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Approval Sheet

FOREIGN TRADE POLICIES AND LAWS OF PAKISTAN AND THEIR IMPLICATIONS

By

Shafique Ahmad

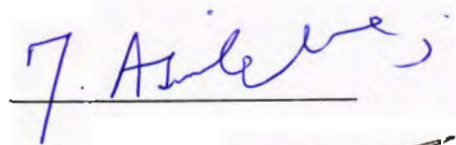
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Declaration

I, **Shafique Ahmad**, hereby declare that this dissertation is original and has never been presented in any other institution. I, moreover, declare that any secondary information used in this dissertation has been duly acknowledged.

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DEDICATION

I am dedicating this thesis to my beloved late father who was a great source of inspiration for me and through his guidance I have been able to accomplish my objectives in life. Although he is no longer in this world, however, his sweet memories are still in my mind and heart. May Allah rest his Soul in peace! [Ameen]

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I would like to express my thanks and appreciation for all those who have supported and encouraged me while completing this project, especially my family who volunteered their time for this task.

I acknowledge with great respect the zeal rendered and guidance extended to me by faculty members of Shariah & Law Department and especially Mr. Ahmed Sheraz, Supervisor of my thesis and my teacher Mr. Osman Kareem Khan whose passion for excellence in research work enabled me to complete this work in a refined manner. It is indeed a matter of great honor and prestige for me that I worked under their able patronage.

I must also pay homage to my late father without whose support; it was not possible for me to achieve any target in my life. He always encouraged me to keep on studying even after entering into job. So I continued my studies and done my M.B.A and after joining judicial service I took admission in LLM while posted at Rawalpindi in the same institution from where I got the degree of LLB (Hons) two decades ago. Now I am a grade-20 officer in late forties of age but still striving for knowledge and proud of being son of my father (May Allah rests his soul in peace. Ameen!)

Shafique Ahmad

LIST OF ABBREVIATIONS

ADP	Anti-dumping Practices
ADR	Alternate Dispute Resolution
ATC	Agreement on Textiles and Clothing
BITs	Bilateral Investment Treaties
BOI	Board of Investment
DSU	Dispute Settlement Understanding
ECC	Economic Coordination Committee
ENT	Economic Needs Test
EPZ	Export Processing Zone
EPZ	Export Promotion Zone
FBR	Federal Board of Revenue
FDI	Foreign Direct Investment
FPCCI	Federation of Pakistan Chambers of Commerce and Industry
GATT	General Agreement on Tariffs and Trade
GCC	Gulf Cooperation Council
GDP	Gross Domestic Products
GI	Geographical Indication
GOP	Government of Pakistan
ICA	International Court of Arbitration
IMF	International Monetary Fund
LDCs	Less Developed Countries
LTA	Long Term Arrangements
MFA	Multi-Fiber Agreement.

MFN	Most Favored Nation
NTC	National tariff commission of Pakistan
SBP	State Bank of Pakistan
SECP	Securities & Exchange Commission of Pakistan
SEZ	Special Economic Zone
SME	Small Medium Enterprises
SRO	Statutory Regulatory Orders
STA	Short Term Arrangements
TMB	Textile Monitoring Body
TPRM	Trade Policy Review Mechanism
TRIMs	Trade related investment Measure
TRIPS	Trade Related Aspects of Intellectual Property Rights
UNCITRAL	United Nation Commission on International Trade Law
UNCTAD	United Nation Conference on Trade and development
WIPO	World Intellectual Property
WTO	World Trade Organization

Chapter 1: Introduction

1.1 Introduction

We live in a world that is very interconnected by a stupefying cluster of complex investment transactions, social and ecological issues, and global political coordinated efforts and clashes. Illustrations from worldwide trading and lending are found in the news consistently. A choice by American policymakers to finance the processing of ethanol, a type of fuel holding an added substance generated from corn, is seen by a lot of people as a key reason that grain costs are high around the globe. The marvelous rise of China as a significant exporter of fabricated merchandise has influenced wages in both rich and poor nations. As huge companies, for example, Microsoft, Intel, Toyota, General Electric, and Siemens have extended their speculations in partners in numerous countries around the globe, they have fabricated worldwide preparation organizes that impart mechanical learning crosswise over areas to transform progressively mind boggling merchandise that could be sold anyplace. Today, a real social item, for example, a Hollywood motion picture or a jazz band's most recent reduced circle, is liable to utilize imaginative faculty from around the globe, with different parts of the item recorded, blended or altered in distinctive areas. The significance of worldwide associations in exchange, financing, and talented administrations could be delineated by considering the clearly basic demonstration of making and bringing to market a thing of attire, say a trendy woolen men's suit. Foreign investment provides a viable way for developing countries to increase their savings and achieve their economic growth.¹ The introductory assignment is to plan the suit, an exceptionally innovative action that by and large happens in the base camp of a real mold mark, for example, Armani or Hugo Boss. Past that, the firm must place solid suppliers of crude fleece, which could be ranchers in New Zealand, Argentina, Scotland, or somewhere else. The fabrics then are transported to areas where they are joined together with such different materials as catches and zippers into fantastic sewn articles of clothing. These areas are well on the way to be in sort of higher-benefit economies, for example, China, Malaysia or Mexico and the organizations included ordinarily act as autonomous

¹ Mottaleb, Khondoker Abdul & Kalirajan, Kaliappa *Determinants of Foreign Direct Investment in Developing Countries: A comparative Analysis (The Australian National University, Australia South Asia Research Center, 2010)*

sub-builders to numerous retailers instead of partners of one. The pieces of clothing are then transported to brand-name attire organizations, which offer them to high-end retail chains and claim to fame retailers, and to bland exchanging organizations that may eventually offer them in markdown or outlet tires. Blame storm² in 1994 in across country analysis of seventy eight developing countries found that foreign investment had positive effects on economy rates for higher income developing countries but not for lower income. Some of the researchers have emphasized the way in which the economy effect depends upon the conditions of financial market of the host country. Alfaro³ in 2004 and Durham⁴ in 2004 found that it is necessary for the countries to have well developed banking financial institutions in order to gain from foreign investment in terms of economic growth.

Trade driven globalization has opened doors and substances which are influencing improvement. It has additionally brought into tireless difficulties that still need to be adequately tended to cultivate and support the quickening of monetary development, improvement, and destitution lessening. Through this paper we mean to inspect the key peculiarities of these new open doors, substances and constant difficulties. It profiles key exchange and improvement issues that must be tended to in the years ahead keeping in mind the end goal to advertise gainful and comprehensive globalization. It additionally talks about the national, local and universal movements required to make an empowering environment for advancement. It underscores that profiting from globalization relies on the viable joining of forming nations into the world economy and the universal exchanging framework, both in quantitative and qualitative terms. This requires improved and fortified legislation, lucidness and solidarity at all levels – national, local and worldwide.

⁵Foreign trade also provides a viable way for developing countries to increase their savings and achieve economic growth. The worldwide trading framework today fuses a much more extensive reach of financial issues, administers, controls, and duties than did the pre1994 administration of the General Agreement on Tariffs and Trade (GATT).

² Blomstrom, M. Lipsey, R.E & Zejan, M. "What explains developing country growth?" *National Bureau of Economic Research* (Working Paper No. 4132) (1994)

³ Alfaro, L. *Foreign Direct Investment and Growth: Does the Sector Matter?* (Boston: Harvard Business School, 2003)

⁴ Durham, J. & Benson, J., "Absorptive capacity and the effects of foreign direct investment and equity foreign portfolio investment on economic growth." *European Economic Review*, 48, (2004) 285-306

⁵ Mottaleb, Khondoker Abdul & Kaliappa *Determinants of Foreign Direct Investment in Developing Countries: A Comparative Analysis* (The Australian National University, Australia South Asia Research Center, 2010)

Because of the stretched extent of World Trade Organization (WTO) assertions, themes, for example, administrations and trade-related parts of licensed innovation rights – whose global measurements were long ago taken care of through division or subject-particular understandings and plans – have now been brought inside the extent of multilateral trade strategy. Thus products as well as the cross-outskirt developments of administrations, and the insurance of protected innovation are presently included in the general plan of national, territorial and global trade arrangement. Additionally, what were once considered non-trade issues, (for example, work polishes, natural benchmarks, and even human rights) are currently being connected to market access conditions, especially as a component of the development of a plenty of provincial trade assertions (RTAs) and special trade understandings. Governments, undertakings and civil public opinion are consequently called upon to be all the more exhaustively and helpfully included in trade approach definition and usage as a major aspect of all-encompassing advancement methodologies and approaches. The development processes in developing countries are being comprehensively affected by the rules of the trading system, in addition to the trade policies of their major partners. Developing countries need to deliberately oversee and parity a lot of people more variables in the trade and advancement approach grid than any other time in the recent past. Added to this is the test of adjusting and utilizing national strategy space versus the developing panoply of worldwide duties and disciplines.

1.2 Who are Foreign Traders

Consumer purchasing a Japanese camera is a German auto mobile constitutes the last of a series of links in a foreign trading relationship. Their roles were indirect they bought the camera or car from a retailer in a country but the individual was not directly engaged in international trade. The Japanese are German seller of the camera or the car may have been selling first to a distributor who exported the camera or car. At some point, an entity in a country orders these goods from abroad. Or the foreign manufacturer may have established subsidiaries in that country to undertake the distributing. In that case, the purchasers from the distributors were dealing with a foreign direct investment, an equity investment in the country by foreign capital. According to ⁶sarkar foreign affiliates of

⁶ Sarkar, P. *Does Foreign Direct Investment Promote Growth? Panel Data and Time Series Evidence from Less Developed Countries*, (New Delhi, Munich Personal Press, 2007)

transnational corporation (TNCs) succeed in developing new products & technologies faster than local firms, thereby exerting competitive pressure and forcing local firms to imitate and innovate. A large number of traders play their role in the movement of a camera and automobile from their place of manufacture to the ultimate purchaser. It is likely that banking concerns provided the financing and issued letter of credit. International shipping companies transported the goods across the oceans. Insurance companies protected the parties from loss while the goods were in transit. The trading of goods across borders may be done by individuals, or by very large institution, or many variations in between. A US based Layer orders and old print for his office from a dealers based in UK an orchid hobbyist sends for new hybrids from a dealers in Thailand. Each of these traders involves characteristics which differ from similar purchases completed interlay within the United States. Each of the orders has been placed in a country with a different currency. The layer in US may have little difficulty in obtaining English Pounds to by the print but the orchid hobbyist may find it hard to locate Thai Bhatt. The problem may be solved if the dealers accept dollars. The Thai Government may welcome them; it may be short of hard currency. These have been individual purchases, but they have involved international trade. The purchasers of those same items in the United States could well be commercial dealer. They may be a New York Gallery that sell foreign prints or a music company which deals with Musical Instruments and import the same. There are smaller traders and there are corporations engaged in extensive international trade, their foreign trade and investment activities usually very extensive to give them the label of Multinational Corporation.

Freedom of trade, business or profession has been very widely explained by Singh High Court in its judgment titled as *Mehran Security Services Private Limited vs. Pakistan*, it has been held that "profession and business is lawful unless law forbids the same or declares it unlawful."⁷ Choice of a citizen to any profession or business is subject to qualifications if any prescribed by law. Industry needs a law to determine the authority, mode, extends etc. No authority can arbitrarily assume such functions and powers without law.

⁷Mehran Security Services Private Limited vs. Pakistan. 2000 YLR 2655.

1.3 What is a Multinational Corporation

The definition of a Multination Corporation is to be understood from the following discussion. Multinational Corporation is a Corporation which has branches or affiliates or subsidiaries in many nations. No one would deny that I.B.M. is a Multinational Corporation but what about the company with extensive activities in the United States and one small subsidiary across the border in Canada. We might have no hesitation in calling it a multinational were it has more extensive activities in Canada but we may be reluctant to do so, where its interest are broad or very modest. Defining Multinational by considering how widely spread or the activities of their business in other areas of the world is only one method. What about the companies located in United States which has no ownership interest in enterprise abroad which sells 80% of its products out of United States through foreign distributors? The tendency is not to call the company a Multinational but to label it a domestic company engaged extensively in foreign trade. Another way of labeling companies as multinational is by the nationality of ownership of the shares of company. Nations as a nation also participate and investment activities. Government orders goods from abroad. The German Military buys new tanks from England. The Brazilian Government purchases Japanese Turbines for a Hydro Electric Project. Governments sell products as well. U.S. acquires surplus dairy products from its formers and sells them to Egypt and other countries. Government not only trades well and services them also participates in owing equity in Multinational Enterprises. The Mexican Government becomes a part owner of an Automobile company with Peugeot of France. The Omani Government wholly owns an Air Line serving domestic and foreign centers. The extent of government ownership of the nation's total means of production and distribution varies comparatively little, such ownership as in the case of Australia or U.S. Most nations have serve degree of a mixed company with direct government participation in ownership of the means of the production and distribution in different industries. The recent pattern of privatization of State industries has diminished state ownership. The extent to which a government participates in such ownership is an important characteristic for foreign actors dealing with such enterprises. A resolution of United Nations General Assembly passed in 1962 was very much appreciated as it requires adequate⁸ compensation in the event of nationalization. If the government is the owner of commercial activities will it be able to

⁸ United Nations General Assembly resolution 1803 (XVII) of 14 December 1962.

hide behind a defense of sovereign immunity. If the government is your client's partner abroad then will your client be more appropriate to have access to hard currency to repatriate profits, to obtain government permission, to import goods or to have greater ease in penetrating the maze of bureaucracy surrounding many business activities. Government is also an actor in trade and investment in a different sense. It is a third party establishing and regulating the framework within which trade and investment transpires. Government participation in trade is extensive. It is the government which creates or reduces tariff. Goods passing through a border may be subjective to these costs of entry, the collection for which is assigned to the nation's custom service. It is also the Government which grants subsidies to its producers to encourage exports such as low interest credit to foreign purchasers, subsidized ship building or tax exemption. It is the Government which throws up a screen of non-tariff barriers preventing foreign product from competing with local industry. Further it is the Government which sometimes mandates Government equity participation in investment activities in nation. Governments tend to act principally in their own best in interest, but they also play an important role in assisting the stabilization of worldwide economic activities. As trade actors they develop nation may agree to provide special treatment to the product entering form developing. As sectors they gather to collectively lower tariffs, create areas of economic integration or debate over whether there should be a reallocation of worldwide resources through a revised international economic order. The principal way in which Governments act to regulate trade is through legislation and administrative regulations U.S has numerous statues directed specifically to aspects of international trade and many more with major implication for that trade. Congress has delegated considerable authority to president to reach agreements with other nations or trade issue.

