This country-specific Q&A provides an overview of international trade laws and regulations applicable in India.

For a full list of jurisdictional Q&As visit legal500.com/guides
1. What has been your jurisdiction’s historical level of interaction with the WTO (e.g. membership date for the GATT/WTO, contribution to initiatives, hosting of Ministerials, trade policy reviews)?

India is a founding member of the GATT (signed in 1947) and a founding member of the WTO (formed on 1st January 1995). India has been an important member of the WTO and has played a significant role in shaping the outcome of several negotiating rounds. On many issues of interests to the developing country Members such as food security, agricultural subsidies, trade and intellectual property, export subsidies, fisheries subsidies, etc., India has played a key leadership role in formulating negotiating proposals, articulating developmental priorities, and analysing draft texts. India is often seen as a leader of developing country Members on these issues at the WTO.

Subsequent to the WTO’s 11th Ministerial Conference in Buenos Aires (held in December 2017), where there was no meaningful outcome, India took the leadership and hosted an informal meeting of Ministers of the WTO Members in March 2018 to discuss issues central to the world trading system. India again hosted an informal meeting of Ministers of the WTO Members in March 2019 to provide a platform for discussing issues relevant to the interests of the WTO and its Members.

On the issue of public health, India has played a key role in demanding safeguards in the TRIPS Agreement vital to the interests of developing countries. For instance, during the COVID-19 pandemic, India played a key role in leading the developing country Members’ demand for a waiver of TRIPS obligations to ensure availability of vaccines.

2. Are there any WTO agreements to which your jurisdiction is not party (e.g. Government Procurement Agreement)? Is your jurisdiction seeking to accede to these agreements?

India is not a party to the Agreement on Government Procurement at the WTO, which is a plurilateral agreement under Annex-4 of the Marrakesh Agreement. India is only an Observer to this Agreement at the WTO. At present, India is not seeking to accede to this Agreement.

However, the recent Free Trade Agreement (“FTA”) that India has entered into with the UAE has a chapter on Government Procurement. Government Procurement is also a chapter in the FTAs that India is negotiating with countries like the European Union and the United Kingdom.

3. Is your jurisdiction participating in any ongoing WTO negotiations (e.g. E-Commerce Joint Initiative) and what has been its role?

Yes, India is participating in discussions/WTO negotiations on the following issues.

a. E-commerce - India has opposed the initiation of discussions/negotiations to develop rules at the WTO to govern electronic commerce. At the same time, India has opposed the continuation of the moratorium on the practice of not imposing customs duties on electronic transmissions.

b. Fisheries Subsidies – India is playing a key role in making negotiating proposals in ongoing negotiations concerning fisheries subsidies at the WTO.

c. Agricultural subsidies – India is a leading proponent of negotiations concerning agricultural subsidies at the WTO. One of the key demands India is making is on public stockholding for food security purposes.

4. Has your jurisdiction engaged in the
WTO dispute settlement system in the past 5 years? If so, in which disputes and in which capacity (as a party to a dispute or as a third party)?

India is an active Member of the WTO. India has engaged in the following WTO disputes in the past five years:

- DS584/588/582: India – Tariffs on ICT Goods (India-Respondent)
- DS/580/581: India – Measures Concerning Sugar and Sugarcane (India-Respondent)
- DS541: India – Export Related Measures (India-Respondent)
- DS547: United States – Certain Measures on Steel and Aluminium Products (India – Complainant)
- DS510: US – Certain Measures Relating to the Renewable Energy Sector (India – Complainant)
- DS585: India — Additional duties on certain products from the United States (India-Respondent)

India has been a third party in the following disputes:

