



The American Business Council
of Pakistan



AMERICAN BUSINESS COUNCIL SUGGESTION FOR TRADE POLICY 2011/12





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EXECUTIVE SUMMARY

Attached are the proposals for the upcoming Trade Policy 2010/2011 which basically fall under four distinct segments, namely:

- 1. IMPROVING INVESTMENT CLIMATE:**
- 2. ENCOURAGING EXPORTS AND LOWERING COST OF LOCAL INDUSTRIES:**
- 3. IMPORT POLICY (GENERAL):**
- 4. INDUSTRY SPECIFIC (PHARMACEUTICAL):**

We have been very selective in our proposals as we wanted to focus on issues and opportunities that have the biggest impact on ABC companies as well as the Pakistan economy in general. Overall the ABC Trade Policy constitute 15 proposals falling in the abovementioned 4 segments.

Tasleem Batlay

Chairman Trade Sub-committee

cc: ABC Executive Committee



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ABC SUGGESTIONS FOR TRADE POLICY 2011-12

A. IMPROVING INVESTMENT CLIMATE

A1. IMPROVEMENT IN INFRASTRUCTURE

Issue

Pakistan's strong economic growth during the last 6 years and the projected growth rate is forecast at around 3%. However, due to lack of proper infrastructure especially roads, national highways, railways and logistics, including ports and warehousing, industry and trade are severely impacted. Severe shortage of power and gas is yet to be mitigated. Not only is the cost of doing business negatively impacted, the country is also finding it difficult to be globally competitive.

Proposal

We recommend that the government should give high priority to the development of proper infrastructure and immediately form a high level Committee from public-private sectors directly reporting to the Prime Minister. Representatives and Chairmen of Chambers of all major cities should be given 50% participation. From the government, Chairmen of relevant major public sector organizations should participate along with Secretaries of relevant Ministries. This Committee should meet with the Prime Minister on a quarterly basis to prioritize major infrastructure development projects and review their progress.

Benefit

This proposal will greatly speed-up the development work for all key infrastructure projects, synchronize the critical development among the provinces and facilitate industry and trade by reduced cost of business as well as significantly enhance global competitiveness which is essential in maintaining the high growth rates projected during next 5-10 years.

A2. IMPROVEMENT IN THE ENVIRONMENT

Issue

In industrial estates, serious environment problems are being highlighted but very little is being done to control them. The issues include collection and disposal of hazardous wastes, treatment of industrial sewage and inadequate capacity of Government run incinerating plants. To avoid further degradation of the environment the Government must improve facilities to safely handle the industrial wastes. Also, the Government must actively encourage/facilitate the industries to make the appropriate investments for meeting environmental standards.

Proposal

1. To encourage all industries to protect the environment by meeting NEQS standards we recommend that all plants, machinery and equipments that are imported with the recommendation of the Pakistan Environmental Protection Agency are exempt from all Custom Duties and Sales Tax.

2. Develop a mechanism & regulatory framework for promotion of carbon offset and carbon trading. In the larger, compliance market, companies, governments, or other entities buy carbon offsets in order to comply with caps on the total amount of carbon dioxide they are allowed to emit.

Offsets are typically achieved through financial support of projects that reduce the emission of greenhouse gases in the short- or long-term. The most common project type is renewable energy, such as wind farms, biomass energy, or hydroelectric dams. Others include energy efficiency projects, the destruction of industrial pollutants or agricultural byproducts, destruction of landfill methane, and forestry projects. Some of the most popular carbon offset projects from a corporate perspective are energy efficiency and wind turbine projects.

Benefit

- Industries would readily make investments into Plant, Machinery and Equipments that protect the environment.
- Helps in minimizing risks
- Industries make better products and services
- In the long run results in cost savings – energy, raw material etc
- Helps in attracting and retaining employees

A3. IMPROVEMENT IN AFGHAN TRANSIT TRADE

Issue

ATT is causing unlimited damage to the Pakistan economy as goods which are imported to be used in Afghanistan only are freely available in the Pakistan market without any customs or import duty. Very little is being done to control this.

Proposal

1. Containers coming back from Afghanistan should be checked by customs.
2. There should be a negative list of items which are not utilized in Afghanistan; yet are imported and make their way into Pakistan.