1.4 The Evolving Multilateral Trading System

Foreign trade and investment is defined as the net inflows of investment to acquire a lasting management interest in an enterprise operating in an economy other than that of the ⁹investor. Since 1995, the worldwide trading framework has experienced various real changes. In the pre-Uruguay nature, the multilateral exchanging framework was centered

⁹ "Foreign direct investment, net inflows (BoI, current US\$) |Data| Table". <http://www.Data.worldbank.org>. (Last Accessed 17.05.2013)

fundamentally on fringe measures in trade in products. It perceived the structural and budgetary difficulties confronted by creating nations, and furnished them with some uncommon and differential medication. This took the structure primarily of non-correspondence in trade concessions, for example, special business get to, the most critical of which were the summed up arrangement of inclination (GSP) arranged in UNCTAD and the Rome Convention allowed by the EU to African, Caribbean, and Pacific nations. It additionally embodied the regulation from trade principles compelling household approach movement. Fundamentally, these identified with the adaptability to utilize import controls to secure newborn child commercial ventures and to manage parity of installment issues, since contracting gatherings to the GATT were not obliged to wind up signatories to all or any of the issue-particular assertions or teaches on trade-related down home (behind the outskirts) arrangements. These incorporated the multilateral methodology received in the Tokyo Round codes which permitted numerous creating nations to quit from trade disciplines. The pre-Uruguay Round GATT multilateral trade framework was likewise joined by an arrangement of universal merchandise understandings for espresso, sugar, elastic and tin, closed under the aegis of the UN through UNCTAD, and for dairy and cow-like meat, finished up inside the GATT. Basically, these assertions were multilateral endeavors on costs and supplies between the principle trading and importing nations. The post-Uruguay Round exchanging environment contrasts in a few ways. Most of the emerging nations and in addition, nations with economies on the move, have now joined the World Trade Organization (WTO). Created in 1995 as a consequence of the Uruguay Round of multilateral trade arrangements under the GATT, the WTO has achieved a significant conversion on the planet exchanging framework. As contrasted with the GATT 1947, the extent of the exchanging framework was reached out to agribusiness, materials and clothes, administrations, trade-related financing measures, and trade-related part of licensed innovation rights. As taxes were brought down and as trade controls were stretched out to improvement approaches and measures beforehand falling solely inside the domesticated locale, the national strategy space for creating nations contracted. Then again, the tenet of law spoke to by the reinforced controls in the WTO attempted further bolstering their good fortune in a few ranges. Specifically, the reinforced, semi legal and programmed question settlement framework that underpins the consistence of WTO parts to arranged controls and responsibilities has given compelling trade equity parkways to

them. Some creating nations are making successful utilization of the question settlement system all however more full use and profit is obliged by components like the absence of limit of creating nations to guarantee the requirement of choices. FDI has an increasingly important role in the development of capital deficient developing countries particularly for the reason that it is not only a source of foreign cash flows but it also helps in technological transfer and employment generation.¹⁰

The multilateral exchanging framework and the WTO Global trade relations and the majority of world trade are presently legislated generally by the WTO understandings shaping the multilateral exchanging framework (MTS). Since the WTO understandings were focused around the guideline of a solitary undertaking, all parts of the WTO are obliged to be gathering to all the assertions which blanket a more extensive set of outskirts and also local approach issues than the GATT. These have diminished the degree of provincial arrangement space at one time accessible to creating nations. Albeit creating nations still accept some manifestation of extraordinary and differential medication (SDT), these are for the most part on the premise of impermanent exclusions from a few procurements of the new assertions and more usage periods (that have generally terminated). As a consequence of a stricter requisition of the correspondence guideline, creating nations are presently by and large anticipated that will have national trade administrations as open as those of created nations. Consequently, the new underlying rationale in the exchanging framework's methodology to trade and improvement is equity in trade open doors for created and creating nations apparently equivalent notwithstanding favoritisms in limit), instead of giving more compelling reactions to the particular structural issues of creating nations. LDCs have been allowed a substantively more amazing level of unique and differential medicine under WTO assertions. Nonetheless, one-sided trade liberalization and provincial business deregulation (attempted since the 1980s as a condition for access to multilateral account) have left a significant number of them with probably the most open national trade administrations.

There is most likely the freer trade empowered by the GATT/WTO framework in the most recent six decades has helped growing world trade, made for a light worldwide economy, and progressed trade-driven globalization. The far reaching extent of WTO

¹⁰Abdul & Kalirajan, KhondokerKaliappa, *Determinants of Foreign Direct Investment in Developing Countries: A Comparative Analysis* (Australia: Australia South Asia Research center, 2010), 54.

assertions specifically has had suggestions for the capability of creating nations to seek after proactive improvement methodologies and in addition to investigate and try different things with different approach choices. The wide scope, degree, and profundity of WTO understandings have expanded the effect of the exchanging framework controls to different legislative strategies and in addition measures taken for improvement purposes. According to Sarkar¹¹ foreign affiliates of transnational corporation (TNC) succeed in developing new products and technologies faster than local firms, thereby exerting competitive pressure and forcing local firms to imitate and innovate.

WTO Agreements in ranges, for example, rural and mechanical subsidies, administrations, trade-related financing measures, and trade-related parts of protected innovation rights have had a significant effect on improvement deliberations. Some modern strategy instruments – which were utilized widely and effectively by created nations in their industrialization and make up for lost time forms – were dispossessed inconclusively as suitable approach choices for creating nations. This has highlighted the need and significance of satisfactory and adjusted approach space and adaptability in remaining trade arrangement measures. In this regard, SDT provisions and the less-than-full reciprocity principle constitute enabling tools for the progressive and sustained, integration of developing countries into the world economy.

1.5 History of World Trade Law

1.5.1 Ancient times to GATT 1947

Cross-border trade has been in presence since the framing of the first political elements in the early progressive human advancements of Asia and North Africa.¹² In aged times, it was predominantly the oceanic trade in the Mediterranean that turned into a critical budgetary component. First and foremost settlements managing the advancement and regulation of trade officially existed in those days. The initially saved trade understanding dates from 507 B.C. what's more was finished up between Rome and Carthage.¹³ An alternate arrangement between Rome and Carthage effectively held the

¹¹Sarkar,P. *Does Foreign direct investment promote growth? Panel data and time series evidence from less developed countries* (New Delhi, Munich Personal Press, 2007), 65.

¹²Dr. Alexander Djazayeri. *Main Features of World Trade Law with special focus on the TBT Agreement* (Braunschweig: Physikalisch-Technische Bundesanstalt, 2012), 6.

¹³ Ibid.

standard of non-segregation, which speaks to a crucial component of today's reality trade law. Concerning offer of merchandise, Romans and Carthaginians were conceded the same rights as the neighborhood subjects. In the middle Ages contracts between rulers and dealers served to sort out cross-outskirt trade.¹⁴ With the shaping of the country states in the seventeenth century and the approaching approach of mercantilism, global trade was, shockingly, state-controlled. The point of legislative issues was to build the national property through the advancement of fares and, by raising the expenses for imports, through import taxes.¹⁵ The colonization of the world by the European powers, which brought about the political mistreatment of the settlements, and industrialization, which delivered new transportation and correspondence advances, were the unequivocal variables for the development of worldwide trade in the 18th and 19th centuries.¹⁶

World War I created worldwide budgetary relations to fall. At the start of the 1920s, most states embraced a protectionist budgetary strategy. Duties were brought all through the world up to secure the national economies.¹⁷ Therefore, universal trade diminished impressively – additionally because of the absence of a sorted out coordination of financial approach. It was the disaster of World War II that helped the worldwide group to remember the need for reorientation.¹⁸ The thought to regulate global relations and universal trade was all around upheld. This thought was reflected in the finish of the GATT in 1947.¹⁹

1.5.2 Development of GATT and Founding of WTO

Initially, the GATT was considered to be just a break result until the foundation of an International Trade Organization (ITO). This station, then again, at last fizzled in 1950.²⁰ As a result, the GATT gave the sole schema to worldwide trade arrangement for a century. Since the GATT was failing to offer a general institutional structure and this was honest to goodness considered a genuine deficiency, arrangements were held in 1986 inside the skeleton of the Uruguay Round. These arrangements brought about the establishment of the WTO. The WTO Agreement entered into energy on 1 January 1995 –

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Ibid.

with 72²¹ parts. It halted the discontinuity of GATT's legitimate request. The connection between the legitimate request of GATT 1947 and the WTO Agreement can't be effortlessly characterized by universal law; as far as capacity, the WTO could be characterized as the successor to GATT 1947.

Surprisingly, multilateral understandings identified with the trade of administrations (GATS) and to the parts of protected innovation assurance (TRIPS) were arrived at as an aftereffect of the Uruguay Round.²² Likewise regarding specialized hindrances to trade, new methodologies were created and administered by the TBT Agreement. The world trade law kept on developing much after the stronghold of the WTO. This was because of the way that – much after the foundation of the WTO²³ –there was the enthusiasm to uproot obstructions to trade, and that the parts submitted themselves to direct further arrangements in regards to unsettled angles. Right up 'til today, arrangements and ecclesiastical gatherings occur – their point is the further evacuation of hindrances to trade.

1.6 Economic Bases of World Trade

States permitting cross-border trade and working with different states normally strive for budgetary points of interest.²⁴ As per budgetary hypothesis, unhindered commerce expands the thriving of all taking part countries. Remote trade is carried on at whatever point merchandise are not accessible in one nation, at whatever point there are exceptional inclination for outside products, or at whatever point countries have diverse expense favorable circumstances.

Distinctive models and speculations endeavor to clarify the presence of universal trade streams from a financial perspective. Adam Smith still accepted that organized commerce would just be gainful in the vicinity of supreme expense points of interest. The division of work coming about because of trade bodes well when one nation can process products all the more efficiently. Notwithstanding, such a hypothesis no more serves to clarify today's industrialized world trade.²⁵ These days, comparable items are foreign made and sent out. The presumption that trade could be beneficial even without the presence of

²¹ Ibid.

²² Ibid., 7.

²³ Ibid.

²⁴ Ibid., 8.

²⁵ Ibid.

total expense focal points and that it essentially relies on upon scale economies and particular examples of interest is the focal contention of the decision New Trade Theory.²⁶

Albeit most monetary hypotheses accept that organized commerce is done further bolstering the good fortune of all countries included, in all actuality, countries use protectionist instruments. These incorporate, specifically, traditions obligations, levy and non-tax boundaries to trade, for example, quantitative limitations, send out subsidies or specialized principles. In any case protectionism can just enhance the welfare impacts of a nation's economy incidentally and under particular conditions. Therefore, the primacy of free trade has to persist.²⁷

1.7 Political Bases of World Trade

The foreign trade of states does serve monetary investment as well as is regularly utilized particularly to achieve political points. Kant had effectively credited a peace-building effect to the trade between countries. Unhindered commerce can additionally serve to remunerate states for their political loyalty.²⁸ Then again, the danger to cut off trade relations might be utilized as influence. A trade ban regularly speaks to a final resort to compel certain practices before making military move.²⁹ The political speculations of world trade are focused around the suspicion that the global framework, as is additionally the case with public opinion, is in a state of insurgency. Although pop culture finished the battle of all against all through the development of country states, the global framework needs such a disciplinary power. All things considered, the current world exchanging framework is politically molded by the thoughts of neoliberal institutionalism. This hypothesis is focused around Wilson's 14-Points Program for World Peace dating from 1918. The hypothesis' focal thoughts for a cutting edge world exchanging framework comprise of non-segregating facilitated commerce as a statement of liberal investment thought and the formation of an institutional system which now exists because of WTO.³⁰

²⁶ Ibid.

²⁷ Ibid.

²⁸ Ibid., 9.

²⁹ Ibid.

³⁰ Ibid.

1.8 Principles of International Law

The legitimate request of world trade law is dead set, as it were, by its own particular lawful standards and principles which allude to particular inquiries of universal trade. In any case, world trade law structures a piece of the universal legitimate request and in this manner worldwide law is relevant. This is unequivocally controlled by article 3.2 of the Dispute Settlement Understanding (DSU) which states that the understanding of the WTO law should be in accordance with "the regular tenets of translation of global law".³¹ The expression "global law" alludes to a supranational lawful request which legislate the relations between states on the premise of fairness. International law also addresses risks associated with FDI. For example, United Nations General Assembly resolution 1962, which received broad support, called for "adequate compensation"³² in the event of nationalization.

1.9 Obligations of World Trade Organization and Free Trade Agreements

Pakistan became member of WTO since it came in to being. Its Importance in the promotion of multilateral trade is required to be acknowledged. The WTO establishes a frame work for trade policies. It does not define or specified the outcomes. It is concerned with setting the rules of trade policy gains. Five principles are of particular importance in understanding³³ GATT and WTO.

Non-discrimination: Its rules provide nondiscrimination in national treatment and most favored nation treatment for exporting in the other markets of WTO members. National treatment means that there should be no discrimination in the exports of domestic products of a country to other member countries.

Reciprocity: MFN treatment makes sure that no discrimination should happen in between member countries in all respects. Several steps have been taken by the govt. to implement the policy under several WTO Agreements with specific reference to GATT, TRIPS,

³¹Ibid., 10.

³²United Nation General Assembly resolution 1803 (XVII) of 14th December 1962.

³³http://nasa.drcab.com/p-World_Trade_Organization(accessed: 3rd May 2013).

TRIMS, GATS, Mexico rounds of WTO negotiations are also being monitored for their implication on Pakistan's economy. Although government is addressing these issues at all levels, there is a need to further augment such efforts in collaboration with the private sector stakeholders. Besides, a number of bilateral and regional preferential/free trade agreements have been signed/being negotiated and on their operation, Pakistan will be able to get its share in the respective markets.

Binding and Enforceable Commitments: The tariff commitments made by WTO members in a multilateral trade negotiation and on accession are enumerated in a schedule (list) of concessions. These schedules establish "ceiling bindings" a country can change its bindings, but only after negotiating with its trading partners, which could mean compensating them for loss of trade. If satisfaction is not obtained, the complaining country may invoke the WTO dispute settlement procedures.

