

**GENERAL AGREEMENT ON
TARIFFS AND TRADE**

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INFORMATION ON IMPLEMENTATION AND ADMINISTRATION
OF THE AGREEMENT

Pakistan

The Permanent Mission of Pakistan has communicated the text of the Ordinance No. III of 1983 to provide for the levy of additional duties to check and regulate dumping of imported goods and import of subsidized goods. This text is reproduced herewith.

The Gazette of Pakistan



EXTRAORDINARY
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ISLAMABAD, SUNDAY, JANUARY 30, 1983

PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law
Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS
(Law Division)

Islamabad, the 30th January, 1983

F. No. 17 (1)83-Pub.—The following Ordinance made by the President is hereby published for general information :—

ORDINANCE NO. III OF 1983

AN
ORDINANCE

to provide for the levy of additional duties to check and regulate dumping of imported goods and import of subsidised goods

WHEREAS it is expedient to provide for the levy of additional duties to check and regulate dumping of imported goods and import of subsidised goods and for matters ancillary thereto :

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Import of Goods (Anti-dumping and Countervailing Duties) Ordinance, 1983.

(25)

Price : Ps. 60

[2279 Ex. Gaz.]

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Definitions.**—(1) In this Ordinance, unless there is anything repugnant in the subject or context,—

- (1) "Act" means the Customs Act, 1969 (IV of 1969);
- (2) "additional duty" means the anti-dumping duty and the countervailing duty levied under this Ordinance;
- (3) "anti-dumping duty" means the additional duty imposed under sub-section (1) of section 3 and includes provisional duty;
- (4) "countervailing duty" means the additional duty imposed under sub-section (2) of section 3 and includes provisional duty;
- (5) "country of export" means the country from where the goods are shipped for exportation to Pakistan but does not include the country through which the goods are transhipped or transited;
- (6) "country of origin" means,—
 - (i) in the case of un-manufactured products, the country of which these are products; and
 - (ii) in any other case, the country in which the last significant process in manufacture or production of goods was performed;
- (7) "dumping margin" means the amount by which the normal value exceeds the export price, and, where prices vary, the dumping margin may be established on transaction-by-transaction basis or by reference to the most frequently occurring representative or weighted average price and, where dumping margins vary, weighted averages may be established;
- (8) "export price" means the price actually paid or payable for the goods sold for export to Pakistan;
- (9) "financial assistance" includes payments on export of goods in the country of origin or the country of export and also the benefits accruing from the use of dual or multiple rates of exchange in relation to the proceeds of export sales in the country of origin or the country of export;
- (10) "normal value", in relation to any goods exported to Pakistan, means the price paid for the goods sold for home consumption in the country of origin or the country of export in the ordinary course of trade between a buyer and a seller independent of each other; and such price shall in no case be deemed to be less than—
 - (i) the aggregate of—
 - (a) the cost of production or manufacture or procurement of the goods in the country of origin or the country of export, whichever is higher;

- (b) delivery charges in the country of origin or the country of export ;
 - (c) marketing and administrative costs in the country of origin or the country of export ;
 - (d) reasonable profit for the manufacturer and the exporter ; and
 - (e) normal freight charges up to the customs station in Pakistan ;
or
- (ii) the highest export price of the goods or like goods in the country of origin or the country of export :

Provided that, where, in the opinion of the Federal Government, it is not appropriate to ascertain the normal value of the goods or like goods exported to Pakistan in accordance with the guidelines in this clause for the reason that the Government of the country of origin or the Government of the country of export has a monopoly or substantial monopoly of the trade of that country or determines or substantially influences the domestic price or the export price of the goods in that country, the normal value of the goods for the purpose of this Ordinance shall be taken as the normal value or the highest export price of the like goods produced or manufactured and sold or exported in the ordinary course of trade in another country, being a country in which, in the opinion of the Federal Government, the costs of production or manufacture are similar to those in the country of origin or the country of export ; and

(11) "provisional duty" means provisional additional duty levied under section 4.

(2) Words and expressions used but not defined in this Ordinance shall have the same meaning as in the Act.

3. Anti-dumping duty, etc.—(1) Where in the opinion of the Federal Government the export price of any goods specified in the First Schedule to the Act and being exported to Pakistan is less than the normal value of the goods and that such difference causes, or is likely to cause, injury to an established industry in Pakistan or hinders or retards, or is likely to hinder or retard, the establishment or viable operation of a potential industry in Pakistan or adversely affects the local market conditions in Pakistan, the Federal Government may, by notification in the official Gazette, levy on such goods, subject to such conditions and restrictions as it may deem fit to impose, an additional duty by way of anti-dumping duty at such rate as may be specified in the notification :

Provided that, where the country of export is not the country of origin, the anti-dumping duty may be levied treating the country of export as the country of origin.