Benefit

- The government will receive substantial taxes as the domestic production would increase.
- This helps in reducing unemployment.

B. ENCOURAGING EXPORTS AND LOWERING COST OF LOCAL INDUSTRIES

B1. HIGH UTILITY COST OF LOCAL INDUSTRIES

Issue

Local industry utilities costs are highly inflated which leads to Pakistani companies being un-competitive on manufacturing costs versus other countries. Charges of electricity and gas have increased the cost of doing business in the country.

The combination of generation cost and transmission and distribution inefficiencies have excessive power tariff for industry both local and export oriented.

Proposal

While we encourage the Government to meet international commitments, we propose tariff reduction through:

Organization Productivity; Minimizing theft losses; Recovery of dues

Benefits

Lower input cost to local industries would help:

- Improve export performance through enhanced competitiveness
- Allow the country to realize its export potential by leveraging its innate skills in both traditional and non-traditional exports. This can only be realized by enhancing our manufacturing competitiveness.

B2. EXPORT DUTY DRAWBACK - RATES AND DELAYED REALIZATION

Issue

It is customary for the Government to issue Duty Drawback rates through SRO for exports after consultation with the concerned industry. Contrary to this, on September 11, 2007 SRO 931(I)/2007 and superseded by SRO 212 dated Mar 5, 2009 was issued without consulting the Pharmaceutical Industry which further significantly reduced the rates that were applicable through SRO 787(I)/2005 dated August 06, 2005. The comparison of the duty drawback rates is as follows:

Pharmaceutical Products	SRO 787	SRO 931 superseded by SRO 212
Tablets and Capsules	3.14%	1.32%
Liquids or powder or syrups or suspension or drops or granules in bottles	1.90%	1.15%
Creams or ointments or gels	2.32%	1.20%
Injections	2.39%	1.29%
Intravenous solutions	1.23%	1.05%

The reduction in the rates is justified if the import duty of input materials (raw and packaging) had been reduced. There has been no such change in the import duty tariff on material inputs for export products.

Furthermore, the Exporters file Rebate Claims on time to Customs House but the process of verifying claims and issuance of checks is unnecessarily delayed.

Proposal

It is proposed that the rates as per SRO 787(I)/2005 dated August 6, 2005 should be restored and if any changes are to be made then this not done arbitrarily but must be after consultation with the respective industries.

Also, there must be clear and transparent system of finalizing Export Duty Drawback Claims and the issuance of checks. The Customs must establish agreed timelines, monitor and adhere to them

Benefits

- Increase exports that help to meet company and national targets.
- Exports are competitive in the market place.
- Realization of on time Export Rebates will reduce the money tied up thereby reducing the cost of export products.

B3. ANOMALIES IN CUSTOMS & REGULATORY DUTIES

Issue

In the FY 2008/09 fiscal budget and immediately thereafter, certain policy measures were introduced that increased the cost of doing business and inflationary pressures in Pakistan, namely: a) Custom duties were increased on a range of products; b) An additional Regulatory Duty was levied on 379 items through SRO 896 dated Aug 27, 2008 on items which the government considered as luxury goods. Thereafter, regulatory duties were imposed via SRO 482 and instead of eliminating them some further items totaling 397 were included in June 2009.

This levy of Regulatory duty depicts the ad hoc manner in which policy measures have been taken. No stakeholder which includes members from the industry, consumers, etc were consulted in the formation of this list, nor did the government conduct any study to help them decipher what Pakistani consumers consider as luxury goods vs. items of daily use. The laundry list of items that have been included in the list of luxury items include commonly used household hygiene items like Shampoos, Soap, shaving creams, etc. which are clearly NOT luxury goods. This measure is hurting Pakistani consumers as the ultimate burden of these duties will be passed on to the Pakistani consumer.

Moreover, the exorbitantly high rate of duties has disrupted the level playing field between locally produced and imported goods. This has provided unnecessary protection to the local industry which may lead to operational inefficiencies as well as opening the flood gates for smuggling. On many previous instances smuggling has prospered whenever duties have increased.