Transparency: The WTO members are required to publish their trade regulations, to maintain institutions allowing for the review of administrative decisions affecting trade, to respond to requests for information by other members, and to notify changes in trade policies to the WTO. These internal transparency requirements are supplemented and facilitated by periodic country specific reports (trade policy reviews) through the Trade Policy Review Mechanism (TPRM). The WTO system tried also to improve predictability and stability, discouraging the use of quotas and other measures used to set limits on quantities of imports.

Safety Valves: In specific circumstances, governments are able to restrict trade. The WTO's agreements permit members to take measures to protect not only the environment but also public health, animal health and plant health.

Organizational structure

The General Council has the following subsidiary bodies which oversee committees in different areas.

Council for trade in goods: There are eleven committees under the jurisdiction of the goods council each with a specific task. All members of WTO participate in the committees. The textile monitoring bodies is separating from other committees but still under the jurisdiction of goods council. The body has its own chairman and

only ten members.

Council for trade related aspects of intellectual property rights: Information on intellectual property in the WTO, news and official records of the activities of the TRIPS council and details of the WTO's work with other international organizations in the field.³⁴

Council for trade in services: The council for trade in services operates under the guidance of the general council and is responsible for overseeing the functioning of GATTs.³⁵ It is open to all WTO members and can create subsidiary bodies as required.

Trade negotiations committee: The trade negotiations committee (TNC) is the committee that deals with the current trade talks round. The chair is WTO's director general.³⁶

General Constitutional Framework

International and inter-provincial trade and taxation (except farmers' income tax) are federal responsibilities.³⁷ The Constitution (Article 151 (3))³⁸ provides for free trade and commerce nationally, by prohibiting provincial governments from levying discriminatory taxes or other restrictions on inter or intra-district trade and commerce; Parliament may impose them, however, if it is considered to be in the "public" interest, defined by the authorities as the need to ensure availability of products at "reasonable" prices.³⁹ Provincial governments may constitutionally ban or restrict inter-provincial trade only with the President's consent where considered "reasonable" in the interests of public health, order or morality; to protect animals or plants from disease; or to prevent or alleviate "serious" shortages of "essential" commodities. The authorities indicate that while provincial trade taxes have never been imposed, inter-provincial movement of wheat and flour is periodically and temporarily restricted to maintain/stabilize local producer prices whenever there are harvest variations between provinces. Thus, provincial governments have a role in trade-related functions.⁴⁰

³⁴<http://www.answers.com/topic/world-trade-organization> (accessed: December 25th 2013).

³⁵ Ibid.

³⁶ Ibid.

³⁷http://www.wto.org/english/tratop_e/tpr_e/s193-02_e.doc (accessed: December 25th 2013).

³⁸ Article 153 of the Constitution of the Islamic Republic of Pakistan, 1973.

³⁹http://www.wto.org/english/tratop_e/tpr_e/s193-02_e.doc (accessed: December 25th 2013).

⁴⁰ Ibid.

Institutional legal and advisory bodies

The Economic Coordination Committee of the Cabinet (ECC), a Federal Cabinet standing Committee, remains the main executive arm making economic policy decisions; it reviews import policies and their impact on production and investment, and evaluates promotional and other export policies. It meets regularly to approve economic and trade policy recommendations. General trade policies and initiatives are also approved annually by the Federal Cabinet.⁴¹

The Ministry of Commerce issues its Trade Policy annually, after approval of the Federal Cabinet. The time coincides with the federal budget (June) Laws, regulations, ordinances and most administrative guidelines and rules are published in the Government Gazette. Trade-related measures and procedures are contained in laws, ordinances, and regulations, including statutory regulatory orders (SROs). Pakistan has an automatic (electronic) and sufficiently advanced post-entry auditing Customs legislation to facilitate trade. All legislative changes that include customs and taxation provisions are incorporated at the time of federal budget in the annual Finance Act, and subsequently it is passed by Parliament.

In compliance with the requirements of Agreement on Subsidies and Countervailing measures, Pakistan has introduced legislation, which Conforms to WTO law; Pakistan Safeguard Measures Law (Safeguard Measure Ordinance 2002 and Safeguard Measures Rules 2003), which conforms to the WTO agreement has been promulgated.⁴² Pakistan through Safeguard Measures Ordinance, 2002 has given effect to the provisions of Article XIX of the General Agreement on Tariffs and Trade, 1994, and to the WTO Agreement on Safeguards for the imposition of safeguard measures.⁴³ This has been done by providing a framework for investigation and determination of serious injury or threat of serious injury caused by products imported into Pakistan.⁴⁴ Anti-Dumping Duties Ordinance, 2000 & Anti-dumping Duties Rules, 2001.

⁴¹http://www.wto-pakistan.org/documents/tpr/WTO_TPR_report_3.pdf (accessed: 27th December, 2013).

⁴²<http://www.finance.gov.pk/poverty/reports/Globalization-and-Poverty.pdf> (accessed: 27th October, 2014).

⁴³<http://www.wtopunjab.gov.pk/Newsletter/Newsletter%20for%20March%202006.pdf> (accessed: 27th October, 2014).

⁴⁴ Ibid.

The Agreement on the Implementation of Art VI of GATT 1994, administered by WTO, elaborates the basic GATT rules on dumping and authorizes countries to levy anti-dumping duties on dumped products.⁴⁵ Pakistan through Anti-dumping Ordinance, 2000 has repealed the Import of Goods (Anti-Dumping and Countervailing Duties) Ordinance, 1983 and has given effect to WTO provisions relating to imposition of anti-dumping duties in order to offset dumping.⁴⁶ Anti-Dumping Duties Ordinance, 2000, was inspired by Art.6 of General Agreement on Tariffs and Trade, 1994, with a purpose of imposing Duties to offset injurious dumping in public interest.⁴⁷ This Ordinance has also provided a framework for investigation and determination of dumping and injury in respect of goods imported into Pakistan.⁴⁸

The National Tariff Commission in Pakistan may impose anti-dumping measures on products imported into Pakistan, in case it determines, after an investigation initiated and conducted in accordance with the provisions of the Ordinance, that: –

- (a) An investigated product is dumped in Pakistan, and
- (b) Injury is being caused to domestic industry of Pakistan.⁴⁹

The aggrieved parties have remedy to file an appeal before Appellate Tribunal constituted by Federal Government under S.64 of said act. If the tribunal is not functional, in the situation the party (Subject to its locus standi) shall have an independent right to challenge any such order under Art.199 of the Constitution.⁵⁰

Pakistan through Countervailing Duties Ordinance, 2000 & Countervailing Duties Rules, 2001 has given effect to WTO provisions relating to imposition of countervailing duties to offset such subsidies.⁵¹

This has been done by providing a framework for investigation and determination of such subsidies and injury in respect of goods imported into Pakistan. Where the National Tariff

⁴⁵http://www.wtopunjab.gov.pk/articles/trade_remedial_laws_of_pakistan.pdf (accessed: 27th October, 2014).

⁴⁶ Ibid.

⁴⁷ Anti Dumping Duties Ordinance 2000, Preamble.

⁴⁸ Ibid.

⁴⁹ Ibid., Article 3.

⁵⁰ All Pakistan Textile Mills v. Federation of Pakistan, PLD 2009 Lah 494.

⁵¹ <http://www.wtopunjab.gov.pk/Newsletter/Newsletter%20for%20March%202006.pdf> (accessed: 27th October, 2014).

Commission in Pakistan determines in accordance with the provisions of the Ordinance that any exporting country pays or bestows, directly or indirectly, any subsidy upon the manufacture or production or the exportation of any investigated product including any subsidy on transportation of such product and such subsidy causes injury then, upon the importation of any such product into Pakistan, it is in a position to impose a countervailing duty thereon. The National Tariff Commission (NTC) is the body responsible for administering this law. NTC is the Government's main advisory body on tariffs and other areas of assistance. According to the authorities, it enjoys operational independence.⁵²

In making recommendations to the Minister of Commerce on assistance, the NTC must be convinced that the products concerned meet acceptable domestic or international standards;⁵³ will not "excessively" raise consumer costs; and that the industry is unlikely to "need" protection or assistance after a "reasonable" period. About the constitution of National Tariff Commission Lahore High Court Lahore held that: "Preliminary determination made by the Commission in the present case had not been issued by the Commission as mandated under S.37 of the Anti-Dumping Duties Ordinance, 2000, therefore the same was set aside. Constitutional petition was allowed accordingly."⁵⁴

The Government also receives formal and informal advice from the private sector. The Federation of Pakistan Chambers of Commerce and Industry (FPCCI) is the apex body of trade and industrial chambers and associations representing specific products and/or industries. Importers and exporters must belong to a Chamber of Commerce or a relevant trade association; this requires a national identity card and national tax number. Mandatory import/export registration certificates from the former Export Promotion Bureau were abolished in 2006. New legislation and rules governing the regulation and registration of trade organizations are aimed at rationalizing the large number of chambers and associations, which often have overlapping membership (Trade Organisations Ordinance, 2006 and Trade Organisations Rules, 2007).⁵⁵ They must be FPCCI members to be licensed and registered.⁵⁶

⁵²http://www.wto.org/english/tratop_e/tpr_e/s193-02_e.doc (accessed: December 25th 2013).

⁵³ Ibid.

⁵⁴ H.I. Sanitary Store v. Federation of Pakistan, PLD 2014 Lah 583; Messers Khawer Paper Mart v. National Tariff Commission, PTD 2011 Lah 2243.

⁵⁵ Gazette of Pakistan, 2006; and Notification SRO No. 1/2007; Ibid.

⁵⁶ http://www.wto-pakistan.org/documents/tpr/WTO_TPR_report_3.pdf (accessed: 27th December, 2013).

Pakistan had implemented most of the WTO commitments.⁵⁷ Many other ministries and agencies also have key roles in trade-related policy formulation and implementation (Table I).⁵⁸

Before the implementation of WTO Agreement on Customs Valuation, a number of developing countries were using the method based on market prices for valuation. These countries were allowed a maximum transitional period of five years, i.e. up to 1st January 2000 for changing over to the system established by the Agreement. Pakistan opted to use this flexibility in the Agreement and amended relevant clauses of section 25 of the customs Act in 1999 to bring it in conformity with the Agreement.⁵⁹

Main ministries and agencies responsible for trade-related issues.⁶⁰

Government ministry/agency	Key areas of responsibility
Ministry of Food, Agriculture and Livestock	Agricultural policy, fisheries, forestry, SPS, quarantine
Agricultural Prices Commission	Support prices
Trading Corporation of Pakistan	Support prices, buffer stocks
PASSCO	Support prices, buffer stocks
Ministry of Economic Affairs and Statistics	External economic assistance, statistics
Ministry of Finance and Revenue	Finance, revenue (including tariffs and taxes), budgets
Central Board of Revenue	Tariffs, taxes, investment incentives
Ministry of Information Technology	Telecommunications and information technology
Pakistan Telecommunication Authority	Telecommunications regulation
Pakistan Electronic Media Regulatory Authority	Broadcasting, television regulation
Ministry of Communications	Road transport
Ministry of Petroleum and Natural Resources	Petroleum and gas
Oil and Gas Regulatory Authority	Oil and gas regulation
Ministry of Ports and Shipping	Ports and shipping
Privatization Commission of Pakistan	Privatization

⁵⁷<http://www.jar.com.pk/pdf/2010/48-1-14.pdf> (accessed: 26th December, 2013).

⁵⁸http://www.wto-pakistan.org/documents/tpr/WTO_TPR_report_3.pdf (accessed: 27th December, 2013).

⁵⁹<http://www.finance.gov.pk/poverty/reports/Globalization-and-Poverty.pdf> (accessed: 27th October, 2014).

⁶⁰http://www.wto-pakistan.org/documents/tpr/WTO_TPR_report_3.pdf (accessed: 27th December, 2013).

Whole comparison is based on this document.

Government ministry/agency	Key areas of responsibility
Ministry of Railways	Rail transport
Ministry of Textile Industry	Textile and jute
Ministry of Water and Power	Power and electricity
National Electric Power Regulatory Authority	Power regulation
Ministry of Tourism	Tourism
Ministry of Commerce	Import and export policies, WTO coordination, SAPTA and other regional agreements, investment incentives
Export Promotion Bureau/Trade Development Authority	Export promotion
National Tariff Commission	Tariffs, contingency protection
Ministry of Industries, Production and Special Initiatives	Industrial policy
National Productivity Organization	Productivity
Ministry of Health	SPS, pharmaceuticals
Ministry of Planning and Development	Planning and development
Planning Commission of Pakistan	Vision 2030, five-year and annual plans; Poverty Reduction Strategy Paper (PRSP)
Civil Aviation Authority	Air transport
Competition Commission of Pakistan	Anti-monopoly legislation and policies
Public Procurement Regulatory Authority	Government procurement
Pakistan Standards and Quality Control Authority	Standards
Pakistan Intellectual Property Organization	Intellectual property protection
Board of Investment	Investment, including foreign, promotion and facilitation
Export Processing Zones Authority	Export processing zones
Trading Corporation of Pakistan	State trading

1.10 Legal Sources of International Trade Law

Universal arrangements and assentions, standard worldwide law and general standards of law are the legitimate wellsprings of global law.⁶¹ Contracts under worldwide law are finished up and consequently approved by the lawful substances included. A contrast exists concerning reciprocal contracts. These incorporate trade understandings

⁶¹Dr. Alexander Djazayeri, *Main Features of World Trade Law with special focus on the TBT Agreement* (Braunschweig: Physikalisch-Technische Bundesanstalt, 2012), 10.

and multilateral assentions, for example, the Kyoto Protocol. The requisition of these settlements is a matter to be chosen by the individual states as long as the rule *pactasuntservanda* stays in place.⁶² Individuals' entitlement to self-determination, which is a crucial fundamental idea of universal law, obliges the assent of the parliaments. Essentially, measures of global law are straightforwardly relevant. At any rate this is the situation if the bargain unequivocally suggests their immediate provision. On the off chance that it doesn't, it is liable to understanding in the matter of whether the norms will be specifically connected.

Albeit set down in composing, the worldwide law of settlements has no necessity over standard universal law. On the off chance that a state would not like to be bound by early standard universal law, express protest must be recorded, and, as long as alternate states stick to their conviction, the complaint must be rehashed.