- DS616: European Union — Countervailing and Anti-Dumping Duties on Stainless Steel Cold-Rolled Flat Products from Indonesia
- DS611: China — Enforcement of intellectual property rights
- DS610: China — Measures Concerning Trade in Goods
- DS605: Dominican Republic — Anti-dumping Measures on Corrugated Steel Bars
- DS604: Russian Federation — Certain Measures Concerning Domestic and Foreign Products and • Services
- DS603: Australia — Anti-Dumping and Countervailing Duty Measures on Certain Products from China
- DS602: China — Anti-Dumping and Countervailing Duty Measures on Wine from Australia
- DS602: China — Anti-Dumping measures on stainless steel products from Japan
- DS600: European Union and certain Member states — Certain measures concerning palm oil and oil palm crop-based biofuels
- DS599: Panama — Measures concerning the importation of certain products from Costa Rica
- DS598: China — Anti-dumping and countervailing duty measures on barley from Australia
- DS597: United States — Origin Marking Requirement
- DS595: European Union — Safeguard Measures on Certain Steel Products
- DS593: European Union — Certain measures concerning palm oil and oil palm crop-based biofuels
- DS592: Indonesia — Measures Relating to Raw Materials
- DS591: Colombia — Anti-Dumping Duties on Frozen Fries from Belgium, Germany, and the Netherlands
- DS590: Japan — Measures Related to the Exportation of Products and Technology to Korea
- DS589: China — Measures Concerning the Importation of Canola Seed from Canada
- DS583: Turkey — Certain Measures concerning the Production, Importation and Marketing of Pharmaceutical Products
- DS577: United States — Anti-dumping and countervailing duties on ripe olives from Spain
- DS576: Qatar — Certain measures concerning goods from the United Arab Emirates
- DS573: Turkey — Additional duties on imports of air conditioning machines from Thailand

5. Has your jurisdiction expressed any views on reform of the WTO, in particular, the dispute settlement system and the Appellate Body?

Yes, India has called for reforms concerning the following issues at the WTO: domestic subsidies under the Agreement on Agriculture; dispute settlement body reforms; and the ‘30 for 30’ initiative that aims to implement at least 30 operational improvements to the WTO by 1st January 2025.

In response to the demand for some WTO members to strengthen transparency and notification requirements, India has cautioned against such proposals which would not be aligned with the capacity of developing countries to comply with increased obligations. India has also emphasised that consensus as the form of decision making at the WTO must be retained.
With regard to reforms of WTO dispute settlement, India has called for formal negotiations which are transparent and inclusive rather than informal discussions. India has sought for a revival of the Appellate Body for a fully functioning WTO dispute settlement mechanism (DSM). India has supported reform of certain existing drawbacks with the DSM such as sequencing, the compliance process, functioning of the Appellate Body, etc.

6. What are the key bilateral and/or regional free trade agreements (FTAs) in force for your jurisdiction and from which dates did they enter into force?

India has entered into 13 FTAs and 6 preferential trade agreements (“PTAs”). All of these agreements are in force. The FTAs/PTAs entered into by India and the dates on which they came into force are:

<table>
<thead>
<tr>
<th>S.No</th>
<th>Partner Country/Group</th>
<th>Date of Entry into Force</th>
</tr>
</thead>
<tbody>
<tr>
<td>Free Trade Agreements</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.</td>
<td>Australia</td>
<td>29th December 2022</td>
</tr>
<tr>
<td>2.</td>
<td>UAE</td>
<td>1st May 2022</td>
</tr>
<tr>
<td>3.</td>
<td>Mauritius</td>
<td>1st April 2021</td>
</tr>
<tr>
<td>4.</td>
<td>Malaysia</td>
<td>1st July 2011</td>
</tr>
<tr>
<td>5.</td>
<td>Japan</td>
<td>1st August 2011</td>
</tr>
<tr>
<td>6.</td>
<td>Korea</td>
<td>1st January 2010</td>
</tr>
<tr>
<td>7.</td>
<td>Singapore</td>
<td>1st August 2005</td>
</tr>
<tr>
<td>8.</td>
<td>Sri Lanka</td>
<td>1st March 2000</td>
</tr>
<tr>
<td>9.</td>
<td>South Asian FTA or SAFTA (between the SAARC Member States)</td>
<td>1st January 2006</td>
</tr>
<tr>
<td>10.</td>
<td>Nepal</td>
<td>27th October 2009</td>
</tr>
<tr>
<td>11.</td>
<td>Bhutan</td>
<td>25th July 2017</td>
</tr>
<tr>
<td>12.</td>
<td>ASEAN</td>
<td>1st July 2015</td>
</tr>
<tr>
<td>13.</td>
<td>Thailand</td>
<td>1st September 2004</td>
</tr>
</tbody>
</table>