(2) Where in the opinion of the Federal Government in the country of origin or the country of export there has been bestowed, granted or paid, directly or indirectly, any subsidy, bounty, reduction or remission of freight or other

financial assistance on the manufacture, production, carriage or export of any goods specified in the First Schedule to the Act and being exported to Pakistan, which causes, or is likely to cause an injury to an established industry in Pakistan or hinders or retards, or is likely to hinder or retard, the establishment or viable operation of a potential industry in Pakistan or adversely affects the local market conditions in Pakistan, the Federal Government may, by notification in the official Gazette, levy on such goods, subject to such restrictions and conditions as it may deem fit to impose, an additional duty by way of countervailing duty at such rate as may be specified in the notification :

Provided that the rate of countervailing duty shall be such that the amount of countervailing duty levied on any goods or class of goods does not exceed the net amount of the subsidy, bounty, reduction or remission of freight or other financial assistance bestowed, granted or paid.

(3) For the purposes of sub-sections (1) and (2), "injury" shall be deemed to be caused, or to be likely to be caused, to an industry or potential industry if it is, or is likely to be, adversely affected, as indicated by actual or potential trends in various economic factors, including production, capacity utilization, stocks, sales, market shares, prices, profits, investment-returns, cash flow and employment.

(4) No goods shall be subject to both anti-dumping and countervailing duties to compensate for the same situation of dumping or export subsidisation.

4. Provisional additional duty.—(1) Where, in the opinion of the Federal Government, it is not possible immediately to notify under section 3 the rates of anti-dumping duty or countervailing duty on any goods, the Federal Government may, by notification in the official Gazette, levy on such goods such duty at such provisional rates as it may think fit and the importer shall pay the amount of provisional duty in cash or furnish a bank guarantee or insurance guarantee to the satisfaction of the appropriate officer of customs for payment of the said amount.

(2) Where any goods are cleared or delivered on the basis of the provisional duty levied under sub-section (1), the amount of additional duty actually payable on such goods shall be finally assessed by the appropriate officer of customs soon after the issue of the notification under section 3 ; and, after assessing the amount payable on the basis of the said notification, the said officer shall pass orders for the difference, if any, between the amount provisionally paid and the amount actually payable being paid forthwith to the importer.

5. Mode and manner of levy.—(1) An additional duty under this Ordinance may be levied at specific rates on the basis of quantity, volume, weight or unit of packing or on the basis of value, as defined under section 25 of the Act, or on both :

Provided that an additional duty may be levied at different rates on any specified goods or class of goods under different condition as may be specified in the notification levying the duty.

(2) The additional duties under this Ordinance shall be levied, collected and paid in the same manner as the customs duties under the Act, and the provisions

of the Act shall, so far as may be, apply to the levy, collection and payment of duties under this Ordinance as they apply for the purposes of that Act.

6. Procedure for the determination and levy of anti-dumping duty and countervailing duty.—(1) The Federal Government may, on the application of any person or on its own motion, cause to be published in the official Gazette a notice that an additional duty is proposed to be levied on any goods or class of goods specified in the notice and specify in the notice the reasons for the levy and the rate of additional duty proposed to be levied.

(2) Within thirty days from the date of publication of the notice under sub-section (1), any person, trade-house, trade organization, industry or diplomatic mission in Pakistan may file his or its views, objections or comments with the Federal Government.

(3) The Federal Government may, at its discretion, grant personal hearing to an applicant under sub-section (1) or to any person, trade-house, trade organization, industry or diplomatic mission who or which may have filed any views, objections or comments under sub-section (2).

(4) After considering the application under sub-section (1), the views, objections and comments under sub-section (2), the deliberations under sub-section (3) and all other information and documents received or collected in this regard, the Federal Government may issue a notification under section 3 specifying the rate of additional duty levied on the goods or class of goods specified in the notice and the date from which the levy shall take effect:

Provided that nothing in this section shall apply to the levy of the provisional duty.

(5) The application, information and documents referred to in sub-section (4) shall be treated as confidential and shall not be produced before or divulged to any person, organisation or court, except by, or under the authority of, the Federal Government.

7. Review.—Any person aggrieved by a notification issued under section 3 may, within fifteen days of the issue of the notification, apply to the Federal Government for review of the levy or rate of levy of the additional duty to which the notification relates, and the Federal Government shall, after considering the application and, if it decides in its discretion to grant a personal hearing to the applicant, after hearing him, pass such order as it thinks fit.

8. Refunds.—An importer who has paid any additional duty may, within six months from the date of payment, make a representation to the Federal Government that the additional duty paid exceeds the dumping margin or the amount of subsidy, bounty, reduction or remission of freight or other financial assistance bestowed, granted or paid in the country of origin or the country of export, and thereupon the Federal Government may, after satisfying itself, allow refund of the whole or such part of the additional duty actually paid as it may deem fit.

9. Protection of action taken under the Ordinance.—No suit, prosecution or other legal proceeding shall lie against the Federal Government or any public

servant for anything which is in good faith done or intended to be done under this Ordinance or the rules made thereunder.

10. **Notice of proceedings.**—No proceeding in a court other than a suit shall be commenced against the Federal Government or any public servant discharging any duties imposed by or under this Ordinance for anything purporting to be done in pursuance of the provisions of this Ordinance or the rules made thereunder without giving to the Federal Government or such public servant not less than one month's previous notice in writing of the intended proceedings and of the cause thereof, or after the expiration of one year from the accrual of such cause.

11. **Power to make rules.**—The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

GENERAL
M. ZIA-UL-HAQ,
President.

C. A. RAHMAN,
Secretary.