The general principles of law are composed of the totality of domestic legal orders based on common principles, i.e. principles that are immanent in any legal order, e.g. *pactasuntservanda*, *lexspecialisderogatlegigenerali* (a law governing a specific subject matter overrides a law which only governs general matters) or *lex posterior derogatlegi priori* (the most recently enacted legal provisions prevail against those previously in place), *venire contra factum proprium* (no one may set himself in contradiction to his own previous conduct), and principles of legal logic.⁶³

1.11 Agreement on Trade-Related Investment Measures

It relates to the devaluation of articles of general agreement on trade tariff which relates to the restriction of trade and distorting effects of measures taken for investment. It says that negotiations should be elaborate and appropriate. It emphasizes that expansion and progress of trade all over the globe for facilitating the investment to increase the economic growth of all concerned. This is especially with reference to the member countries that are developing so as to create an environment of free competition. Foreign investment is generally seen as a composite bundle of capital stock and technology, and can augment the existing stock of knowledge in the host economy through labor training,

⁶² Ibid.

⁶³ Ibid.

skill acquisition and diffusion, and the introduction of new managerial practices and organizational arrangements.⁶⁴ This Law emphasizes on a particular trade, development and economic needs of developing countries and especially for those members' countries which are least developed. It has been recognized that certain measures for making investment can restrict the trade and cause distorting effects. This agreement as is evident from the name only relates to the trade in goods and TRIMS shall not be in consistence with any provisions of GATT 1994. In these types of agreements all exceptions under GATT 1994 shall apply as close as possible. However, for developing member country can deviate temporarily to the extent as provided in GATT 1994. It is required that within 90-days of the date of entry of WTO agreement the members shall submit to the council for trade in goods of all measures they are applying which are not in conformity with the provisions of this agreement.⁶⁵ These general specific applications shall be notified along with their principle feature.⁶⁶ Article 5 of TRIMS says that in case of developed member country shall remove those measures within a period of two years of the measures reported. If the member country is a developing nation the period is 5-years. In case the member country is least developed country the period is 7-years. The council trade in goods can extend this period for the removal of measures on the request of developing member country. This facility is also available to least developed member country but it should mention the particular problems in implementing the provisions of this agreement. While taking in to consideration such a request the council shall take into consideration the individual development, financial and trade needs of the member country. A member country cannot modify the terms of any TRIMS during the period of transition which has already been reported to the council from those terms which were prevailing at the time of entry into force of the WTO agreement.⁶⁷ A member country may apply during the transition period the same measures to a new investment subject to the condition that;

- i. where the products of such investment are the similar products to those of the established enterprise and;⁶⁸

⁶⁴Matthew Tyler Lund. "Foreign Direct Investment: Catalyst of Economic Growth?" (PhD diss., The University of Utah- Salt Lake, 2010)104.

⁶⁵http://www.jeanmonnetprogram.org/courses/wto/docs/Primary_Sources.pdf (accessed: August 25th, 2014).

⁶⁶ Ibid.

⁶⁷ Ibid.

⁶⁸ Ibid.

- ii. to avoid distorting the conditions of competition in between the new and established investment. The measures taken in the new investment shall be notified to the council for trade in goods and its terms shall be equal to those applicable to the established enterprise and shall also for the same period.⁶⁹ Transparency is the basic obligation of member countries of the TRIMS as mentioned in article-10 of GATT 1994. The member country is required to announce the secretariat of the publications in which those measures may be found. It also includes those applied by regional and local governments.⁷⁰ The member countries are expected to a kind consideration to the requests and opportunities for consultation on any matter merging from this agreement and have been raised by another member.⁷¹ As required in GATT 1994 the member country shall not disclose any information which may cause prejudice and against the publications interest and rights, interest of others.⁷² A committee on trade related investment measure has also been established which is open for all members. This committee shall elect its own chairperson and others and is required to hold a session not less than once in year. If the member country made a request the committee shall meet on its request. It shall carry on its responsibilities given to it by the council for trade in goods. All the members are given an opportunity to bring in any matter relating to operation and implementation of the agreement which shall be monitored by the committee and report shall be submitted to the council for trade in goods annually.⁷³ Within a period of five years as provided in article-9 after the date of entry into force of the WTO agreement the council for trade in goods shall review the operation as deemed appropriate.⁷⁴ It shall submit to the ministerial conference the proposed amendments in the tax. For this review the council for trade in

⁶⁹ Ibid.

⁷⁰ http://www.wto.org.tw/SmartKMS/do/www/readDoc?document_id=13671&action=content (accessed: February 12th, 2013).

⁷¹ http://www.jeanmonnetprogram.org/courses/wto/docs/Primary_Sources.pdf (accessed: August 25th, 2014).

⁷² <http://www.jus.uio.no/lm/wta.1994/landscape.pdf> (accessed: June 14th, 2013).

⁷³ Ibid.

⁷⁴ http://www.biojudiciary.org/resources/pdf/098_GATT.pdf (accessed: June 23rd, 2013).

goods shall see whether the agreement should be complemented with the provisions on investment policy and competition policy.⁷⁵

1.12 Agreement on Trade Related Aspects Of Intellectual Property Rights

This agreement comprises of 73-articles in total and it came into force to lessen the distortions and impediments to international trade keeping in view promoting and giving protection to intellectual property right. It was also in view that the measures and procedures to implement intellectual property right do not become a barrier themselves in the way of the legal trade. A need was felt to form new rules and discipline relating to the application of basic principles of GATT 1994 and other related international intellectual property agreements.

1. The provision of maintenance of standards and principles regarding availability, scope and trade related intellectual property right.⁷⁶
2. The provision of effective and proper means for trade related intellectual property right.⁷⁷ Keeping in view the national legal system.
3. To provide effective and speedy procedures for the multilateral prevention and settlement of disputes between Government.⁷⁸
4. Transitional arrangements keeping in view the results of negotiations.

This agreement has been devised keeping in view the need for the multilateral frame work of principles, rules and disciplines dealing with international trade in counterfeit goods recognizing;

- a. The intellectual property right as private rights.⁷⁹
- b. The underline public policy objectives of national system for the protection of intellectual property including developmental and technological objectives.⁸⁰

⁷⁵ Article 9 of the Agreement on Trade-Related Investment Measures, available <https://www.wto.org/english/.../18-trims.doc>.

⁷⁶ http://www.jeanmonnetprogram.org/courses/wto/docs/Primary_Sources.pdf (accessed: August 25th 2014).

⁷⁷ Ibid.

⁷⁸ Ibid.

⁷⁹ <http://www.geneva.quino.info/pdf/FTAASupptableA4.pdf> (accessed: November 26th, 2014).

⁸⁰ Ibid.

c. The special need of least developed member countries with reference to maximum flexibility in the domestic implementation of laws and regulations in order to enable them to create a sound and viable technological base.⁸¹ The importance of reducing reduction reaching strengthened commitment to resolve disputes on trade related intellectual property issues through multilateral procedure.⁸² A desire has been shown established a mutually supportive relationship between world trade organization and world intellectual property organization (WIPO) as well as other relevant intellectual organization has agreed to give effect to the provisions of this agreement.⁸³ The member countries are expected to but are not bound to give more protection in their laws as is required by this agreement but it should not contravene the provisions of this agreement. Member states are free to devise the suitable mode of implementing the provision of this agreement within their own legal system.⁸⁴ For the purpose of this agreement the term intellectual property covers all types of intellectual property.⁸⁵ The member countries shall give treatment to the nationals of other member countries has those are natural and legal persons that would meet the criteria for eligibility for protection the embarrass convention, burn convention and wrong convention. The member countries shall not derogate from the provisions of Paris convention, Bern convention,⁸⁶ and Wrong convention. Paris convention deals with the protection of industrial property.⁸⁷ Bern convention deals with the protection of literary and artistic work. Wrong convention refers to international convention for the protection of performer, producers and broadcasting organization.⁸⁸ Article 3 of this agreement state that each member country shall give equal treatment to the nationals of other members whom it gives to its own national with reference to protection of intellectual property and it is called national treatment. Article 4 describes the most favored nation's treatment. It is with

⁸¹http://www.biojudiciary.org/resources/pdf/098_GATT.pdf (accessed: June 23rd, 2013).

⁸² Ibid.

⁸³<http://www.jus.uio.no/lm/wta.1994/landscape.pdf> (accessed: June 14th, 2013).

⁸⁴http://www.biojudiciary.org/resources/pdf/098_GATT.pdf (accessed: June 23rd, 2013).

⁸⁵ Ibid.

⁸⁶ Ibid.

⁸⁷http://ecampus.wto.org/admin/files/Course_313/CourseContents/MTA-E-R3-Print.pdf (accessed: October 23rd, 2014).

⁸⁸http://www.jmcti.org/2000round/com/doha/tr/tn_ip_w_004.pdf (accessed: October 23rd, 2014).

reference to protection of intellectual property and any advantage, favor, privilege granted a member country to the nationals of any other member country shall be given immediately and without any condition to the nationals of all other members subject to the following exceptions:-

Any advantage, favor, privilege or humanity accorded by member

- a) Deriving from international agreement on judicial assistance or law enforcement of a general nature.
- b) Granted in accordance with the provisions of Bern convention, wrong convention authorizes the treatment given the function not a national treatment but after treatment accorded in another country.
- c) Rights related to the performer, producers, broadcasters etc.
- d) Deriving from international agreement related to the intellectual property which entered into force prior to entry in to force of WTO agreement.⁸⁹

1.13 International Center for Settlement of Investment Disputes

This center works under the World Bank having its office in Washington DC, USA. It came into being in 1966 in result of a convention on the settlement of disputes of investments. The dispute was between the state and Nationals of other states. Till May, 2011 as many as 157 States have signed the agreement. President of World Bank heads the administrative council and Secretariat of ICSID. The function of ICSID is to facilitate the conciliation and arbitration of investment disputes arose between the individuals and member countries. In the early 21 century the work of ICSID was increased due to propagation of bilateral investment treaties. Till the end of first quarter of 2007 ICSID had registered 263 cases and most of them were result of action of argentine governments due to its economic crises. The president of world bank personally and the World Bank institutionally made efforts through mediation and conciliation to resolve the disputes between government and private foreign investors. ICSID was established in 1966 with a view to partially reduce the work load of its president and staff. Whereas the other point of view in establishing ICSID was to get a special institution to deal with the disputes

⁸⁹http://www.biojudiciary.org/resources/pdf/098_GATT.pdf (accessed: June 23rd, 2013).

between government and foreign investors and also to increase international investment. ICSID came into being on October 14, 1966 under the convention on the settlement of investment disputes.⁹⁰ Its administrative council is headed by the president of World Bank and one person from each country who signed convention. Annual meetings of council are held along with the annual meetings of the bank. ICSID is closely linked with World Bank but it is an independent organization. It's all members are also members of the bank. The governor of a government for the World Bank also acts as ex officio in administrative council of ICSID but the concerned government can appoint any other. The expenses of secretariat are borne from the budget of World Bank. However the expenses of individual proceeding are met with by the parties concerned.

1.14 International Trade and Emerging Protectionism since Crises

⁹¹Vernon believes that there are four stages of production cycle (i) Innovation (ii) Growth (iii) Maturity (iv) Decline. Year 2009 was the year of crises for international trade and since 1930 it saw its maximum decline. The trend adopted for almost thirty years of trade liberalization was reversed and theory of protectionism of trade returned. The global economy prior to crises enjoyed very favorable conditions. A part of century up to crises saw the fastest increase in economic growth. International trade increased seven fold between 1980 and 2008. During that period world GDP was also increased. World foreign direct investment increased almost thirty fold. Revolution in global economy was seen in 1980's and early 1990's. The developing countries brought large scale liberalization and incorporated in the global economy. In the developing countries the tariffs in average fall down.

The economic crises which came in the year 2008 changed the kind global political and economic environment in to harmful. It was due to rapid contraction in the growth over the globe. From Second World War till now the world has undergone its maximum de-globalization. Growth, industrial output and trade, reduced to maximum till the middle of 2009 and then slowly recovered slowly.

⁹⁰<http://www.scribd.com/doc/16060148/Development-Trade-and-the-WTO-A-Handbook> (accessed: July 23rd, 2014).

⁹¹ Vernon R., "International investment and international trade in the product cycle." Quarterly Journal of Economics 80, pp. 190-207.

Till the end of year situation remained the same in WEST but in ASIA it responded quickly. In this return, china advanced all others and triggered the lift of other countries out of crises. India also recovered quickly. Flow of international capital reduced and global wealth shrunk. Trade in services also suffered equally, particularly the field of services and industry of tourism. Professional and business services shown little growth. According to reports of UNCTAD, foreign direct investment all over the globe decreased by 15% in 2008 and also in 2009. Money sent by immigrants to their home land also reduced from 5% to 8% in 2009 similarly international tourist's arrival fall by 2% to 3% in 2009. The crises of economies all over the globe had speed up in shifting the ideas and policies. Crises interventions are divided into two major areas;

- i. Huge bailouts especially in the sector of financial services but not limited to it.
- ii. Fiscal incentive combined with loose and unorthodox monetary policies. Banks were compelled to give bailouts. Liberal monetary policies were also essential to give extra relief of liquidity. Bailouts to the banks were perhaps could not be avoided in the extreme conditions so liberal policies were required to give extra dose of aid. It is a matter of discussion that whether aid in such like situations is necessary.

Since crises new trade measures influenced a greatest of 1% of world trade in merchandise. New protectionism is cumulative in segments that have long been ensured. These segments are textile, apparel, footwear, iron, steel, shopper electronics and agribusiness. New anti-dumping, shields and countervailing-obligation examinations have expanded, however regardless they influence a little impart of world exchange. Up to one-third of new trade measures have been changing. Worldwide Trade Alert (GTA) defines an additionally disturbing picture. Trade prejudicial measures since November 2008 and protectionism in the pipeline is tendering upwards. It assesses that one-third of new protectionist measures are bailouts to fiscal administrations, autos and different areas. Cushman ⁹²(1985) analyzed the influence of uncertainty as factor of foreign investment.

⁹² Cushman, D.O "Real Exchange Rate Risk, Expectations and the Level of Direct Investment" *Review of Economics and Statistics*, 67(2), (1985): 297-308.

Controls of WTO on creating nations, even on duty ties, are exceptionally feeble. Rather, worldwide business joining has forced unplanned restrains on governments and business. They understand that up front protectionism raises business beds, welcomes striking back, and rejects them from the profits of globalization and harms riches and welfare at home. Additional stressing is the non- universal administrative protectionism in the pipeline, on which WTO orders are frail to non-existent. The threat is that, if not held, it will spread bit by bit to blanket greater swathes of worldwide exchange. That is the 1970s situation to stress over. Notwithstanding turn to the major players in exchange arrangement and perceive how they have reacted to the emergency, Starting with the US, President Obama has effective protectionist drives inside his gathering, particularly around Democrats of congress and sorted out work. His past record demonstrates an adjusting of careful control, offering approach to down home protectionist powers at one minute, yet padding their effect and looking after open markets.