Note: Except the FTA with Bhutan and Nepal, FTAs of the above countries are comprehensive agreements with chapters on trade in goods, trade in services, IPR, etc.

| Preference Trade Agreements |
| 15. | SAARC Preferential Trading Arrangement or SAPTA (superseded by SAFTA in 2006) | 7th December 1995 |
| 16. | Afghanistan | 13th May 2003 |
| 17. | MERCOSUR | 1st June 2009 |
| 18. | Chile | 17th August 2007 |

7. Is your jurisdiction currently negotiating any FTAs (or signed any FTAs that have not yet entered into force) and, if any, with which jurisdictions? What are your jurisdiction’s priorities in those negotiations (e.g. consolidating critical mineral supply chains, increasing trade in financial services, etc.)? For both FTAs under negotiation and signed FTAs, when are they expected to enter into force?

Yes, India is currently negotiating FTAs with the following countries: the United Kingdom, the European Union, Canada, Israel. The main priority in these negotiations is to increase market access for export of goods and services from India. The FTA with United Kingdom is expected to be signed sometime this year (2023), as the negotiations have entered their final stages. As of now it cannot be said when the FTA negotiations with the European Union and Israel will conclude. The negotiations with Canada have currently been suspended due to the tense political relations between the two countries.

India is also negotiating Pillars III and IV of the Indo-Pacific Economic Framework (IPEF) with the US and certain other countries in the Asia-Pacific region. India has signed the Pillar – II of the IPEF, negotiations for which were concluded on 27 May 2023.

8. Which five countries are the biggest trading partners for your jurisdiction in relation to each of exports and imports and which goods or services are particularly important to your jurisdiction’s external trade relationships?

India’s biggest export destinations in the year 2022-23 are as follows –

<table>
<thead>
<tr>
<th>S. No</th>
<th>Country Name</th>
<th>% share in Exports (Value)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>United States of America</td>
<td>18.04</td>
</tr>
<tr>
<td>2.</td>
<td>United Arab Emirates</td>
<td>6.64</td>
</tr>
<tr>
<td>3.</td>
<td>China PR</td>
<td>5.02</td>
</tr>
<tr>
<td>4.</td>
<td>Bangladesh PR</td>
<td>3.83</td>
</tr>
<tr>
<td>5.</td>
<td>Netherlands</td>
<td>2.97</td>
</tr>
</tbody>
</table>

India’s biggest trading partners in terms of imports for the year 2022-23 are as follows –
### International Trade: India

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Country Name</th>
<th>% share in Imports (Value)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>China PR</td>
<td>15.42</td>
</tr>
<tr>
<td>2.</td>
<td>United Arab Emirates</td>
<td>7.31</td>
</tr>
<tr>
<td>3.</td>
<td>United States of America</td>
<td>7.06</td>
</tr>
<tr>
<td>4.</td>
<td>Saudi Arabia</td>
<td>6.56</td>
</tr>
<tr>
<td>5.</td>
<td>Iraq</td>
<td>5.21</td>
</tr>
</tbody>
</table>

Source – Export Import Data Bank of Department of Commerce

Trade in the following goods are important for India’s external relationships –

a) Oil
b) Precious and semi-precious stones
c) Electrical machinery and equipment
d) Gold and Silver
e) Electronic Goods
f) Petroleum Products
g) Jewellery
h) Pharmaceutical products
i) Rice

The trade in following services are important aspects of India’s trade profile –

a) Software and IT Services
b) Telecommunications
c) Transportation
d) Tourism

9. What are the three most important domestic and three most important international developments that are likely to have the biggest impact on your jurisdiction’s trade profile and priorities?

The following domestic developments are likely to impact India’s trade profile and priorities –

**Production Linked Incentive (PLI) Schemes** – The aim of this policy is to boost domestic production and promote India as a global manufacturing hub. Under this scheme the Government of India provides financial incentives to companies to invest in the manufacture of goods. The Government of India has announced PLI programs for different sectors from time to time. The PLI is expected to boost manufacturing activity in India and exports from the sectors in the coming years.

