

4.0 MARKET ACCESS

4.1: Import policy

Law governing the import regime has been completely rewritten with a view to augment trade facilitation and removes any implicit technical barriers.

There has been a radical pruning of the 'negative list' i.e. items subject to import bans/QR's. As a consequence, there are now only 57 items (8-digit HS Code basis) whose import is not allowed. (Pakistan removed the QR's on textile goods, for which a special dispensation had been obtained on Balance of Payment grounds) These restrictions are strictly on grounds of public health and morality, environmental concerns or national security considerations. Similarly, there are 192 items on the 'restricted list'. Import of these items is allowed upon meeting the health and safety requirements. Import of certain used machinery is not allowed for safety reasons.

There is no licensing requirement or cash margin requirements or public sector monopoly in imports. With the dismantling of its apparatus of quantitative restrictions and their barriers, tariffs are now Pakistan's principal trade policy instrument.

Prohibited Imports

Pakistan controls certain imports through the negative list. Goods not on the negative list may be freely imported. The negative list is made up of (a) items banned for religious, security or luxury consumption reasons; (b) capital and consumer goods banned to protect domestic industry; and (c) intermediate goods used in producing protected goods. A restricted/conditional list includes items that may be imported only, for example, by certain parties (the government or other specified users) or by certain special arrangements (such as imports against credit).

Source: WTO, September 2002.

4.2: Tariff policy

Reliance on Customs Duties as a source of government revenues had been one of the major factors compelling Pakistan's high tariff rates. It announced annually through the Finance Act published in the official gazette. In addition, at the start of each financial year the Central Board of Revenue (CBR) published the customs Tariff along with Notifications (SROs) containing various duty exemptions, rules, and changes; the customs tariff and accompanying regulations are also available at the CBR online information. The customs tariff is an important, albeit declining, source of tax revenues; its share of total tax revenues dropped from 30.1 % in 94/95 to 13.7 5 in 2000/01.

Despite its acute fiscal imbalances Pakistan has sought to substantially reduce the level and dispersion of its tariffs.

The period since the last Review has seen elimination of para-tariffs and a very significant reduction in tariffs. The maximum tariff has now been brought down to 30% (with few exceptions that relate to automobiles and alcoholic beverages) and the number of tariff slabs reduced to four. During the current year duty was reduced on 4,000 of the 5,440 items (8-digit HS Code) in the Pakistan Tariff Code.

It has already been decided to further reduce the maximum tariff to 25% effective 1 July 2002'

Reduction and rationalization of tariffs has been accompanied with simplification of procedures. Regulations having a distortionary effect (e.g. user-specific concessions) are being done away with. The number of such Statutory Regulatory Orders (SRO's) has already been halved over last year and has committed to totally eliminate them over the next couple of year.

A major exercise to reform and restructure the Central Board of Revenue is under way. This is expected to contribute to greater transparency and trade facilitation.

Table: 4.1 Tariff and their dispersion

Description	1997	1998	1999	2000	2001
Number of rates	13	5	5	5	4
Maximum rates (%)	65	45	35	35	30
Average rate (a) (%)	23	21	18	18	17
Average rate (b)	17	16	14	12	11

(a) Duty collected divided by value of dutiable imports

(b) Duty collected divided by value of total imports

Customs valuation has been switched from the traditional ITP (Import Trade Price) system to the WTO complaint transaction based system. Necessary amendments to give effect to this have been made in the Customs Act.

Table: 4.2 Structure of tariffs in Pakistan, 1996-2002

(Percent)

Indicators	1996/97	2002/01	2001/02	U.R. (a)
1. Bound tariff lines (% of tariff lines)	36.3	34.8	36.8	36.8
2. Duty-free tariff lines (% of tariff lines)	0.8	4.0	0.0	0.0
3. Non-ad valorem tariffs (% of tariff lines)	1.7	1.1	0.9	0.9
4. Tariffs with no ad valorem equivalent	1.7	1.1	0.9	0.9
5. Simple average bound tariff rate	71.1	62.8	61.5	61.4
6. Simple average applied tariff rate	41.7	24.8	20.4	20.2
Agricultural products (HS 01-24)(b)	47.2	28.0	21.8	21.8
Industrial products (HS 25-97)	40.8	24.3	20.2	20.0
7. Domestic tariff 'peaks' (c)	0.4	1.1	0.7	0.9
8. International tariff 'peaks' (d)	82.7	61.7	57.2	56.0
9. Overall standard deviation (SD) of tariff rates	22.5	17.8	16.0	16.0
10. Coefficient of variation (CV) of tariff rates	0.5	0.7	0.8	0.8

(a) Based on 2001/02 nomenclature.