The Lisbon Settlement presents the European Parliament more excellent power in EU trade policy. Market- unconvinced compels and single-issue fetishists in the EP may confuse choice making and felt strategy results in a more protectionist bearing.

We will also look at the situation of China. Liberalization has stalled following something like 2006, comparing with additional mechanical strategy measures to push chosen areas and national champions. China's emergencies reaction basically a speculation fling reinforces the general population part and state power at the cost of the private division. It has succeeded in capturing development lull in 2009, yet it compounds China's structural flaw line of over-venture and under-utilization. Its charge and-control instruments take business changes regressively. There is the danger of surplus assembling limit flooding into contracting fare showcases in Europe and North America, subsequently welcoming protectionist striking back against China. Excellently, the Chinese administration has not caused trouble throughout the emergency. It has not turned to combative mercantilism. At the same time stalled exchange and FDI liberalization, the absence of down home structural changes and inching protectionism undermine future exchange strains.

1.15 Overview of Trade Policy Consultation Mechanism

Ministry of commerce is basically duty bound to make a trade policy and it is

normally announced in July August every year after the announcement of the federal budget. Ministry of commerce does not have a particular cell or commission specifically for preparing of trade policy. It is a normal practice that several sections of ministry jointly work from scratch till final draft of policy. It is supervised by the secretary and trade minister at all stages of policy. In the trade policy wing of ministry from section officer up to Secretary all play crucial role in making and counseling mechanism. The casual review of policy of previous year starts after three months of its announcement. Monthly reviews of policy are held by secretary. Minister holds his meeting after each quarter. Success and failure in the policy are analyzed and kept in view in the policy of next year. Ministry issue letters inviting suggestions for the preparation of policy for next year. It is circulated to the specific governmental agencies and to some trade associations which in turn give proposals to ministry. Some stake holders make representations throughout the year besides their suggestions in reply to the letter of ministry. This correspondence is comprised of suggestions to the ministry hence it is not published in the policy.

There are six groups of stake holders:

- i. Chambers of Commerce and Industry;
- ii. Business manufactures associations;
- iii. Specialized government associations;
- iv. Pakistan's Missions abroad, provinces and international donors;
- v. Academics (not consulted during the Trade Policy cycle;
- vi. NGOs/NPOs (not consulted during the trade policy cycle).

Consultation process comprises of three processes:

- i. Inter-Ministerial consultation with relevant Ministries;
- ii. Stakeholders meeting in April of every year;
- iii. International consultations at the Ministry.

Goods are shipped and payment is made at seller's station. Buyer on the other hand has several different worries. First buyer would not like to pay unless he is assured that the goods have arrived or at least have been shipped. Second, buyer will worry about whether the goods meet the quantity and quality requirements of the contract. For this reason, buyer prefers to pay only after inspecting the goods. However, where buyer and seller are at a distance from each other, and the goods must be transported, it is impossible for both

to have seller be paid upon shipment and to allow buyer to delay payment until after inspection on arrival of goods. Payment also causes problems; Currencies fluctuate in value relative to each other. In addition, seller usually wants the funds to be available in seller's country and in its currency, as his costs are more likely to be incurred in that currency. The buyer may not be able to pay in any currency but his own. Thus the sales contract must specify the currency to be used for payment and assign the risk of currency fluctuation to one of the parties.

Chapter 2

2.1 The Multi fiber Agreement-WTO Agreement on Textile and Clothing

2.1.1 Introduction

The internalization theory tries to explain the growth of transnational companies and their motivations for achieving foreign investment. The theory was developed by Buckley and Caisson in ⁹³1976 and later on by Hennart in ⁹⁴1982 and Caves in ⁹⁵1996. International trade of certain goods has already been restricted since long but the conditions have not been strictly observed in any sector except in textile and clothing industry. In other sectors quantitative restrictions have not been made which have wide reaching effect. The common denominator in this sector is the quotas fixed which took the industry on the path of development. In this chapter we will discuss the developments since beginning of quantitative restrictions in this sector leading to multi-fiber agreement and eventual phasing out under the world trade agreement on textile and clothing. Trade developments under the quota regime and developments took place post quota with special emphasis on the impact that these trade restrictions have had and how some countries are again beginning to make use of measures to counter the threat of ⁹⁶ increase of import.

2.1.2 Events leading to multi-fiber agreement:

In order to achieve specific developmental outcomes, quantitative restrictions on import have been made in international trade policy. It provides a limited protection to local industry against foreign competition.⁹⁷ It is the competition when foreign goods are allowed to compete freely in the domestic market. Fundamentally quotas differ from other policy tools like tariff. They restrict competition from imports till respective of any direct price consideration. We can say that quotas remove some of the incentive for foreign

⁹³ Buckley, P.J. and Casson, M.C. *The Future of the Multinational Enterprise*, (London: Homes & Meier, 1976)

⁹⁴ Hennart, J.F., *a theory of multinational enterprise*, (University of Michigan Press, 1982)

⁹⁵ Caves, R.E., *Multinational Enterprise and Economic Analysis*, 2nd ed. (Cambridge: Cambridge University Press, 1996)

⁹⁶ <http://www.fibre2fashion.com/industry-article/pdffiles/the-multifibre-agreement.pdf> (accessed: August 14th, 2013).

⁹⁷ Ibid.

supply to compete on a price⁹⁸ despite import duties. In the journey of development up to multi-fiber agreement and afterwards the agreement on textile and clothing of WTO, one must note that quantitative restrictions on textile and clothing violated the original world and spirit of principals contained in GATT. This agreement came into force in early 1948 and it contains provisions which directly or indirectly relates to quantitative restrictions. Article-11 clearly prohibits quantitative restrictions with some exceptional circumstances whereas article-13 states that the measures taken by the countries must not be discriminative between the two countries. In United States early trade restriction measures which affected the textile industry were in the form of local agricultural policy which restricted the import of cotton.⁹⁹ It followed a powerful change on the stability of price of local cotton. The pressure on the price of cotton means that the textile and clothing manufacturers had lost some of their competition. United States then entered into a bilateral agreement with Japan who was one of the major foreign suppliers of cotton. As a result of this agreement, the export of textile from Japan was limited for some time. In Europe quantitative restrictions on certain products were further extended which cover most of the textile and clothing sector.

Article-12 of GATT brought a relief which imposed restrictions to safeguard balance of payment. It fails to describe the degree of balance of payment which is sufficient to increase response enabling the effecting countries to bring forward their concerns. In 1961, a forum was created within GATT under the pressure of some countries especially US to deal with increasing market disturbance in major importing countries. At this forum short term arrangement in cotton textile and long term arrangement in textiles were made. Short term arrangements (STA) were adopted by 20 countries. It provided one side obligation of quota on cotton base textile and clothing in cases where the exporting country did not at its own restrict its export. The long term arrangement, hereinafter shall be referred as [LTA] was initially for a period of five year but it was further renewed in 1997 and then 1970. It provided the basis for further restrictions.¹⁰⁰ Both STA and LTA were limited to the cotton based textile so the hand-made fibers remained unattended by these trade measures. Agreements were made between US and several main suppliers of hand-made fiber products voluntarily. The purpose of these agreements was to restrict the

⁹⁸ Ibid.

⁹⁹ Ibid.

¹⁰⁰ Ibid.

export of these key supplies to US to give some relief to the domestic market. Initially these agreements were considered fair but in the long run it was found as a policy. During the same period, many European countries experienced increase of inflow of non-cotton textile. In long term agreements, little favor was found for developing countries some of which had become major players in the global textile and clothing industry. These developments give way to further negotiations which concluded in 1973. Multi fiber agreement came into force in 1974 which was welcomed by many countries for setting targets for increase of trade,¹⁰¹ agree minimum growth rate and liberalization of textile trade. Through the promulgation of this agreement bilateral treaties were concluded which had allowed the countries to impose restrictions which suits to their own peculiar circumstances. In the first year of multi fiber agreement many bilateral agreements came to an end especially between US and Europe which were the chief quota imposing countries. However, most of these agreements went beyond which was desired through MFA. In these bilateral agreements slight departure from the original text became a common factor giving quota restricted countries more coordinated response. It led to removal of, reasonable departure, facility. In the later years the time bomb MFA was renewed many times specifically in 1977, 1981 and 1986. In the last renewal the product coverage of MFA was extended to include vegetable fiber products. The major importing countries such as US and Europe kept pressing for broaden the scope of MFA whereas the developing and exporting countries opposed it. In 1991, a new shape emerged which was known as agreement on textile and clothing. Final version of agreement (ATC) which emerged as a definitive plan for structured removal of quantitative restrictions was implemented on 01.01.1995.¹⁰²

2.2 WTO Agreement on Textiles and Clothing and Structured Removal of Quota

2.2.1 The agreement to phase out MFA quotas

This agreement on textile and clothing announced the anticipated beginning of the formal process for removal of quotas on textile and clothing.¹⁰³ Being an agreement of WTO it was binding on all member states. However, it was seen that practical

¹⁰¹ Ibid.

¹⁰² Ibid.

¹⁰³ Ibid.

implementation of agreement remained behind from its theoretical point of view. The inherent flexibility in scope provided the countries with substantial margin in the actual implementation and interpretation of its clauses. Article-2 of ATC gives a four stage schedule of liberalization. Each phase foresees the integration of specific percentage of textile categories based on the level of 1990. The first stage lasted for three years, the second for four years and the third remained for three years.¹⁰⁴ The fourth and final stage was the date of total integration i.e. 01.01.2005. The first phase of quota removal would see quantitative restrictions. An eleven member semi-judicial textile monitoring body (TMB) which was appointed by WTO member countries came into being to supervise compliance according to the provision of ATC.¹⁰⁵ To become member of TMB a new system of selection was evolved which was on the basis of constituencies. Purpose of it was to give representation from several geographical regions. It includes one each from

- a) ASEAN countries.
- b) European community
- c) United States
- d) Canada and Norway
- e) Korea and Hong Kong
- f) India and Egypt/Morocco
- g) Japan
- h) Turkey/Switzerland and Bulgaria
- i) Latin America and Arabian members
- j) Pakistan and China¹⁰⁶

Besides regulating quota removal and integration in textile and clothing trade with normal GATT disciplines,¹⁰⁷ ATC also required a constant increase in the remaining quota. We can say that ATC sought to ensure not only on-going liberalization but also undertaking the process with some momentum. Since ATC was a time limit and self-

¹⁰⁴ Ibid.

¹⁰⁵ Ibid.

¹⁰⁶ Ibid.

¹⁰⁷ Ibid.

destructive agreement so it automatically ceased to exist on 01.01.2005. By that date, all MFA type quantitative restrictions on textile and clothing had to be removed.¹⁰⁸

2.2.2 Slow phase of implementation

It was already expected that the phase of effective trade liberalization shall be much lower than anticipated. Practically no quotas had been lifted by the major quota imposing countries during the first stage of ATC which ended in 1997. There were many reasons for slow integration of textile and clothing trade but most of them were driven by protectionist elements where rapid trade liberalization negatively affected certain stake holders in quota imposing countries.¹⁰⁹ The flexibility of ATC was fully exploited. The list of products included ATC was very broad and it included many products which have not been previously restricted.¹¹⁰ Their inclusion permitted the large importers to include them as part of the products that had been brought into line with GATT principles. A report shows that 37% of products mentioned in ATC had never been restricted by the USA.¹¹¹ The report also shows the example of Europe which in 1995, pseudo-integrated, one such item such as parachute parts, typewriter ribbons and doll cloths. Norway made the most rapid progress in integrating textile and clothing trade under ATC.¹¹² These modes exposed the inherent weakness of ATC. Some argue that it is the flexibility which initially led to an agreement on such key topic and ATC as seen today is one of the success of Uruguay round negotiation.

2.2.3 Objectives of Quantitative Restriction

Measures which physically restrict or prevent the inflow of goods in a specific market will have implications for different stake holders. Quotas and import tariff have similar aims but differ in many ways which resulted in different outcomes. Purpose of import tariff is to increase the landed cost of a product manufactured somewhere else and imported into this domestic market. These tariffs are calculated ad valor am e.g. on some forms of quantitative denominators such as volume, surface area, unit or weight. Combination of these is also possible. Tariffs provide a relative production that is based on the denominator use. It not only increases the cost of imports as a result of which

¹⁰⁸ Ibid.

¹⁰⁹ Ibid.

¹¹⁰ Ibid.

¹¹¹ Ibid.

¹¹² Ibid.

competition of locally produced goods is increased but also these tariffs are a source of revenue. In many developing countries this form of collection of revenue is of very importance and in some situations supersedes any objection of local industry.¹¹³ Tariff gives little protection to local industry when the landed cost is very much below of that at which a similar product can be produced locally.¹¹⁴ In textile and clothing sector this has been seen in particular. In this sector low labor cost and other factors give boost to the growth in the countries with low labor cost. Quantitative restrictions imposed by developing countries have given a wider sheet against competition from abroad. Quota provides a measure of protection to local producer in that way limit physical quantities of imports liable to any price movements in the price of any imported goods. They are also immune to any movement in the exchange way e.g. if foreign currency of a country is devalued then the product shall have to face more competition in the domestic market. Quotas do not fall under countries binding commitment and they are set individually against specific countries on specific products. They are effective in shielding local producer from foreign competition. They negate impact of foreign subsidies and other measures on reducing the price of a foreign product and thereby increase competition from abroad.¹¹⁵ Not all the outcomes of quota are desirable from the angle of imposing countries. With the imposition of quota, prices of goods are increased which are subject to quantitative restraint but they reduce foreign supply of goods and impact of price pressure. They also reduce competition in local producers.¹¹⁶ On the other hand, it may create jobs which would be lost otherwise.¹¹⁷ It also increases the demand. Physical reduction in supply means that domestic consumers pay more for each item which reduces the welfare of the consumer. Quotas also reduce the competitiveness of downstream producers. Quota also reduces the incentives for local producers to maximize their production efficiency as when there is no competition, it brings pressure on the local productions chain. Whether intended or not but fixation of quotas on the trade of textile and clothing have long lasting

¹¹³ <http://www.fibre2fashion.com/industry-article/pdf/files/the-multifibre-agreement.pdf> (accessed: August 14th, 2013).