**Restrictions on imports of laptops, PCs, etc.** – Beginning 01st November 2023, all imports of laptops, all-in-one personal computers, ultra small form factor computers and servers falling under tariff heading 8471 will require an authorization from the Directorate General of Foreign Trade for import into India. This import authorisation requirement is subject to exceptions such as import of one laptop through courier/post from e-commerce portals, re-import of repaired goods, imports under Baggage Rules, etc.

**Quality Control Orders** – India has brought a number of products under mandatory Quality Control Orders (QCO). QCOs require the manufacture and sale of specific products in India to conform to applicable standards prescribed by the Bureau of Indian Standards (BIS). Unless a manufacturer receives a license or certificate of conformity from the BIS, a manufacturer will not be able to sell the covered product in India.

Mandating conformity to applicable standards will promote quality of goods sold in India. It may however restrict imports of goods from other countries if license/certificate of conformity to foreign producers are not granted in time.

The following international developments are likely to impact India’s trade profile and priorities –

**China Plus One** – Businesses world over are following this a policy to reduce dependence on supply of inputs/raw materials from China and to diversify their supply chains. Globally, companies are looking to source more of their inputs from India and sectors in India like chemicals are a key beneficiary of this policy.

**Russia-Ukraine Conflict** – This conflict has had a severe impact on global trade continuity, and like many other countries, India has also felt the brunt of it. Due to sanctions imposed by the West on energy imports from Russia, India is likely to continue to increase its oil imports from Russia.

Another impact is that the Western trade and economic sanctions on Russia have opened opportunities for businesses in India, both with the West and with Russia.

**Free Trade Agreements (FTAs)** – India has been negotiating FTAs with countries such as those in the West like UK, EU, Canada. India is also negotiating an
FTA with the Gulf Cooperation Council. India has already concluded two significant FTAs with the UAE and Australia. These FTAs are expected to open tremendous opportunities for trade between the partner countries and increase trade flow between the member states.

10. Has your jurisdiction taken any specific domestic measures to address sustainability issues in international supply chains, for example in relation to forced labour, human rights and environmental issues? Is it seeking to address these issues in any FTAs or other international agreements?

India has several laws to address these issues in domestic supply chains. India has not yet taken any specific domestic measures to address sustainability issues in international supply chains. However, it is relevant to note that India has signed Pillar 2 – Supply Chain Agreement of the India Pacific Economic Framework, which has provisions concerning labour rights.

It is also relevant to note that India is in the process of developing its own carbon credit trading system which will be known as the Indian Carbon Market (ICM).

India is seeking to address the European Union’s (EU) Carbon Border Adjustment Mechanism (CBAM) in the ongoing FTA negotiations with the EU. India is attempting to seek a waiver or exemption for exports from India. Further, the FTA which India is negotiating with the EU has a draft chapter on Trade and Sustainable development. India may also engage with the United Kingdom (UK) on a CBAM-type measure in the context of the FTA negotiations with the UK.

11. Is your jurisdiction taking any specific domestic measures to promote near-shoring/on-shoring for strategic goods (i.e. domestic subsidies, import tariffs, or export restrictions)? Is it seeking to address these issues in any FTAs or other international agreements?

For the purposes of answering this question, we have considered the definition of strategic goods as given by the World Customs Organization

The Central Government and the State Government are taking several measures to promote domestic manufacturing of strategic goods in India. These include:

- Allotment of land for establishing manufacturing facilities, on concessional terms
- Capital subsidies
- Imposition of restrictions on import of 101 defence-related items
- Enhancement of cap on Foreign Direct Investment in the defence sector to 74% under the automatic route
- Exemptions/concessions on levy of indirect taxes such as GST, stamp duty, etc.
- Compulsory procurement of certain notified items from domestic producers
- Product Linked Incentive Scheme for drones and drone components

At present, India is not seeking to address these issues in any international agreement.

12. What is the legal regime governing trade sanctions in your country? Has it evolved in response to ongoing geopolitical developments, such as the on-going crisis in Ukraine?