Proposal

1. It is proposed that the custom duty rates should be restored back to the FY 2007/08 levels.
2. There should be no across the board increase in Customs Duties for any category of products.
3. Regulatory duty levied on basic hygiene items like shampoos, shaving preparations, soap, etc, should be immediately eliminated.
4. Regulatory duty should not be imposed on any new products/categories

Benefit

Such a positive move by the GoP would be a win- win for the consumers, GoP and industry of Pakistan. It will:

- Enable local industry to become efficient and cost effective without the need for duty protection
- Reduce the inflationary pressure on basic hygiene items like shampoo and soap, and reduce the burden on lower socio economic classes
- Reduce room for parallel importers and counterfeiters to operate in the competitive market

B4. ENHANCED EXPORT COMPETITIVENESS FOR PHARMACEUTICAL PRODUCTS TO AFGHANISTAN

Issue

The export market for pharmaceutical to Afghanistan is opening up. Currently, all exports to Afghanistan that are invoiced in Pakistan currency (Rs) are excluded from export rebate as per Export Policy Order SRO 767(I)/2009 dated Sep 04, 2009 under para 7.

Proposal

It is proposed that Pharmaceuticals when exported to Afghanistan and invoiced in Pak Rupees be also allowed Export Rebate that is in line with other convertible currencies.

There is minimal chance of Pharmaceutical products flowing back into Pakistan as the Pharma Industry is highly controlled by the Ministry of health. To further control smuggling, the pharma products can be labeled with wording "For Exports Only".

Benefits

- Increase exports that help to meet company and national targets.
- Exports are competitive in the market place.

C. IMPORT POLICY - GENERAL

C1. POWER GENERATION - DUTIES & TAXES ON CO-GENERATION EQUIPMENT

Issue

Despite much publicized claims regarding impending improvement in power generation and distribution by previous and present regimes, the power situation in the country is far from improved. The electric utility companies are ill-equipped to maintain existing power plants and handle the rising power demand in the country.

A way out of this problem is to promote on site self-generation, by setting up Co-generation based power plants in industry. This solution not only represents better utilization of country's diminishing fuel reserves but also provides higher system efficiencies than conventional generator based power plants (75% vs 30%).

Under the existing rules co-generation equipment (H.S. Code 8502.3900) imported presently has a duty component of 5%.

Proposal

All types of co-generation equipment should be made duty free.

Benefits

This will encourage industry to set up their own generation units thereby reduce the load on public utility companies.

C2. CUSTOM DUTIES ON SPARE PARTS AND MACHINERY NOT MANUFACTURED / PRODUCED LOCALLY

Issue

At present import duties are applicable at 5% on machinery and equipment 'not locally available' and imported into the country for setting up industry. Even at 5%, this import duty is unnecessarily burdening companies looking to make large scale investment in the country. Globally, various countries are offering attractive incentives to industries to encourage FDI. Some examples are:

- i) South Africa has 0% import duty slab on plant machinery and equipment.
- ii) Nigeria is offering a scheme to investors for duties and VAT exemptions on capital equipment.
- iii) In Morocco government is offering tailor made solutions to serious investors in the country and the investors can also negotiate investment deals with the government.

Proposal

It is requested that a new duty slab of zero percent be created for all industry raw materials, machinery and equipment not manufactured locally or for which local equivalents are not available.

Benefit

This policy measure will be a positive step in attracting much needed Foreign Direct Investment into the country, especially in the manufacturing sector. It will reduce the cost of production and make Pakistani produced goods competitive in domestic and export markets. Moreover, this will not hurt the local industry as duty rates will only be reduced on machinery and equipment not produced locally. The proposed change offers a better investment climate in the country which would ultimately lead to increased investment in country's infrastructure and human resource.

C3. PROCUREMENT SYSTEM TO BRING TRANSPARENCY AND EFFICIENCY IN GOVERNMENT PURCHASES

Issue

Procurement in Government departments is carried out through a manual tendering process. The complete process required a long chain of internal authorizations and scrutiny (at times involving several departments), several visits by suppliers to departments, and the generation of reams of paper-based statements and evaluations. The manual tender system is suffering from the following deficiencies:

Discrimination and delay in issue of tender schedules to suppliers:

Govt departments control the issuance of tender documents to the bidders, after verifying their applications. There exists an element of subjectivity and discrimination in this process, in addition to delays in the preparation of tender schedules.