¹¹⁴ Ibid.

¹¹⁵ Ibid.

¹¹⁶ Ibid.

¹¹⁷ Ibid.

consequences. Quotas have also significant perfect on consumer welfare both in imposing as well as constrained countries.¹¹⁸

2.2.4 Outcomes under MFA and ATC

Quotas which restrict the trade in textile and clothing sector have changed the nature and place of production. One factor is protection of production centers in quota imposing countries and the other is concurrent dispersion of production in quota unconstrained location. If there is no quota restrain then there is every possibility led these production centre will be established in low cost areas. In early 70's we saw an increase in production and export from south east and East Asian countries which was slow down by MFA. It played an important role in further growth of this sector in those destinations.¹¹⁹ Measures taken to protect continued the incentive to operate not only due to low input cost but other factors which may include design, technical facilities and fashion. Quotas provide an absolute protection. They immunize to a large extent against downward pressure on prices. Quota played a very important role in preserving and expanding the sector in US and Europe. They also help to derive a much broader worldwide dispersion of the sector than would have taken place otherwise.¹²⁰ It is also to be noted that quotas were imposed in a discriminate manner and in a specific quantity. Quantitative restrictions created incentives through which production would go in less constrained countries.¹²¹ This was seen where production was intended to cover more than just the domestic market and was also geared towards exports.¹²² Quotas have been imposed by specifically targeting the Chinese producers who shifted their locations out of China or if not possible then made partnerships with others. Studies show that Chinese and Taiwanese producers formed bulk and are responsible for the development and growth of textile and clothing facilities.¹²³ The rival of textile and clothing sector has been seen in many countries owing investment from China and Taiwan. There are some doubts and concerns about the long term sustainability and desirability of some of these developments.¹²⁴ Textile and Clothing industry is known as fickle and mobile. Clothing production requires comparatively low

¹¹⁸ Ibid.

¹¹⁹ Ibid.

¹²⁰ Ibid.

¹²¹ Ibid.

¹²² Ibid.

¹²³ Ibid.

¹²⁴ Ibid.

skilled workers as compared to many other sectors. It also require less capital investment and decisions with regard to location are most often the results of short term incentives and opportunity rather than long term commitment from the investors. These factors and the competitive nature of the industry have contributed to bring down wage rate and increase in shifting of industry. In certain countries where restrictions on quota have not been imposed it played an important role in facilitating the development of this sector.¹²⁵

2.3 Textile and Clothing in the Developing Countries

As per WTO estimates, the export of textile and clothing all over the world has increased from 212-Million \$ in (1990) to 395-Million \$ in (2003). This shows the approximate increase of 86% and annual growth rate as 45%. The export of clothing has become double. Increase in textile was at a smaller pace. The countries classified as developing countries are leading textile and clothing exporters. EU is the leading exporter of textile and clothing but most of its trade is within Europe.¹²⁶ This fact brought China as the global leading exporter and even by subtracting share of Hong Kong when the exports of both these countries are accumulated the dominance of China in the year 2003 was very clear. Other leading clothing exporters are Turkey, Mexico, India, Bangladesh¹²⁷ and US. In textile sector the main exporter countries are US, Korea, China, India and Pakistan. Trade development after quota shows, indulgence of China into EU and US in textile and clothing export. The importance of this sector of each country is shown by contrasting total export of each country with total value of merchandized export of those countries. It means higher the sale percentage the greater is reliance of the country on textile and clothing exports, resulting in more significant impact which bring changes in the global trade and regulate environment in this sector.¹²⁸ WTO data shows that Bangladesh had the highest reliance in this sector in 2003 accounting for over 62% of total merchandized export as Morocco, Pakistan and Hong Kong also have highest sectoral reliance in export of clothing.¹²⁹ Cambodia, El Salvador, Dominican, Republic Srilanka and Mauritius are smaller exporter by value, however high reliance on clothing exports. The textile sector in Africa suffered a downfall from 1970 to 1990. It can be attributed to some factors which

¹²⁵ Ibid.

¹²⁶ Ibid.

¹²⁷ Ibid.

¹²⁸ Ibid.

¹²⁹ Ibid.

include domestic economic policies, weak cotton prices, like competition, restricted access to international market and low level of regional economic integration.¹³⁰ Now as a result of improvement EU market access and continued quota post restrictions, the clothing sector once again rapidly grew in various African developing countries.¹³¹ Waiver of US import duties on many items including garments, when exported from qualifying African countries means that the export of sector enjoyed a reasonable preference margin over those from other countries. These benefits brought up grading and new investments in various African countries which were able to compete in the US market.¹³²

2.4.Value chain dynamic in textile and Clothing sector

It describes the dynamics of value adding activities with products or production cycle of industry. Analysis of value chain provides an opportunity to identify the economic actors within a production cycle who are able to exert influence on the production activities including sourcing, logistics, distribution and pricing.¹³³

This concept of value chain was introduced in between 1960 to 1970, when analysts used it to describe the path of development. In the mid of 80s this form of analysis became very much popular and it was widely applied for analysis in the industry. Value chain theory also enquire about the traditional view that value is basically added in the process of production of goods and shows that greater value is added in design, marketing, branding and distribution of product.¹³⁴ The concept of value chain has different dimensions which include input/output structure, skeptical scale and the control over activities. Each of these concepts is important in understanding the dynamic within the sector.¹³⁵ Input/output structure categorizes the key generic elements of a value chain.¹³⁶ The spatial scale will define the location characteristic pattern and design of a garment which may be prepared in US and EU and contracted with South African company are different may out source certain production stages to Swaziland pose. The third concept of influence and control over the activities is very relevant. Value chain

¹³⁰ Ibid.

¹³¹ Ibid.

¹³² Ibid.

¹³³ Ibid.

¹³⁴ Ibid.

¹³⁵ Ibid.

¹³⁶ Ibid.

categorize as producer driven or buyer driver with the textile and clothing sector.¹³⁷ Producer driven value chain are normally seen in the sectors which are capital and technology intensive.¹³⁸ These are automotive industry or computer industry. Buyer driven value chains normally apply to industries where designs and marketing are important but production is comparatively labor intensive. Key barriers to entry are related to design, distribution, market intelligence, branding and advertising but there are few barriers which came in actual production stages.¹³⁹ The sector is mainly controlled by large brand name owners and retailers rather than by the producer themselves. Major firms in this industry use their influence over their value chain without taking direct control of large portion of the production process. Since clothing production is not a capital and skill intensive so there are comparatively low entry barriers from the production side.¹⁴⁰ In spite of this its control by the multinational in their purchasing decisions and the manufacturer are bound to increase their production in order to get orders for mainstream markets. This pressure compelled the companies to shift their business to the places which offer more facilities and are also not only cost effective but could maintain quality to produce textile and clothing of the required quality within the given time. This shows a clear relationship between value chain dynamics and quotas which have brought global dispersion of textile and clothing production towards the low cost locations. In other words, quotas are against the natural outcome in buyer driven value chain which would ultimately bring production consideration in very few countries.¹⁴¹ In buyer driven value chains the bargaining power of buyers exceeds that of producers, especially with reference to switching cost i.e. switching to other sources of supply, transaction volume, and order dependence, availability of market and price information.¹⁴²

2.5 Structure of EU and US Imports and Post-Quota Developments

Those who were going to be affected by the facing out of quantitative measures made debate on quota restrictions. One of such initiative which is known as Istanbul declaration proposed an extension of quota for further period of three years after expiry of

¹³⁷ Ibid.

¹³⁸ Ibid.

¹³⁹ Ibid.

¹⁴⁰ Ibid.

¹⁴¹ Ibid.

¹⁴² Ibid.

ATC.¹⁴³ Leading American and Turkish firms were behind this declaration which was agreed by 130 similar organizations of 50 countries. Countries which have interest in the textile and clothing sector like Kenya, Mauritius, Gambia, South Africa given it supports. In 2005 support in delay of quota removal came from developing countries that were afraid of loss in competition if textile and clothing trade were to proceed without some of the existing measures in place.¹⁴⁴ Proponents of quantitative measures laid stressed on the impact likely to impact that a full concentration of the sector's trade would have on their economics especially those who are mainly dependent on clothing and textile exports. Any change in the agreed terms of quota removal and its agreement show that such changes would undermine the credibility of rules based global trading system and ultimately the WTO.¹⁴⁵ It is further claimed that the textile and clothing sector made heavy investment while seeing this de-regularization. China has provided sufficient employment to its citizens and it would not be discriminated due to its substantial competitive advantage in the manufacturing activities.¹⁴⁶ Value chain dynamics contributed heavily to China's dominance in global trade and production of clothing and its export. The emergency meeting of the WTO Goods council held in October 2004 failed to bring changes to the existing liberalization framework.¹⁴⁷ As per terms of WTO ATC, quota on textile and clothing recovery lifted on 01.01.2005. Some emergency measures were taken in the meantime by US to restrict export from China but not on those which landed prior to that date. These were allowed in small monthly installments. The arrival of D-day for textile and clothing trade brought huge surge in textile and clothing exports from China. This surge did not take place in all categories.¹⁴⁸ Many categories in which trade was integrated on 01.01.2005 made growth in import which increased more than expected. Analysis of the structure of clothing exports of EU and US as a key source of a supply becomes a useful indicator of future trades as well as regional competitiveness in this field. In textile sector in general and clothing manufacturing sector in particular, the key driver of supply choice for US and EU are geographic base and low cost base. The largest foreign supplier of clothing to EU is China and Turkey whereas Rumania, Morocco and India are after them. These five countries cover 75% of import of clothing of EU with the lowest cost of

¹⁴³ Ibid.

¹⁴⁴ Ibid.

¹⁴⁵ Ibid.

¹⁴⁶ Ibid.

¹⁴⁷ Ibid.

¹⁴⁸ Ibid.

China and India and then Turkey and Morocco. Few Asian countries are also a source of supply but no African country could have cover even 1% of EU clothing of import. China is leading foreign supplier having crossed two bands between 2000 to 2004. The dominance of China is not nearly as pronounced as is the case with EU within the America, geographic, proximity of Mexico and Dominican Republic are to be also benefited from all the preferential market access.¹⁴⁹ They are important supplier capturing approximately 18% of US import market.¹⁵⁰ Although African supplier have been given the facility of duty free and quota access but it accounted for lesser imports than those any one of the Asian countries. In US year on year increase was seen in early, 2005, import from China grew at a much larger rate with selected categories. Both US and EU Governments officially resisted the growing voice of the stakeholders asking for an extension of quota regime, imports from China continued in the coming months after opening textile and clothing trade.¹⁵¹ The difficult situation faced by the policy makers and WTO member states that extension of quantitative restrictions would undermine the consensus agreement reached 10 years previously for which countries had a time of ten years to prepare. Extensions given against the structural changes of investment have taken place in anticipation of the removal of quota.¹⁵² China till the end of 2001 was a full fledged WTO member with all its rights and obligations.¹⁵³ On the other hand, removal of quota threatened the sustainability and existence of basic manufacturing sector which is the first entry point for countries as they diversify their economics.¹⁵⁴ For example; reliance was placed on raw-material exports or agriculture. In many developing countries like Bangladesh clothing sector has become an important formal economic activity. There are few countries which are able to compete on international level without any direct or indirect protection. In case of any threat to this sector it will be a threat to employment generation, investment inflows, manufacturing output and foreign exchange income. ATC provided over all frame work for textile and clothing quota and integration of trade in this sector with WTO discipline is not only an instrument which permits the countries to restrict textile and clothing imports.¹⁵⁵ Alternative WTO measures provide the countries

¹⁴⁹ Ibid.

¹⁵⁰ Ibid.

¹⁵¹ Ibid.

¹⁵² Ibid.

¹⁵³ Ibid.

¹⁵⁴ Ibid.

¹⁵⁵ Ibid.

with at least some relief against any surge in import which threatened domestic industry. WTO compliant measures are largely contained in "safeguard", clauses which allow member countries to protect temporarily, specific industry by taking certain trade restricting actions. Similarly the agreement through which China got full member status of WTO contain clauses which allow member states to take trade restricting actions against any surge in textile and clothing import from China which threatened market disruptions and orderly development of trade.¹⁵⁶ These clauses in particular, permit growth in import to be limited to 7.5% per year till the end of 2008. After expiry of ATC a number of measures implemented by counties affected by surge any import had been taken. US was the first major importer who applied China "safe-guard" using its right under China WTO agreement rather than to use a lengthy process of WTO measures.¹⁵⁷ Sudden increase in textile and clothing import of Chinese products in the US includes cotton, knit shirt, cotton trouser, cotton and man-made fiber underwear, cotton and man-made fiber shirts and trouser etc. In May 2005 US authorities enhanced impositions of quota in three categories which are cotton knit shirts, man-made underwear of cotton and cotton trouser. This triggered a mandatory 90-days period of consultation with China in accordance with clauses as this mandatory period failed to reach satisfactory conclusion. After some days further four categories were added in the list. An injunctive application against the use of "safe-guard" measures was filed by certain local US stakeholders but it was taken back after few days. China unilaterally imposed voluntary tariffs on 74 textile and clothing products.¹⁵⁸ This was in response to trade measures taken by its trade partners which was an implicit recognition of rights of other countries to restrict imports from China, where these threatened the development of trade and thus threatened to damage domestic industry of its trade partners. This export tax was for a short period and was not effective in protecting the increase of volume of export in response to measures taken by US to follow through by missing "safe-guard" against its exports, China withdrawn self-imposed measures few days after their imposition. A reason of these "safe-guard" measures was year on year exceeded growth of import from China into US which in some cases exceeded 100%. US employ a unique textile and clothing categorization system.¹⁵⁹ Each product categorized according to its core characteristic i.e. yarns, fabrics, apparel, wool

¹⁵⁶ Ibid.

¹⁵⁷ Ibid.

¹⁵⁸ Ibid.