The legal regime governing trade sanctions in India are contained in:

- The ITC(HS) and the SCOMET list issued under the Foreign Trade (Development and Regulation) Act 1992 (the FTDR Act) contains general prohibitions and restrictions imposed on the import and export of goods having dual-use applications.
- The Foreign Trade Policy, 2023 formulated under the FTDR Act contains provisions related to sanctions on trade with Iran, North Korea, and Somalia.
- Prevention and Suppression of Terrorism (Implementation of Security Council Regulations) Order 2007 framed under the Unlawful Activities Prevention Act 1967 (The UAP Act)

The legal regime in India has not evolved in response to geopolitical developments in different parts of the world.
India does not have an autonomous sanctions regime. Sanctions imposed by India are generally based on international instruments such as UN Security Council resolutions and the Wassenaar Arrangement.

13. Does your jurisdiction use trade remedies and, if so, what remedies are most commonly used? And in which jurisdictions and on which products are they most commonly applied?

The most commonly used trade remedial in India are anti-dumping measures. The top countries which are targets of anti-dumping measures are:

a. China PR.
b. Republic of Korea
c. Singapore
d. Japan

The product categories on which trade remedial measures are most commonly applied are:

a. Base metals and articles of base metals (particularly steel, copper, and aluminium products)
b. Textile products
c. Plastics, rubber, articles thereof
d. Products of the petrochemicals, chemical or allied industries

14. What is the key legislation relating to anti-dumping duties, countervailing duties and safeguards? What are the authorities responsible for investigating and deciding whether these remedies are applied?

The legal framework relating to anti-dumping duties, countervailing duties and safeguards are contained in the relevant provisions of the Customs Tariff Act, 1975. The relevant rules made under the Customs Tariff Act, 1975 are:

a. Customs Tariff (Identification, Assessment, and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules (AD Rules), 1995;

Provisions related to safeguard measures (quantitative restrictions) are contained in the FTDR Act and the Safeguard (Quantitative Restrictions) Rules, 2012 made thereunder.

The authority responsible for investigating anti-dumping, countervailing measures and safeguard measures is the Directorate General of Trade Remedies (DGTR), which is a quasi-judicial body under the Ministry of Commerce and Industry. The DGTR only conducts investigations and makes recommendations for the imposition of trade remedial measures. The decision to impose trade remedial duties vests with the Ministry of Finance and the decision to impose safeguard (quantitative restriction) measures vests with the Ministry of Commerce and Industry.

15. What is the process for a domestic business and/or industry to seek trade remedies (i.e. key documentation, evidence required, etc.)? How can foreign producers participate in trade remedies investigations in your jurisdiction?

A domestic business and/or industry can seek imposition of trade remedies by approaching the DGTR and filing a duly substantiated application that demonstrates the following:

a. Dumping/subsidization of exports from other countries;
b. Injury to the domestic industry due to dumped/subsidized imports;
c. Standing/qualification of the applicant(s) to constitute the domestic industry;

After the DGTR initiates a trade remedial investigation, all interested parties are invited to file a questionnaire response pertaining to their imports/exports into India. A notice of initiation containing such invitation is published in the official gazette of India and on the DGTR website which is freely accessible to all. The notice is also sent to the embassies of the subject countries for information of their exporters. Foreign exporters can participate in a trade remedial investigation by registering themselves with the DGTR and filing a response to the questionnaire prescribed by the DGTR within the prescribed timelines. The registered parties
are entitled to make legal submissions before the DGTR at various stages of an investigation.

All registered interested parties can participate in the public hearing and present oral arguments which have to be then submitted to the DGTR in writing. Such interested parties are also invited to file rejoinders to the written submissions of other interested parties. The DGTR factors all the submissions made before it when issuing the final findings.

16. Does your jurisdiction have any special regulations or procedures regarding investigation of possible circumvention or evasion of trade remedies? What are the consequences of circumventing or evading trade remedies?

Section 9(1A) and Section 9A(1A) of the Customs Tariff Act, 1975 and relevant provisions of the AD and CVD Rules framed under the said Act address issues of circumvention.

Rules 25 to 28 of the AD / CVD Rules empowers the Central Government, under the DGTR, to investigate allegations of circumvention of anti-dumping duty / countervailing duties in place and recommend the extension of its imposition if it is found that its imposition is being circumvented.

In case of evasion of trade remedial measures, section 28 of the Customs Act, 1962 empowers the customs authorities to recover the duties not paid / short paid with applicable interest and penalties. Sections 111, 112 and 114A of the Customs Act, 1962 provides for confiscation of improperly imported goods and imposition of fines and penalties on specified persons. In addition, Section 135 of the Customs Act, 1962 provides for imprisonment and / or fine in specified cases of evasion of duties.