Cartel formation to suppress competition:

Through dubious means, the participating bidders gather the list of prospective bidders for a procurement request. They use this information to lobby for formation of syndicates or cartels and bid at higher quotations.

Tampering of tender files:

For the purposes of evaluation, the bid documents are transported across the administrative hierarchy, which introduces the risk of tampering or loss along the way. The transportation of bid documents, manually and through surface mail, is also a time consuming activity.

Delays in finalization of tenders:

Red tape, lack of transparency, and manual movement of files across the administrative hierarchy is resulting in inordinate delays in the finalization of tenders. These delays are contributing to cost and time overruns for the projects.

Human interface at every stage:

The manual system exposes the departmental personnel to the bidders at every stage of the process. Such repeated contact between bidders and departmental staff could lead to subjectivity, favoritism and other undesirable practices.

Lack of Transparency:

Procurement is considered a sensitive function, with all related information tightly controlled and closely guarded by government departments. This lack of transparency leads to misinformation and a lack of trust in the system by the bidders, media and the citizens.

Proposal

The above issue can be taken care of by implementation of e-Procurement best practices that should be adopted by the Government of Pakistan. These best practices will be implemented with the help of an automated e-procurement system. Benefits of such a procurement system are highlighted in the following section. The Electronic Government Directorate of Ministry of IT has already conducted an exercise through an independent consulting firm and has come up with such a procurement framework. All that is needed now is to implement this system.

Benefits

The severe shortcomings in the manual tender system have an adverse effect on the reputation of Government departments. Delays in the finalization of suppliers for materials and services for government projects had crippling impacts on the completion of projects and delivery of services to the citizens.

Automation of the procurement transactions reduces human error, enhances the integrity of the data, brings in transparency to the Government procurements and facilitates standardization of processes.

The entire e-Procurement process should be designed to avoid human interface i.e., supplier and buyer interaction during pre bidding and post bidding stages.

The automated processes and work flows will improve internal efficiency within the departments; shorten tender cycle times, eliminate subjectivity in the evaluation of tenders with system based auto bid evaluations, and reduce corruption.

Reduction in tender cycle time:

Today the departments take 90-135 days for finalization of high value tenders. The tender cycle time can gradually come down to an average of 42 days over a period of one year and further reduced to 35 days at the end of the second year.

Reduction in opportunities for corrupt practices:

The entire e-Procurement process can be designed to eliminate the human interface i.e., supplier and department interaction during pre bid and post bid processes can be minimized. The automatic tender evaluation functionality will reduce subjectivity in tender evaluation and help to curb opportunities for corrupt practices to a significant extent and increase the accountability of procurement officials. In terms of transparency, a supplier participating in a tender knows the list of other participating suppliers, the documents furnished by his competitors, price quotations and the evaluation result, as soon as a stage is completed by the departments in the system.

Cost Savings:

One way to estimate cost savings is to compare the percentage discount of Tendered Contract Value over the Estimated Contract value for service contracts awarded before and after the implementation of the e-Procurement system.

Tenders processed in another country of South Asia through the e-Procurement platform in the pilot phase during 2003-04, the first year of the initiative, yielded a reduction of 16% in the quotations in comparison to the previous years when the procurement was manual.

More Competition

The project encourages bidders to participate in government tenders. Supplier participation will increase from an average of 3 per tender in conventional mode to 4.5 in e-Procurement mode. The cartels are eliminated and even small and medium suppliers will be able to bid.

D. INDUSTRY SPECIFIC - PHARMACEUTICAL

D1. SHELF LIFE RESTRICTIONS: Pharmaceutical Raw Materials and Finished Products

Issue

SRO 766(I)/2009 dated Sep 04, 2009 allows import of Pharmaceutical Raw Materials and Finished Goods, on the condition that these materials/goods have at least 75% Remaining Shelf life, at the time of filing the Import General Manifest (IGM).

The 75% shelf life restriction is very difficult to follow, as sometimes, the manufacturers do not have materials/goods available with 75% Shelf Life, and we have to wait for fresh batches, for many months. This delays production, shortage of essential pharma products in the market.