¹⁵⁹ Ibid.

and miscellaneous textiles. Each product is further classified according to its material content i.e. mix cotton, cotton, wool, man-made fiber and silk brand, non-cotton vegetable fiber etc. Mainly EU export of Chinese textile and clothing grew unabatedly.¹⁶⁰ Prior to expiry of ATC in December, 2004 EU introduced textile surveillance system to watch 35-product categories effected by the pending removal of quotas which provide a locus standee for future "safeguard" measures based on China WTO membership.¹⁶¹ The EU approach to dealing with the development was different from the approach of US. The decision of EU commission was based on the consensus amongst its member states that have to remove extraordinary measures taken to restrict imports from certain countries.¹⁶² EU counties have different interest in the textile sector. Some of the southern states have long established domestic manufacturing industries while some of central and northern states have strong multinational retail sector.¹⁶³ Retailer favored unrestricted development of trade by those countries with domestic manufacturing sectors favored and orderly development of imports that would not undermined domestic producer. As a result of substantial growth in imports from China, the EU commission and China held bilateral talks in June, 2005 within framework of article 242.¹⁶⁴

A bilateral approach was adopted rather than a more elaborated processes of directly involved the WTO. As a result of which a memorandum of understanding for 10 products category was agreed. These were cotton fabrics, t-shirts and trouser etc. Imports in some of the effected categories exceeded these quotas and were barred from entering in the EU countries. Import permits were not issued to importer and goods were piled up on the sea shares throughout EU. 80-millioin garments were brought and piled up which had acceded their annual agreed quota of 2006. EU and China officials devised a solution as winter season was setting in. Retailer urged a pragmatic approach warning that they may suffer significant losses. On the other hand, it was argued that in shift any policy would harm local supplier and effect EU trade policy on the matter. In September, a compromise was arrived to bring the effected textile and clothing articles into circulation. The solution was found sensible and stepped back on EU stance was considered as a political weakness by some. EU had made only limited use of its right under China Accession Agreement

¹⁶⁰ Ibid.

¹⁶¹ Ibid.

¹⁶² Ibid.

¹⁶³ Ibid.

¹⁶⁴ Ibid.

while not using the general measures available to it under the WTO process.¹⁶⁵ This agreement was to realize piled up garments and to bring it to circulation with the condition that half would be counted against agreed quota for 2006 period.¹⁶⁶ Goods shifted before agreed cut-off date of 11 June 2005 were exempted.¹⁶⁷

2.5.1 Conclusion

Far from leading to the smooth and full integration of textile and clothing trade with ordinary WTO disciplines, the phasing out of quotas has caused a sudden, short period of activity intended to stem the natural development of free trade.¹⁶⁸ As anticipated, the scheduled removal of quotas in accordance with the final stage provisions of the ATC has had the most deep seated impact.¹⁶⁹ While the conclusion of ATC can be credited being one of few agreements under the WTO banner that has run its course in accordance with an agreed framework and time schedule.¹⁷⁰ It has also resulted in an extraordinary number of actual and yet to be seen measures to counteract its impact.¹⁷¹ The European Union and United States, being major beneficiaries and original architects of textile and clothing quotas, have both moved swiftly to counter the impact of surging imports, especially from China. Whereas the EU approach can probably be described as having been based more on bilateral consensus with China than that taken by the US.¹⁷² The outcome of both is relatively similar. Many of the product categories originally protected by once again enjoy similar protection.¹⁷³ In the case of both the EU and US, measures have put an end to certain imports from China for the rest of the year, with further restrictions likely over the coming three to four years at least.¹⁷⁴

EU has negotiated an agreement with its Chinese counterpart regarding the “orderly growth in imports” over the next three years, with stipulated growth rates. The US safeguard measures are set to expire at the end of 2005, but are already being set up for

¹⁶⁵ Ibid.

¹⁶⁶ Ibid.

¹⁶⁷ Ibid.

¹⁶⁸ Ibid.

¹⁶⁹ Ibid.

¹⁷⁰ Ibid.

¹⁷¹ Ibid.

¹⁷² Ibid.

¹⁷³ Ibid.

¹⁷⁴ Ibid.

renewal.¹⁷⁵ China has the largest source of the surge in imports more than any other country, and has thus become the primary focus of new quantitative restrictions.¹⁷⁶ What is interesting to note, though, is the fact that safeguard measures available to countries under general WTO rules have been foregone in favor of the simpler remedies available in China's WTO Accession Agreement.¹⁷⁷ Use of this clause is available only for another few years, and is intended as an interim measure to ensure the orderly development of trade.¹⁷⁸ It merely requires a rather consultation process between the countries concerned without any real pressure for agreement.¹⁷⁹ This pressure would originate from within the politico economical sphere. The important role that the textile and especially clothing manufacturing sectors play in many developing countries, especially in Africa, has been highlighted.¹⁸⁰ With preferential market access to the European and US markets, they have benefited from the quota regime to the point of becoming relatively attractive locations for the industry.¹⁸¹ Market intervention and regulation in the form of quotas have thus directly aided the global dispersion of this industry and in many cases provided countries with the first step away from mono-crop reliance towards a more diversified and even export led economy.¹⁸² But a very real danger of the phasing out of quotas is that what was initially intended as an orderly process to substantially liberalize textile and clothing trade and integrate the sector with generally accepted WTO trade principles, is fast becoming the start of something potentially more dangerous and far reaching.¹⁸³ Already there are indications of deep seated divisions about some of the remedial measures taken subsequent to the ATC's expiry and with it a growing realization that these newly imposed textile restrictions could lead to an escalation of trade barriers in other sectors as well.¹⁸⁴ This is true not only for the large developed economies, but also an important consideration for developing countries, especially those that may be eyeing China as a future market for natural resource based.¹⁸⁵

¹⁷⁵ Ibid.

¹⁷⁶ Ibid.

¹⁷⁷ Ibid.

¹⁷⁸ Ibid.

¹⁷⁹ Ibid.

¹⁸⁰ Ibid.

¹⁸¹ Ibid.

¹⁸² Ibid.

¹⁸³ Ibid.

¹⁸⁴ Ibid.

¹⁸⁵ Ibid.

2.6. General Agreement on Trade in Services

2.6.1 Introduction

As compared to other agreements, Agreement on Trade in Services (GATS) is comparatively new agreement. As a result of Uruguay Round negotiations for providing an extension of the multilateral trading system to services¹⁸⁶ this agreement came into force in 1995. All member countries of WTO have signed this agreement and are bound by it. Members are also committed to enter into subsequent rounds of trade liberalization negotiations. First round started in January 2000¹⁸⁷ and was subsequently brought into Doha Development Agenda (DDA). So, irrespective of the policy of a country, the trade dealing staff is required to have knowledge of this agreement and its implications for trade and development. These implications may be far more significant than available trade data.¹⁸⁸

2.6.2 Basic Purpose and Concepts

General agreement on trade and services is supposed to flourish the trade which should be transparent and liberalize to promote the economic growth of trading countries and their development. Expansion in trade is an instrument to enhance growth to increase development. With the participations of developing countries in the services sector, the development is further heightening up. There are three main pillars of GATS which adds to world trade to services.

- (1) Transparency and inevitability of relevant rules and regulations.¹⁸⁹
- (2) Providing a common framework of discipline governing international transactions.¹⁹⁰
- (3) Promoting liberalization through negotiations. This concept is for improving market excess and extending national treatment to foreign services and service suppliers.¹⁹¹

¹⁸⁶http://www.wto.org/english/tratop_e/serv_e/gsintr_e.pdf (accessed: February 14th, 2014).

¹⁸⁷http://www.unescap.org/tid/projects/gats10_tis.pdf (accessed: February 14th, 2014).

¹⁸⁸http://www.wto.org/english/tratop_e/serv_e/gsintr_e.pdf (accessed: February 14th, 2014).

¹⁸⁹ Ibid.

¹⁹⁰ Ibid.

¹⁹¹ Ibid.

2.6.3 Historical Background

To cover trade in services, GATS is the first multilateral trade agreement.¹⁹² As a result of Uruguay round of trade negotiations conducted from 1986-1993 this agreement was created. It came into being almost half a century after coming into force of GATT 1947. Need for trade agreement in services was felt for long. A very large portion of economy such as hotels and restaurants to personal services have been considered as domestic activities that do not come under the application of trade policy concepts.¹⁹³ Other sectors such as railway, telecommunication, are under the control of government ownership. A third group may include health, education, insurance services which are considered as the responsibility of government but show their importance. Some service sectors especially international finance and maritime transport are considered since centuries a natural compliment to merchandise trade. In recent decades other large sectors have undergone fundamental technical and regulatory changes.¹⁹⁴ Internet has helped us to create a range of internationally tradable product variants i.e. from e-banking to tele-health and distance learning.¹⁹⁵ These concepts were not known few years ago. This concept has removed the distance related barriers in trade which was a great disadvantage to the suppliers and users in remote areas. An increasing number of governments with the passage of time have exposed monopoly based areas to open competition. Classical example is telecommunication which shows a change in attitudes. Traditional methods of public service have been proved not appropriate for some segments of economy and governments prima facie lack the spirit and financial resources to exploit fully existing growth potential.¹⁹⁶ Services have become the most dynamic segment of international trade.¹⁹⁷ Since 1980, world trade in services has grown rapidly than trade of merchandize. Developing countries have participated more in that growth. In Pakistan the classical example of services is that as provided by Pakistan Telecommunication i.e. PTCL. Sometimes back it had a monopoly in this sector. People had to wait for several months to get its connection. Its services were very expensive and limited. With the passage of time when cellular phone industry was permitted to operate in the country, an atmosphere of

¹⁹² Ibid.

¹⁹³ Ibid.

¹⁹⁴ Ibid.

¹⁹⁵ Ibid.

¹⁹⁶ Ibid.

¹⁹⁷ Ibid.

competition was created. When PTCL came into competition with different mobile phone companies it had to improve not only the quality of services but also introduce some new features like PTCL cordless phone as well as PTCL magic box for viewing audio-video programs. To remain in business, PTCL had to improve in all the sectors despite that it was a state owned organization. With the establishment of various cell phone companies like Mobilink, Telenor, Warid and to compete with their services, packages, PTCL was forced to bring into field its own company in the name of U-Fone duly backed by itself. This brought a revolution in the telephone service industry in Pakistan. Developing countries have fully participated in the growth of services sector.¹⁹⁸ Balance of payments in 1980 was 20% which increased to 24.5% in 2000 and reached to 31% in 2010. The specific advantages of each country can be divided into three ¹⁹⁹categories (i) Economic benefit (ii) Political advantage (iii) Social advantage.

2.6.4 Definition of Services in Trade and Modes of Supply

Definition of trade in services depends upon the physical presence of supplier and consumer at the time of transaction. Article 1 and 2 of GATS cover services supplied:-

- (a) From the territory of one member country into the territory of other member. It is called cross border trade.
- (b) In the territory of one member country to the service consumer of other member. It is called consumption abroad.
- (c) By a service supplier of one member, through commercial presence, in the territory of any other member country. It is called commercial presence.
- (d) By a service supplier of one member, through the presence of natural persons of a member in the territory of any other member. It is called presence of natural persons.²⁰⁰

Examples of the above mentioned four modes are discussed below.

Mode-1: Cross border

User in A country receives services from abroad through telecommunication or postal network. Such supplies may include consultancy or market research reports, tele-medical advice, distance training or architectural drawings.²⁰¹

¹⁹⁸ Ibid.

¹⁹⁹ <http://www.investmentsandincome.com/investments/oli-paradigm.html> (Accessed: May 25th 2013)

²⁰⁰ <http://www.pide.org.pk/pdf/Working%20Paper/WorkingPaper-67.pdf> (Accessed: June 19th, 2013).

Mode-2: Consumption abroad

Nationals of A country have moved abroad as tourists, students, patients to consume the respective services.²⁰²

Mode-3: Commercial presence

The service is provided within a country by a locally established affiliate, subsidiary or office of a foreign owned.²⁰³

Mode-4: Movement of foreign persons

A foreign national provides services within a country as an independent supplier or employee of a Foreign Service firm.²⁰⁴ Objectives and strategies of a firm, magnitude and pattern of their production depends on challenges and opportunities offered by different types of country.²⁰⁵

2.6.5 Scope and Application

Article 1.1 of GATS states that the agreement shall apply to measures taken by members relating to trade in services irrespective of the affect that whether it is taken at central, regional or local government level by exercising delegated powers.²⁰⁶ It also covers any measures taken in the form of law, regulation, rule, procedure, decision or any other form in respect of purchase, payment or use of a service.²⁰⁷ It is important to educate the staff at every level about the basic concept of GATS so that agreement is applied in its true sense and to negotiate affectively with trading partners. In order to fulfill their commitments WTO member countries generally views a system comprised of 12 core service sectors. Business services, communication services, construction and related engineering services, distribution services, educational services, environmental services, financial services, health related and social services, tourism and travel related services, recreational, cultural and sporting services, transport services. These sectors are further divided into 160 subsectors. In this arrangement any service sector or segments may be included in schedule of commitments of a member with specific market access and

²⁰¹ http://www.unescap.org/tid/projects/gats10_tis.pdf (accessed: June 21st, 2014).

²⁰² Ibid.

²⁰³ Ibid.

²⁰⁴ Ibid.

²⁰⁵ <http://www.investmentsandincome.com/investments/oli-paradigm.html> (Accessed: May 9th 2013)

²⁰⁶ http://www.wto.org/english/tratop_e/serv_e/gsintr_e.pdf (Accessed: February 14th, 2014).

²⁰⁷ Ibid.

national treatment obligations.²⁰⁸ Each WTO Member has to submit a schedule as required by the Agreement's otherwise comprehensive coverage. Under the GATS on Air Transport Services, measures which affect repair of aircraft and maintenance services, the marketing of air transport services, and computer reservation system (CRS) services have been included.²⁰⁹ Measures which affect air traffic rights and related services are excluded which are reviewed from time to time. Another blanket exemption applies to "services supplied in the exercise of governmental authority." The definition specifies that these services are "supplied neither on a commercial basis, nor in competition with one or more service suppliers". The examples may include police, fire protection, monetary policy operations, mandatory social security systems, and tax and customs administration.

2.6.6 General Transparency and Other "Good Governance" Obligations

Information about relevant rules and regulations is required for effective implementation and operation of an Agreement.²¹⁰ Article III ensures that Members publish on time all measures pertaining to or affecting the operation of GATS.²¹¹ Moreover, there is an obligation to report to the Council for Trade in Services at least once in a year of all legal or regulatory changes that considerably affect trade in sectors where explicit commitments have been made.²¹² Members are also required to set up enquiry points which provide specific information to other Members on their request.²¹³ However, there is no obligation to disclose confidential information. Given strong government involvement in many service markets as a regulator and sometimes also as a participant, the Agreement seeks to ensure the smooth operation of relevant policy schemes.²¹⁴ In those sectors each Member is required to ensure those commitments that measures of general application are impartially and in a reasonable and objective manner.²¹⁵ Article six provides that Service suppliers in all sectors could approach national tribunals or procedures in order to challenge administrative affecting services trade.²¹⁶

²⁰⁸ Ibid.