India applies the lesser duty rule, which is provided for in paragraph (d) to Rule 4 of the AD / CVD Rules.

With regard to public interest, there is no formal legal provision which requires the DGTR to assess public interest when deciding whether to recommend the imposition of anti-dumping duty/countervailing duty. However, the DGTR does factor submissions on public interest made by different interested parties in the investigation and records a finding on this aspect in the final determination based on comments on all interested parties. Further, the DGTR has recently begun the practice of issuing economic interest questionnaires to ascertain the possible impact of imposing trade remedies measures.

A notable feature of the trade remedies regime in India is that while it is the DGTR which conducts anti-dumping investigations; the final decision as to whether to impose anti-dumping duty vests with the Ministry of Finance. The Ministry of Finance may consider public interest, among others, in its decision-making process.

17. What are the substantive legal tests in your jurisdiction for the application of remedies? Does your jurisdiction apply a lesser duty rule and/or a public interest test in anti-dumping investigations? Are there any other notable features of your jurisdiction's trade remedies regime?

The DGTR applies the following legal tests in trade remedial investigations:

a. Whether the foreign producers / foreign governments have dumped / subsidized the production and export of subject goods which is causing economic injury to the domestic industry in India;

b. Standing of applicants to constitute domestic industry;

c. Participation of the substantial export / domestic value chain of a foreign producer in the investigation for award of individual treatment;

d. Ordinary course of trade test: To examine whether at least 80% of the participating foreign producer’s home market sales of the PUC is profitable for use of average of all domestic prices in normal value determination;

e. Sufficiency test: To examine whether the participating foreign producer’s home market sales is at least 5% of the foreign producer’s exports to India for use of domestic prices in normal value determination;

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18. Is there a domestic right of appeal against the authority's decisions? What is the applicable procedure?

Section 9C of the Customs Tariff Act, 1975 provides for an appeal to the Customs Excise and Service Tax Appellate Tribunal (CESTAT) against the ‘determination or review’ regarding the existence, degree and effect of any subsidy or dumping made by the investigating authority under the applicable rules governing the conduct of an investigation.

An appeal has to be made in the format prescribed
under the Customs, Excise and Service Tax Appellate Tribunal

(Procedure) Rules, 1982 within 90 days of the date of determination or review under appeal. Ordinarily, an appeal can be made only by an interested party who had participated in the investigation process. Copies of the appeal have to be served on the other interested parties who participated in the investigation before the investigating authority.

On issues involving substantial questions of law, the decisions of CESTAT can be appealed to the High Courts under Section 130 of the Customs Act, 1962 read with relevant provisions of the Customs Tariff Act, 1975. The decisions of High Courts are appealable before the Supreme Court of India under Section 130E of the Customs Act, 1962 read with relevant provisions of the Customs Tariff Act, 1975. The Supreme Court is the final court of appeal in India.

It may however be noted that, at the time of writing, the legal position regarding the maintainability of appeals before the CESTAT against certain decisions by the Ministry of Finance not to impose trade remedial measures are subject to multiple litigations in India.

19. Has your jurisdiction's imposition of any trade remedies been challenged at the WTO? If so, what was the outcome? A general explanation of trends can be provided for jurisdictions involved in significant trade remedies dispute settlement.

In India – Certain Measures on Imports of Iron and Steel Products (DS518), Japan challenged safeguard measures imposed by India on imports of certain steel products. Though the measure expired during the pendency of the panel proceedings, the panel found that the safeguard measures were inconsistent with several provisions of the Agreement on Safeguards and the GATT. India’s appeal to the Appellate Body and Japan’s cross-appeal were not taken up as the Appellate Body was unable to take up appeals due to certain factors. The appeals are currently in limbo due to the absence of a functioning Appellate Body.

In India – Anti-Dumping Measure on Batteries from Bangladesh (DS306), Bangladesh has complained against India’s anti-dumping measures on imports of lead acid batteries from Bangladesh. However, the matter did not progress to the panel stage, as both parties reached a mutually satisfactory solution, which was notified to the DSB on 20 February 2006. India terminated the subject anti-dumping measure by Customs Notification No. 01/2005 dated 4 January 2005.

