



THE COUNTERVAILING DUTIES ORDINANCE, 2001



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FIRST SCHEDULE.

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THE COUNTERVAILING DUTIES ORDINANCE, 2001

ORDINANCE No. I OF 2001

[3rd January, 2001]

An Ordinance to amend and consolidate the law relating to imposition of countervailing duties to offset subsidies.

WHEREAS it is expedient and to give effect in Pakistan to the provisions of Articles VI and XVI of the General Agreement on Tariffs and Trade, 1994, and to the Agreement on Subsidies and Countervailing Measures and to amend and consolidate the law relating to imposition of countervailing duties to offset such subsidies, to provide a framework for investigation and determination of such subsidies and injury in respect of goods imported into Pakistan and matters ancillary thereto or connected therewith;

AND WHEREAS the imposition of countervailing duties to offset injurious subsidization is in the public interest;

AND WHEREAS the National Assembly and the Senate stand suspended in pursuance of the Proclamation of the fourteenth day of October, 1999, and the Provisional Constitution Order No. 1 of 1999;

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 Emergency of the fourteenth day of October, 1999, and the Provisional Constitution Order No. 1 of 1999, read with the Provisional Constitutional (Amendment) Order No. 9 of 1999, and in exercise of all powers enabling him in that behalf, the President of the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance:—

PART I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Ordinance may be called the Countervailing Duties Ordinance, 2001.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

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

- (a) “Agreement on Subsidies” means the Agreement on Subsidies and Countervailing Measures included in Annex (1A) to the Final Act of the Results of the Uruguay Round concerning the Implementation of Article XVI of the General Agreement on Tariffs and Trade, 1994;

- (b) “Appellate Tribunal” means the Appellate Tribunal established under the Anti-Dumping Ordinance, 2000 ([LXV of 2000](#));
- (c) “application” means an application submitted to the Commission pursuant to sub-section (1) of section 11;
- (d) “association” means a trade organisation as defined in the Trade Organisations Ordinance, 1961([XLV of 1961](#)), which has been granted or deemed to have been granted a licence thereunder;
- (e) “Commission” means the National Tariff Commission established under the National Tariff Commission Act, 1990 ([VI of 1990](#));
- (f) “country” means any country or territory whether a member of the World Trade Organisation or not and includes a customs union or customs territory;
- (g) “countervailing measures” means any measures that may be taken by the Commission under this Ordinance including imposition of countervailing duties, whether provisional or definitive, or the acceptance of an undertaking;
- (h) “definitive countervailing duty” means a duty imposed by the Commission under section 16, sub-section (15) of section 14 or sub-section (2) of section 17;
- (i) “domestic industry” means the domestic producers as a whole of a like product or those of them whose collective output of that product constitutes a major proportion of the total domestic production of that product, except that when any such domestic producers are related to the exporters or importers, or are themselves importers of the allegedly subsidised product, in such a case “domestic industry” shall mean the rest of the domestic producers.

Explanation.—For the purposes of this clause, producers shall be deemed to be related to exporters or importers only if—

- (i) one of them directly or indirectly controls the other;
- (ii) both of them are directly or indirectly controlled by the same third person; or
- (iii) together they directly or indirectly control a third person:

Provided that there are grounds for believing or suspecting that the effect of the relationship is such as to cause the producer concerned to behave differently from non-related producers and for that purpose one shall be deemed to control another when the former is legally or operationally in a position to exercise restraint or direction over the latter:

Provided further that, in exceptional circumstances, as may be determined by the Commission, the domestic industry in relation to a product

in question may be divided into two or more competitive markets and producers within each such market may be regarded as a separate industry if–

- (i)** the producers within such a market sell all or almost all of their production of the product in question in such a market; and
 - (ii)** the demand in such a market is not to any substantial degree supplied by producers of the product in question located elsewhere in Pakistan;
 - (j)** “exporting country” means a country granting subsidy in respect of an investigated product, which country may be either –
 - (i)** the country of origin of the investigated product; or
 - (ii)** where the investigated product is not exported directly to Pakistan but is transported through an intermediate country, such intermediate country;
 - (k)** “government” means the government or any public body within the territory of an exporting country;
 - (l)** “injury” means, unless otherwise specified, material injury to a domestic industry, threat of material injury to a domestic industry or material retardation of the establishment of a domestic industry, when subsidised imports are causing such injury;
 - (m)** “interested party” includes –
 - (i)** an exporter, foreign producer, an importer of an investigated product or an association a majority of the members of which are producers, exporters or importers of such product;
 - (ii)** a producer of a like product in Pakistan or an association a majority of the members of which produce a like product in Pakistan; and
 - (iii)** such other person or group of persons as the Commission may, by notification in the official Gazette, specify;
 - (n)** “investigated product” means a product which is subject to an investigation under this Ordinance;
 - (o)** “investigation” means an investigation conducted under this Ordinance;
 - (p)** “like product” means a product which is alike in all respects to an investigated product or, in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the investigated product;
 - (q)** “prescribed” means prescribed by rules made under this Ordinance;
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