(b) Under the definition, used in the WTO Agreement on Agriculture, the simple average applied tariff on agricultural imports is 43.9%, 26.7% and 22.1% in 1996/97, 2000/01 and 2001/02 respectively.

(c) Domestic tariffs 'peaks' are defined as those exceeding three times the overall simple average MFN rate.

(d) International tariffs 'peaks' are defined as those exceeding 15%.

Note: Calculations exclude specific rates and include the ad valorem component of alternate and compound rates.

Source: WTO Secretariat calculations, based on data provided by the authorities of Pakistan.

MFN tariff bindings

As a consequence of the Uruguay Round (UR), Pakistan has expanded considerably its binding commitments beyond its minimal undertakings in the past. Pakistan has bound 89.6% of its agricultural tariff lines (exceptions including alcoholic beverages, swine and pig meat and products thereof, mainly on religious grounds), 12.6% of lines pertaining to fishery products, and 27.5 of industrial tariff lines (HS code 25-97). Currently, 36.8% of all tariff lines are bound, compared with 36.3% in 1996/97 (Table); this tariff line increase reflects the reduction of more unbound tariff lines (sub-positions) than bound lines at the latest customs tariff in force. The authorities indicated that Pakistan would gradually increase the number of its bound items as it gains experience in multilateral, reciprocal tariff-cutting negotiations; as a country suffering from acute fiscal imbalances, it will need flexibility for some time.

Since 1996/97, Pakistan's average bound tariff rate has fallen from 71.1% to 1.5%, with a further decline to 61.4% expected by the end of the implementation period, nonetheless, the gap between bound and applied rates has widened as a result of generally faster reductions in the latter, and of the high binding levels for certain items. While Uruguay Round bindings for agricultural items have been in force since 1995, those on industrial items are being implemented in five (HS Chapters 25-49 and 64-95) or ten (HS Chapters 50-63 (textiles and clothing)) equal annual installments from July 1995.

Duty-free items

Following changes introduced in the customs tariff, as from 2001/02 no tariff lines are duty free as the lowest tariff rate has been raised to 5%; duty-free entry is allowed on an exceptional basis. Prior to this change (i.e. 2000/01), 4% of the tariff lines were duty free (five times as many as in 1996/97).

Specific, compound and alternate duties.

Specific and compound duties currently account for only 0.9% of all tariff lines, and their scope has been reduced since 1996/97; alternate duties (29 items in 1996/97) are no longer in force. Such duties tend to be more opaque than ad valorem duties and can therefore conceal high rates. Whereas specific duties presently cover 44 (8-digit HS) tariff lines (e.g. certain oil seeds, vegetable plaiting materials, motor spirit, Soya-bean and palm oil, liquid soda), compound duties are applied to 3 lines (lubricating oil). Ad valorem equivalent (AVE) rates for these duties are not available.

Applied MFN tariffs

Since its previous Review, Pakistan has introduced changes to its tariff in accordance with the scheduled implementation of binding commitments under the Uruguay Round, IMF-funded programmes and domestic policy considerations. Between 1993/94 and 2001/02 the overall simple average applied MFN tariff rate fell considerably, from 56% to 20.4% as a result of tariff restructuring (four main tiers and general high tier reduced to 30%). The simple average will fall slightly further once the Uruguay Round tariff cuts are fully implemented.

Additional decreases in tariff protection may arise from the reduction of the currently applied rate of 30% to 25% by June 2002.

The large and increasing gap between bound and applied rates (due to recent cuts in applied rates) imparts a high degree of uncertainty to Pakistan's customs tariff (section 2(ii)(b)). The difference between average applied and bound rates in 2001/02 was much higher in the agriculture sector (HS definition) than in the industrial sector. Further uncertainty arises from the fact that, in 2001/02, applied tariff rates on 91 eight-digit HS items (mostly textiles and clothing) exceed their binding levels by up to 17 percentage points; this number is lower than in 1996/97 (214 items) and 2000/01

(214 items). The authorities are aware of this difficulty and have taken steps to address it in the next Budget.

In line with the downward trend in bound rates, and especially applied MFN tariff rates, the average rate of customs duty collected on total imports has also dropped from 24.5% in 1994/95 to 12.9% in 1999/00. This collected duty rate has been considerably lower than the average applied MFN rate. The large, albeit declining, gap between these two rates may be attributed, the possibility that some tariff rates are prohibitive (i.e. automotive Sector), and misclassification of imports.