20. What authorities are responsible for enforcing customs laws and regulations and what is their role?

The Central Board of Indirect Taxes and Customs (CBIC) is the apex body for administration of customs related matters in India. The CBIC works under the Ministry of Finance’s Department of Revenue. The CBIC oversees the collection of customs duties and compliance with applicable regulatory requirements for imports and exports. CBIC is also responsible for issuance of circulars / clarifications to the customs authorities across India for uniformity in the classification of goods or with respect to the levy of duties thereon.

21. Can importers apply for binding rulings from the customs authority in advance of an import transaction? How can customs decisions be challenged?

Yes, importers can apply for advanced rulings in advance of an import transaction. An application for advance ruling is required to be made in form CAAR-1 prescribed in Section 28H of the Customs Act, 1962 read with the Customs Authority for Advance Rulings Regulations, 2021 in the office of the jurisdictional Customs Authority for Advance Rulings, New Delhi or Mumbai.

Customs decisions regarding advance rulings can be challenged by filing an appeal before the jurisdictional High Court within sixty days from the date of communication of such ruling or order.

22. Where can information be found about import tariffs and other customs charges?

Information regarding rates of basic customs duty on import of different products can be found in the Customs Tariff that is annually published by the Central Board of Indirect Taxes and Customs (CBIC) on its website at https://www.cbic.gov.in/entities/cbic-content-mst/Njk3D. CBIC also publishes a general tool for calculating the duties of customs on its website at https://www.old.icegate.gov.in/Webappl.

23. Does your jurisdiction have any of the following features: a. Authorised Economic Operator (AEO) or equivalent programme?
b. Mutual recognition arrangements (MRAs) with other jurisdictions in relation to their AEO programmes? c. Suspension of duties on any goods imports (for example, for goods for which there is no domestic production)? d. Allowing goods imports valued below a certain amount to enter duty free (de minimis shipments)?

a. India has an AEO programme, which was introduced in 2011.

b. Indian Customs has signed two Mutual Recognition Agreements with the Customs Administrations of South Korea and Hong Kong.

c. Section 25 of the Customs Act, 1962 permits the Central Government to exempt the imposition of basic customs duties on imports of any good into India.

Under the Customs Tariff Act, 1975, the third proviso to section 9A(5)/third proviso to section 9(6) permit the Central Government to temporarily suspend the imposition of anti-dumping duties/countervailing duties, respectively on imports of certain goods into India.

These are discretionary powers that can be exercised by the Central Government for purposes of public interest, including when there is no availability of the particular good in the domestic market.

d. All dutiable goods imported for personal use under customs tariff heading 9804 whose value is not more than Rs. 2,000/- are entitled for import free of duty.

24. What free trade zones and facilities such as bonded warehouses are available in your jurisdiction?

India has the following free trade zones and facilities – Special Economic Zones, Export Oriented Unit, Free Trade and Warehousing Zone, and bonded warehouse.

25. What are the domestic scrutiny and transparency arrangements before and during negotiations for a trade agreement? What domestic ratification procedures are required once a trade agreement is concluded?

Before and during negotiations, the Ministry of Commerce invites all concerned stakeholders, such as representatives of the industry, industry/trade associations, the relevant line ministries, representatives of different state governments. The Ministry also consults the Centre for Research in Trade, which is a dedicated research organization, and legal experts on issues concerning draft texts.

After a trade agreement is concluded, it is placed before the Union Cabinet for ratification. To implement the relevant provisions of the FTA such as Rules of Origin and the rate of customs duty on imports from the FTA partner country, the Government issues customs notifications for the same.

26. What are the domestic procedures for local traders to request the government take action against measures of other jurisdictions that are inconsistent with WTO and/or FTA rules?

Indian exporters can make written representations to the Ministry of Commerce and Industry (which is the concerned line ministry) raising their grievances against such measures. Indian exporters may also present their grievances to the concerned industry bodies and associations. The Ministry of Commerce regularly interacts with industry associations and bodies such as the sectoral export promotion council and regularly receives feedback on WTO/FTA inconsistent measures affecting Indian exporters outside India.
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