circumstances, release perishable goods immediately from customs control on arrival at each point of presentation to customs provided that:
 - (a) the Party has received and checked all customs information and documentation required to release all goods in the shipment on or prior to presentation to customs;
 - (b) no further examination of this information or documentation is required;
 - (c) the goods, or any other goods in the same shipment, are not subject to physical inspection or examination; and
 - (d) all non-customs regulatory checks required for release have been completed.
3. If further examination of the customs information or documentation is required, each Party shall, in normal circumstances, release perishable goods from customs control within shortest time possible of arrival at each point of presentation to customs provided that the conditions in subparagraphs (a), (c), and (d) of paragraph 2 are met.
4. Each Party shall provide, in exceptional circumstances, and if appropriate for the release of perishable goods outside the business hours of its customs authority.
5. With a view to expediting the release of goods, each Party shall ensure that any physical inspection or examination of perishable goods is conducted without undue delay.
6. Each Party shall give appropriate priority to perishable goods when scheduling and conducting any inspections or examinations that may be required.
7. Each Party shall either arrange, or allow an importer to arrange, for the appropriate storage of perishable goods pending their release. Each Party may require that its customs authority approve or designate any storage facilities arranged by the importer. Each Party shall, if possible, release the perishable goods directly from those storage facilities.

8. Nothing in this Article requires a Party to release goods if regulatory requirements for release have not been met.

Article 6.14 **Border Agency Cooperation**

Each Party shall ensure that its authorities and agencies responsible for border controls and procedures dealing with the importation, exportation, and transit of goods cooperate with one another and coordinate their activities in order to facilitate trade pursuant to this Chapter.

Article 6.15 **Expedited Shipments**

1. Each Party shall adopt or maintain expedited customs procedures for goods entered through air cargo facilities while maintaining appropriate customs control and selection. These procedures, subject to TFA commitments, shall:
 - (a) provide for information necessary to release an expedited shipment to be submitted and processed before the shipment arrives;
 - (b) minimise the documentation required for the release of expedited shipments, and to the extent possible, provide for release based on a single submission of information on certain shipments through electronic means;
 - (c) under normal circumstances, provide for expedited shipments to be released as soon as possible after submission of the necessary customs documents, provided the shipment has arrived and applicable customs duties have been assessed where applicable;
 - (d) apply to shipments of any weight or value recognizing that a Party may require formal entry procedures as a condition for release, including declaration and supporting documentation and payment of customs duties, based on the good's weight or value; and
 - (e) under normal circumstances, provide that no customs duties will be collected on expedited shipments valued or assessed to duty

at or below a fixed amount set under the Party's law.² Each Party shall endeavour to review the amount periodically taking into account factors that it may consider relevant.

Article 6.16

Review and Appeal

1. Each Party shall ensure that any person to whom it issues a decision on a customs matter has access to:
 - (a) an administrative appeal to or review by an administrative authority higher than or independent from the official or office that issued the decision; or
 - (b) a judicial appeal or review of the decision.
2. Each Party shall ensure that its procedures for appeal and review are carried out in a non-discriminatory and timely manner.
3. Each Party shall ensure that an authority conducting a review or appeal under paragraph 1 notifies the person in writing of its determination or decision in the review or appeal, and the reasons for the determination or decision.

Article 6.17

Customs Cooperation

1. With a view to further enhancing customs cooperation and exchange of information between the Customs Administrations to secure and facilitate lawful trade through the proper application of customs laws and regulations for the prevention, investigation and combating of customs offences, and to ensure the security of the international trade supply chain, each Party shall implement and comply with the obligations in the Customs Mutual Assistance Agreement (CMAA).
2. The Parties shall endeavour to conclude a customs mutual administrative assistance agreement with a view to enhancing cooperation for the purposes of assisting the other Party in the administration and enforcement of its customs laws and regulations, including its measures concerning customs offences.

² Notwithstanding this Article, a Party may assess customs duties or may require formal entry documents for restricted or controlled goods, such as goods subject to import licensing or similar requirements.

3. The Parties shall facilitate initiatives for the exchange of pre-arrival customs data as well as information on best practices in relation to the implementation and management of customs procedures described in this Chapter, and in accordance with the CMAA.

Article 6.18 Confidentiality

Any information received under this Chapter shall be treated as confidential pursuant to the terms of the CMAA.

Article 6.19 Subcommittee on Customs Procedures and Trade Facilitation

1. The Parties agree to establish a Subcommittee on Customs Procedures and Trade Facilitation (CPTF Subcommittee) under the CTG, consisting of representatives of each Party's competent authorities from Customs Administrations.
2. The functions of the CPTF Subcommittee shall include:
 - (a) cooperating in the administration and uniform interpretation of this Chapter;
 - (b) monitoring the effective operation and implementation of this Chapter, including the transparent and consistent application of customs procedures of the Parties;
 - (c) cooperating to further simplify and implement the customs procedures under this Chapter;
 - (d) exchanging information on matters related to this Chapter;
 - (e) communicating the necessary contact details of the CPTF Subcommittee members for the purposes of this Chapter;
 - (f) considering any matters referred to it by the Joint Committee or the CTG; and
 - (g) any other matter as the CPTF Subcommittee mutually agrees.
3. The CPTF Subcommittee shall meet within 6 months of the date of entry into force of this Agreement and thereafter annually.