Source: WTO, September 2002

4.3 Trade / non tariff Barriers

A. Trade Barriers

Pakistan has traditionally maintained a complex system of indirect taxes in the trade sector. High basic tariffs, additional surcharges, a variety of excise taxes and sales tax with different applicability on domestic and foreign goods combined to distort prices in domestic markets. The tariffs, which were established for both protectionist motives and revenue rising, had become generally counter-productive. Many tariff rates were too high and stimulated smuggling and corruption.

Revenue collections are also undermined by many exemptions and concessions. The GOP has since liberalized its trade regime, reduced tariff levels, and streamlined procedures for imports and exports.

Pakistan uses the Harmonized System to classify and describe goods. Customs duties are levied on ad valorem basis. Maximum tariff rates were reduced from 92 percent to 70 percent in June 1994, and from 70 percent to 65 percent in June 1995. The GOP, encouraged by the World Bank and the IMF, had decided to lower the maximum tariff rate in a phased manner, but had delayed implementation of this decision. However, PM Nawaz Sharif announced drastic cuts in the tariff structure as part of his March 28, 1997 economic revival package. The maximum tariff rate was reduced to 45 percent from 65 percent. The federal budget for PFY 1998-99 announced in June this year has retained this tariff rate.

Other than customs duty, the government charges sales tax (12.5 percent) on the duty paid value of a variety of goods produced in or imported into the country. Customs duty and other charges are payable in Pakistani currency.

Export subsidies - Pakistan seeks to encourage exports through rebates of import duties, sales taxes, and income taxes, as well as through concessional export financing.

B. Customs Valuation

Valuation - The GOP has canceled its controversial pre-shipment inspection (PSI) valuation system in March 1997 and have reverted to Import Trade Price (ITP) based valuation system. The Import Trade Price manual is updated periodically to facilitate the valuation process.

Customs Clearance and Warehousing - Ample public and bonded warehouse facilities, most of which are owned by the port trust organizations, exist for the storage of goods. Pakistan has no free-port facilities, but regulations permit similar privileges while goods are warehoused. Goods must be landed within the period specified on the bill of lading or within 15 days after entry of the vessel into port. Once the goods have entered and duties have been assessed, the importer must clear them for consumption (by paying the duties) or warehouse them.

C. Import Licenses

All importing firms in the private sector must register as importers with the Government of Pakistan's Export Promotion Bureau and must have valid registration at the time of importing.

The GOP permits imports from all countries except Israel or goods originating in Israel. However, in the case of loans, credits or US PL-480, imports shall be made subject to availability from the specified source only. Importers must also:

- Obtain special authorization of the Ministry of Commerce for importing items from the "negative/restricted" list;

- Ensure that correct Harmonized Schedule code number of every imported item is mentioned in the import documents;
- Ensure that the supplier of cigarettes and cigars prints warning "Smoking is injurious to health" in both Urdu and English on every packet.

Imports from India are a special case. Only items on a list issued by the Ministry of Commerce may be imported; that list includes 581 individual items, classified by Harmonized System numbers. Pakistan's imports from India in 1995-96 totaled \$94 million, from \$64 million the year before.

D. Export Controls

Export of goods from Pakistan is allowed generally. However, export of some items is banned/restricted or is subject to certain conditionalities for reasons of short supply and to ensure their availability in the home market. (E.g., export of live animals and meat shall be in accordance with the procedure notified by the Export Promotion Bureau from time to time.) Other items banned/restricted for export purpose include: arms, edible oils, hides and skins, timber, milk and milk products, and antiques. The customs authorities will, however, inspect outbound baggage to ensure that no banned/restricted item is taken out of the country as accompanied personal baggage.

Services barriers

Several sectors, including banking, insurance, transportation, and telecommunications, are affected by services barriers. Portions of major service industries are nationalized and run by the government.

Foreign banks are generally restricted to no more than four branches, are subject to higher withholding taxes than domestic banks, and face restrictions on doing business with state-owned corporations. Foreign brokers can join one of the country's three stock exchanges only as part of a joint venture with a Pakistani firm.

New foreign entrants to the general insurance market are virtually barred. Foreign firms wishing to compete in the life insurance market, while not barred, also face severe obstacles.

Those few foreign insurance companies operating in Pakistan face various tax problems, long delays in remitting profits, and problems associated with operating within the insurance cartel.

Basic telephony remains the monopoly of the majority state-owned Pakistan Telecommunications Corporation, but competition among private providers is now allowed in cellular telephony.