Proposal

The pharmaceutical shelf life restriction should be removed as the pharmaceutical industry is an organized and regulated industry. The usage of material may be very easily audited as and when required by the Ministry of Health to ensure consumption within shelf life. If the pharmaceutical shelf life restriction cannot altogether be removed then it should be more than 50% as is the case with Edible Products.

Benefits

In the case of pharma this will facilitate the timely availability of life-saving pharmaceutical preparations to the suffering patients as well as the smooth operations of pharma plants with uninterrupted supplies of raw materials.

Note: The pharma raw material is considered correctly used even if used at the very end of its useful life.

D2. LOWER HEALTH CARE COSTS – MEDICAL TESTING / DIAGNOSTIC / LAB REAGENTS

Issue

There is a Customs Duty @ 20% and Sales Tax @ 16% on Composite Diagnostic Re-agents (H.S. Code No. 3822.0000) being used in the laboratory for medical tests. It may please be noted that prior to Financial bill 1997-98, Customs Duty was 15% and Sales Tax 12.5% on Composite Diagnostic Re-agents.

Proposal

The Government is trying hard to provide maximum help to common people in the area of medical coverage. To further this objective, it is suggested to lower Customs Duty from 20% to 10% and with Sales Tax free. This would be exactly in line with the current tariff applicable on import of pharmaceutical preparations of Chapter 30. Also, it is to be noted that lowering of duty will not affect local industry as the Composite Diagnostic Re-agents are not produced in Pakistan.

Benefits

This would help in providing medical facility to the common people at cheaper rates. Keep prices lower for the domestic consumer.

D3. SIMPLIFICATION OF APPROVAL PROCESS FOR IMPORT OF RAW MATERIALS FOR THE PHARMACEUTICAL INDUSTRY

Issue

Some raw materials have been placed under Appendix B of Import Policy Order SRO 766(I)/2009 dated Sep 04, 2009. In order to import these, the Pharmaceutical Industry first has to get the required quantity assessed by the Ministry of Health and then obtain a No Objection Certificate from the Ministry of Narcotic Control.

Similarly, Ministry of Science and Technology, Government of Pakistan, has enforced that sugar along with the other 19 articles shall also be referred to the authority for Conformity Assessment Report (CAR) which may take additional 2 weeks or more for clearance/utilization.

Proposal

As the pharmaceutical industry is a highly regulated industry all additional approvals should be issued through a single authority, i.e. Ministry of Health.

Benefits

Simplify processing of raw material imports for manufacturers and employment of less administrative resources by the Government of Pakistan.

D4. DRESSING AND APPLIANCES IDENTIFIABLE FOR OSTOMY USE

Issue

Following Appliances and Dressings for Ostomy use have a Custom Duty and Sales Tax:

HS No: 3006.91 Customs Duty 20 percent & Sales Tax 16 percent
HS No: 3005.109 Customs Duty 25 percent & Sales Tax Free

Proposal

For the above HS No Customs Duty and Sales Tax should be as per in the case of Pharmaceutical preparations under Chapter 30. That is Custom Duty is 10% and Sales Tax free

Benefits

This would help in providing medical facility to the common people at cheaper rates. Also, it is to be noted that lowering of duty will not affect local industry, as these products are not produced in Pakistan.

D5. NEED FOR REDUCTION OF CUSTOM DUTIES/SALES TAX ON THE IMPORT OF RAW MATERIALS FOR DAILY CONSUMPTION

Issue

Raw material costs have been steadily increasing in the international market and the pricing of most consumer goods has borne the brunt of this increase. Additionally, in the last few years, the industry has advanced significantly with the usage of new, high quality raw materials to provide better product benefits. Unfortunately, the burden is placed on the consumer, especially in terms of basic goods such as soap, detergents, toothpaste and diapers.

Proposal

It is suggested that the government should reduce custom duties on the import of all raw materials used for all consumer goods so that the massive impact caused by rising international prices of raw materials, is not severely felt by at the consumers' end. We propose custom duties be brought down on raw materials in the next budget and cascaded annually.

Benefit

This relief will ensure that the end price to the consumer in Pakistan is not hit by an unaffordable level of inflation, while at the same time, manufacturing companies are encouraged to continue improving the quality and effectiveness of their products by being able to use the best raw materials available globally. This would not only benefit the end consumer but also allow local manufacturers to compete in the international market.