In the recently concluded WTO negotiations on basic telecommunications services, Pakistan made commitments on basic telecom services, with phase-in of some obligations. For instance, Pakistan will provide national treatment for voice services, private leased circuit services, and telegraph services by 2004. Pakistan also agreed to permit foreign ownership or control of all telecommunications services and facilities by 2004. As part of the agreement, Pakistan also adopted certain pro-competitive regulatory principles. Pakistan took a MFN exemption on accounting rates.

If all services barriers were eliminated, the U.S. Embassy estimates an increase in U.S. exports of \$25-100 million.

Investment barriers

Foreigners may invest without prior government approval, up to 100 percent ownership, in all but the following industries: arms and ammunition, security printing (currency and mint), radioactive substances, and non-industrial alcohol. With these exceptions, statutory provision of national treatment exists for foreign investors in industrial sectors, though it does not in non-industrial sectors.

Foreign investors cannot own land for agriculture, forestry, irrigation, or real estate. However, with the approval of the relevant provincial government, foreign investors can obtain long-term leases on land for commercial and industrial purposes. Foreign ownership of land in joint venture with Pakistani citizens may be allowed.

Where investment is allowed, repatriation of profits (excluding insurance companies), dividends, and capital (excluding banks) is freely allowed.

Local content requirements can occur in the automobile, electronics, electrical products, and engineering industries under Pakistan's "deletion program." The program is ostensibly not compulsory.

However, at least one telecom equipment producer has reported that telecom licensees must adhere to the import deletion program. Investors who "voluntarily" undertake to increase the local content of their output enjoy lower tariffs on imported inputs but are subject to fines for non-compliance with an agreed-upon import deletion schedule. In the auto sector, U.S. industry representatives report that the Pakistani Government "expects" new motor vehicle assembly plants to achieve a local content level of at least 40 percent within five years of starting production. U.S. industry representatives report further that 40 percent local content level is a firm requirement after seven years of starting production of motor vehicles in Pakistan. Local content requirements such as these will have to be phased out in order for Pakistan to comply with the WTO Agreement on Trade Related Investment Measures (TRIMs).

In order to comply with conditionalities under the 1995 "standby" agreement with the IMF in January 1996, the Pakistani Government withdrew the investment incentives that applied to rural areas, "less developed areas," and those designated as special industrial zones. Fiscal incentives such as tax holidays, duty-free importation of machinery and duty and sales tax exemptions on the importation of raw materials also were eliminated.

However, the federal government continues to offer incentives for foreign investment in specific industrial sectors, including oil and gas exploration and development, as well as in state-owned energy utilities, banks, and the phone company all slated for privatization.

Other barriers

Lack of transparency is a recurrent problem in many areas, including government procurement and customs valuation. Two federal government bodies take an interest

in this problem, in addition to various government departments that might investigate allegations of corruption under their purview.

The Monopolies Control Authority is credited with being reasonably effective at combating the practices covered by the law it is charged with enforcing, although the law is somewhat narrow in scope. The federal Anti-Corruption Commission is considered a somewhat politicized, and therefore less effective, body.

Source: U. S. Department of Commerce - National Trade Data Bank, May 6, 1999

(www.TradePort.org)

4.4 Exchange Rate Policy

Pakistan continued a managed floating exchange rate system until July 21, 1998. From July 22, 1998 the government introduced a multiple exchange rate system comprising an official rate, a Floating Interbank Rate (FIBR), and a composite rate. The official exchange rate continued to tie the rupee to the dollar. The FIBR took a step forward toward a market determined exchange rate system. Supply components of the FIBR market include export proceeds, home remittances, and invisible flows.

Demand components of FIBR include the "non-essential" imports and other outflows not using the official rate. A composite exchange rate combines the official and FIBR rates. As of late November 1998, the government had modified the new exchange rate mechanism several times, generally linking more transactions to the FIBR.

In years previous to the foreign exchange crisis of 1998, Pakistan significantly liberalized foreign exchange controls. The rupee was fully convertible on current account. Individuals and firms resident in Pakistan could hold foreign currency bank accounts and freely move foreign currency into and out of the country. Foreign firms investing in Pakistan (other than banks and insurance companies) may remit profits and capital without prior approval.

However, in response to the foreign exchange shortage, the government froze the foreign currency accounts and increasingly denied access to official reserves.

*Source: U. S. Department of Commerce
National Trade Data Bank, September 3, 1999*

4.5 Marking & Labeling Requirements

Pakistan has no uniform or universal system of imposing labeling and marking requirements on products.

However, individual industries or sectors are subject to the regulations of specific bodies. For example, the Ministry of Health sets requirements for the pharmaceutical industry.

4.6 Standards / ISO 9000 Usage

The Pakistan Standards Institution (PSI) is the national standards body. The various activities of PSI include preparation and implementation of standards, introduction of standards inspections systems, collaboration with international organizations such as the International Standards Organization (ISO), and dissemination of information on standardization and quality control. PSI has so far established about 4,000 national standards for agriculture and food, chemicals, civil and mechanical engineering, electronics, weights and measures, and textile products.

The GOP's Export Promotion Bureau has led a successful campaign to provide free advisory service covering planning, documentation, and interpretation into local environment, implementation and certification processes for ISO 9000.

In the last three years, 26 Pakistani companies have obtained ISO 9000 certification and about 75 more are at different stages of implementing ISO standards.

4.7 Patents and trademarks policy

Patents

Current law protects only process patents for duration of sixteen years, although the government is committed to eventually offering product patents in accordance with its WTO obligations.

U.S. industry representatives have complained that the right of the patentee is not adequately protected by law, permitting infringers to continue freely manufacturing illegal products. In addition, only the patent-owner, not licensees, can file a suit against an infringer. There also is always the threat of revocation of the patent and/or compulsory licensing.

Trademarks

There have been occasional instances of trademark infringement, involving a range of products such as toys, playing cards, and industrial machinery.

In August 1994, the Pakistani Government issued new drug labeling rules requiring the generic name of substances to be printed "with at least equal prominence as that of the brand name." This rule serves to dilute in the minds of consumers existing differences in quality, efficacy, and safety, and incorrectly implies total interchangeability and equality among different products. The U.S. Embassy estimates a loss of \$5-10 million in U.S. exports for patent and trademark violations.

4.8: Documentary Requirement

The entities comprise any firm holding a registration certificate, commercial importers, industrial consumers, and actual users. Nearly all importers must register as importers with the Export Promotion Bureau (EPB), public sector departments are exempt from registration requirements. Only firms listed in public notices issued by the Ministry of Commerce may apply for import authorization; a person or family owning more than one firm may register one of its firms only. In the year 2000, there were plans to amend the regulatory framework with a view to simplifying registration procedure and introducing an automatic database update.

The EPB issues a so-called "Category Pass Book" to importers of items subject to certain import conditions (other than freely importable goods), for purposes of opening letters of credit and customs clearance.

Basic documentation requirements remain unchanged (**Import General Manifest, bill of entry, invoice, packing lists, copies of letters of credit, and insurance certificates**).

In the case of items subject to certain conditions, a recommendation / clearance or prior approval from the competent government agency, or certificates from the exporting country may be required. In most cases, in order to obtain duty concessions for import of machinery and raw material granted to various industrial establishments, importers need to furnish an indemnity bond/ bank guarantee to the

extent of duty exempted. A certificate of origin may be required for items subject to special import (e.g. Preferential treatment), depending on the origin.

As of February 2000, an Electronic Assessment System (EASY) ensures more speedy assessment and customs clearance as well as reduced contact between taxpayers and tax collectors.

At a first stage, EASY has been available to multinationals and local firms are eligible for an “express lane facility” (operated since 1998). EASY covers: dutiable imports by public sector entities; all items subject to specific rates of customs duty and, certain items subject to zero rates of customs duty and sales tax. EASY does not apply to old/ used/second-hand/re-conditioned items, scrap, and items subject to restrictions or bans or duty exemptions. A share of 55 of goods is randomly selected by computer for clearance under “normal” procedure, which takes about one day.

No compulsory storage requirements seem to have been applied.

4.9 Commercial Samples (Temporary Entry)

GOP import regulations permit temporary import of legally importable items by foreign companies (e.g. as commercial samples) provided that a bank guarantee or indemnity bond equivalent to the value of the item is provided to the Customs authorities to ensure that the items will be re-exported.

Applicable import fees must be paid, but will be refunded on re-export. Similarly, domestic industrial firms may import items for test, trial, and re-export, subject only to the payment of a refundable import fee.

4.10 Free Trade Zones/Warehouses

With a view to promoting foreign investment and a greater export surplus for the country, the GOP has established a free trade zone at Karachi in 1989; The Karachi Export Processing Zone (KEPZ).

Authority has so far sanctioned over 170 industrial units with foreign equity. However, about 90 units are in production and the rest are at different stages of development. The KEPZ has fully-developed infrastructure facilities and offers the following incentives to investors:

- Salary of foreign personnel is exempted from income tax for five years from the date of arrival in Pakistan;
- Import of machinery, spares, and raw materials is free from all federal and provincial taxes;
- The right to export from the KEPZ to Pakistan;
- No tax on capital gains;
- Unrestricted repatriation of capital, profits, and dividends allowed;
- Exemption from certain Pakistani labor laws.