²⁰⁹ Ibid.

²¹⁰ http://www.unescap.org/tid/projects/gats10_tis.pdf (accessed: June 21st, 2014).

²¹¹ Ibid.

²¹² http://www.wto.org/english/tratop_e/serv_e/gsintr_e.pdf (accessed: February 14th, 2014).

²¹³ Ibid.

²¹⁴ Ibid.

²¹⁵ Ibid.

²¹⁶ Ibid.

2.6.7 Most-Favored-Nation Treatment

The most-favored-nation (MFN) principle is a foundation stone of multilateral trading system noticed after World War 2.²¹⁷ It needs to replace the frictions and distortions of power-based policies by giving guarantees of a rules-based framework where trading rights do not depend on the individual participant's economic or political influence.²¹⁸ The best admittance conditions that have been accepted by one country shall automatically be extended to all other participants in the system.²¹⁹ It gives benefit without negotiating effort, from concessions that may have been agreed between large trading partners with much negotiating influence. In the context of GATS, the MFN obligation is applicable to any measure that affects trade in services in any sector falling under the Agreement, whether specific commitments have been undertaken or not.²²⁰ At the time of entry into force the Agreement, exemptions could be sought. They are contained in country-specific lists, and their duration is within ten years.²²¹

2.6.8 Conditional Granting of Market Access and National Treatment

GATS is a flexible agreement which allows each other Member to adjust the conditions of maker country and participation to its sector-specific objectives and constraints.²²² Market Access and National Treatment- are legal obligations which are relevant in this context. Members are free to choose the sectors, and list them in their schedules of commitments, in which they assume such obligations with regard to four modes of supply.²²³ In order to reserve the right to operate measures inconsistent with full market access and/or national treatment, limitations can be attached to the commitments. Market access provisions of GATS have been laid down in Article XVI. It covers six types of restrictions that must not be maintained in the absence of limitations.²²⁴ The restrictions relate to:-

- (a) the number of service suppliers

²¹⁷http://classofl.com/homework_answers/economics/international_economics/preferential_trade_agreement/most_favored_nation/ (accessed: January. 11th 2014).

²¹⁸ Ibid.

²¹⁹ Ibid.

²²⁰http://www.wto.org/english/tratop_e/serv_e/gsintr_e.pdf (accessed: February 14th, 2014).

²²¹ Ibid.

²²² Ibid.

²²³ Ibid.

²²⁴ Ibid.

- (b) the value of service transactions or assets
- (c) the number of operations or quantity of output
- (d) the number of natural persons supplying a service
- (e) the type of legal entity or joint venture
- (f) the participations of foreign capital²²⁵

These measures, except for (e) and (f), are not necessarily discriminatory, i.e. they may affect national as well as foreign services or service suppliers.²²⁶ The operation of the quota-type measures falling under (a) to (d) may be made dependent on an economic needs tests (ENT). National treatment implies the absence of all discriminatory measures that may change the conditions of competition harmful to foreign services or service suppliers.²²⁷ Limitations may provide cover for inconsistent measures, such as discriminatory subsidies and tax measures, residency requirements, etc. It is for the individual Member to ensure that all potentially relevant measures are listed.²²⁸ Example of frequently scheduled national treatment obligation applies regardless of whether or not foreign services and suppliers are treated in a formally identical way to their national counterpart.²²⁹ In every situation they are to be granted equal opportunities to compete. The purpose of commitments, comparable to tariff concessions under GATT, is to ensure stability and predictability of trading conditions. However, commitments are not a channel. They may be renegotiated in exchange for compensation of affected trading partners.²³⁰ There are special provisions that allow for flexible responses, despite existing commitments, in specified circumstances. Article XIV, provides that Members may take measures necessary for certain overriding policy concerns, which includes the protection of public morals or the protection of humans, animal or plant life or health.²³¹ However, such measures must not lead to unjustifiable discrimination or constitute a disguised restriction to trade. If essential security interests are at stake, Article XIV provides the cover. Article XII allows for the introduction of temporary restrictions to safeguard the balance-of-payments; and a so-called prudential established financial services permits

²²⁵ Ibid.

²²⁶ Ibid.

²²⁷ Ibid.

²²⁸ Ibid.

²²⁹ Ibid.

²³⁰ Ibid.

²³¹ Ibid.

Members to take measures in order, beside others, to ensure the integrity and stability of their financial system. Commitments must not necessarily be complied with from the date of entry into force of a schedule.²³² Rather, Members may specify in relevant parts of their schedule a timeframe for implementation which is as legally valid as any other commitment.²³³

2.7. Main Building Blocks; Annexes and Schedules

2.7.1 Unconditional General Obligations

Each Member has to observe certain general obligations that apply irrespective of the existence of specific commitments.²³⁴ These include MFN treatment, some basic transparency provisions, the availability of legal remedies, compliance of monopolies and exclusive provides with the MFN obligation, consultations on business practices, and consultations on subsidies that affect trade. In several cases, the same Article contains both unconditional and conditional obligations.²³⁵ As already mentioned before, the MFN principle applies on all sectors and on all Members. However, there is a possibility for Members, at the time of entry into force of the Agreement, to seek exemptions not exceeding a period of ten years in principle.²³⁶ Some 90 Members currently maintain such exemptions, which are mostly intended to cover trade preferences on a sectoral or modal basis between two or more Members.²³⁷ The sectors mainly concerned are road transport and audiovisual services, followed by maritime transport and banking services.²³⁸ The Annex on Article II Exemptions provides for a review of all existing measures that had been granted for periods of more than five years.²³⁹ The review is intended to examine whether the conditions that led to the creation of the exemptions still prevail. So far three reviews have been conducted, and the fourth one will be launched till the end of 2016. More importantly, the Annex also requires that MFN exemptions be brought under discussion in any subsequent trade round. Concerning the current Round, the Hong Kong Ministerial Declaration of December 2005 commits Members to removing or reducing

²³² Ibid.

²³³ Ibid.

²³⁴ Ibid.

²³⁵ Ibid.

²³⁶ Ibid.

²³⁷ Ibid.

²³⁸ Ibid.

²³⁹ Ibid.

their exemptions substantially and to clarifying the scope and duration of remaining measures.²⁴⁰

Article III deals with transparency says that each Member is required to immediately publish all relevant actions of general nature which affect the operation of Agreement. Members must also notify the Council for Trade in Services of new or changed laws, regulations or administrative guidelines that considerably affect trade in sectors subject to Specific Commitments.²⁴¹ These transparency obligations are particularly relevant in the services area where the role of regulation tends to feature more prominently than in most other segments of the economy.²⁴² Members also have a general obligation to establish an enquiry point to respond to requests from other Members. Moreover, as per Article IV:2, developed countries have to establish contact points to which developing country service suppliers can approach for relevant information.²⁴³

2.7.2 Domestic Regulation

Under Article VI: 2, Members are dedicated to operating domestic mechanisms such as “judicial, arbitral or administrative tribunals or procedures” where individual service suppliers may seek legal redress.²⁴⁴ At the request of an affected supplier, these mechanisms should provide for the “prompt review of, and where justified, appropriate remedies for, administrative decisions affecting trade in service”.

2.7.3 Monopolies

Article IX refers to business practices other than those falling under the monopoly-related provisions that restrain competition which in turn restrict trade.²⁴⁵ This Article requires each Member to consult on request with any other Member, aiming to eliminating such practices.²⁴⁶

²⁴⁰ Ibid.

²⁴¹ Ibid.

²⁴² Ibid.

²⁴³ Ibid.

²⁴⁴ Ibid.

²⁴⁵ <http://www.itd.chula.ac.th/GATS%20Intro.doc> (accessed: March 23rd, 2013).

²⁴⁶ Ibid.

2.7.4 Business Practices

Article IX deals with business practices other than those falling under the monopoly-related provisions of Article VIII that restrain competition which restrict trade. This Article requires each Member to consult with any other Member, upon request, with a view to eliminating such practices.²⁴⁷

2.7.5 Subsidies

Members that consider themselves unfavorably affected by subsidies granted by another Member may request consultations. The latter Member is called upon to give “sympathetic consideration” to such requests.²⁴⁸

2.7.6 Conditional General Obligations

A second type of general obligations applies only to sectors listed in a Member’s schedule of commitments.²⁴⁹

2.7.7 Domestic Regulation

As per Article VI: 1, measures of general applications are to be taken in a reasonable, objective and impartial manner if the supply of a scheduled service is subject to approval.²⁵⁰ As per article six, Members are required to decide applications within reasonable time.²⁵¹ Article VI:5 seeks to ensure that specific commitments such as licensing and qualification requirements, are not nullified or impaired through regulatory requirements that are not based on objective and transparent criteria is more harsh than necessary to ensure quality.²⁵² The scope of these provisions is limited. Article VI:4 lays emphasis on negotiations to be conducted on any necessary disciplines that, taking care of the above considerations, would prevent domestic regulations from creating unnecessary barriers to trade.²⁵³ These negotiations, which were launched after the completion of the

²⁴⁷ Ibid.

²⁴⁸ Ibid.

²⁴⁹ Ibid.

²⁵⁰ <http://wtocentre.iift.ac.in/CBP/Module%20for%20States%20and%20International%20Trade%20in%20Services%20PPT-Dr.pdf> (accessed: January 9th, 2015).

²⁵¹ Ibid.

²⁵² Ibid.

²⁵³ http://www.wto.org/english/tratop_e/serv_e/gsintr_e.pdf (accessed: February 14th, 2014).

Uruguay Round, have since been integrated into the services negotiations under the DDA.²⁵⁴

Article VI: require the members that have undertaken commitments on professional services to devise procedures to validate the expertise of professionals of other Members.²⁵⁵

2.7.8 Monopolies

The GATS in itself does not bar the existence of monopolies or exclusive service suppliers. However, as noted above, government mandated monopolies or exclusive arrangements are subject to unconditional MFN obligation.²⁵⁶ As per Article VIII:2, if the supplies are active in sectors beyond the scope of their monopoly rights and covered by specific commitments, then members are required to prevent them from abusing their position and act inconsistently with these commitments.²⁵⁷ Moreover, Article VIII:4 requires Members that if the relevant sector is subject to specific commitments then to report the formation of new monopolies to the Council for Trade in Services.

2.7.9 Payments and Transfers

As per Article XI of GATS, Members are required to allow international transfers and payments for current transactions relating to specific commitments. It also provides that the rights and obligations of IMF Members be also not affected subject to the proviso that capital transactions are not restricted inconsistently with specific commitments, except under Article XII or at the request of the Fund.²⁵⁸ Members are also able to restrict capital movements in sectors where they have undertaken specific commitments on cross-border trade and commercial presence.²⁵⁹

2.7.10 Specific Commitments

Each Member country is bound not only to fulfill all the obligations of the agreement but also abide by specific commitments relating to market access and national

²⁵⁴ Ibid.

²⁵⁵ Ibid.

²⁵⁶ Ibid.

²⁵⁷ Ibid.

²⁵⁸ Ibid.

²⁵⁹ Ibid.

treatment in specified sectors. The relevant sectors as well as any deviation from the relevant obligations of Articles XVI and XVII are to be specified in the Member's Schedule of Commitments.²⁶⁰ Article XVI (Market Access) and XVII (National Treatment) bound the members to give equal treatment to foreign services and service suppliers as provided for in the relevant columns of their schedule.²⁶¹ The commitments made thus guarantees minimum level of treatment, but do not restrict Members from being more open in practice. The requirements of MFN must be respected.²⁶² It may be difficult to understand at first sight that why the principle of national treatment under the GATS has a limited scope and confined to scheduled services and subject to possible limitations as compared to GATT where it applies across the board.²⁶³ Basic reason is the particular nature of trade of services. Universal national treatment for goods does not necessarily suggest it a free trade. Imports can even then be controlled by imposing tariffs which, in turn, may be bound in the country's tariff schedule. By contrast, given the impossibility of operating tariff-type measures across large segments of services trade, the general extension of national treatment could in practice be equivalent to providing free access.²⁶⁴ Almost no Member may be ready to fully liberalize services trade across all sectors and modes of supply. Members may also undertake additional commitments with respect to measures not falling under the market access and national treatment provisions of the telecommunications sector where they have been used by some seventy Members to incorporate into their schedules certain competition and regulatory .²⁶⁵ These disciplines are laid out in a Reference Paper, which was formed by an informal group of Members during the extended negotiations in this sector.

Article XX requires each Member to submit a schedule of commitments, but it does not recommend the sector scope or level of liberalization.²⁶⁶ Thus, while some Members have restricted their commitments to less than a handful of sectors, others have listed several dozen. Further, the Article specifies some main elements to be covered in each Member's schedule.²⁶⁷ It also provides that the schedules from "an integral part" of

²⁶⁰ Ibid.

²⁶¹ Ibid.

²⁶² Ibid.

²⁶³ Ibid.

²⁶⁴ Ibid.

²⁶⁵ Ibid.

²⁶⁶ Ibid.

²⁶⁷ Ibid.

the GATS itself exclusively arrangements are subject to the unconditional MFN obligations. Under Article VIII:2, Members are required to prevent such suppliers, if these are also active in sectors beyond the scope of their monopoly rights and covered by specific commitments, from abusing their position and act variably with these commitments.²⁶⁸

²⁶⁸ Ibid.

Chapter 3

3.1 PAKISTANI LAWS

Pakistan has designed its trade policy in a manner to make it attractive for the foreign investors by opening the economy and marketing the potential for direct foreign investment. In earlier days only manufacturing sector was an avenue for foreign investors interested in investing in Pakistan.

3.1.1 Background

The first step towards liberalization of trade policy and foreign investment in Pakistan was taken in 1984 when industrial policy was announced giving unequal plank to the public and private sectors.²⁶⁹

Foreign private investment was encouraged in the form of joint equity participation with local investor and in areas where advanced technology, managerial and technical skills, marketing expertise were needed. An adequate legal framework for foreign investment was provided through the foreign private investment act (Promotion and Protection act) 1976. The act also guaranteed the remittance of profit and capital, and the appreciation of agreements on the avoidance of double taxation. However, Pakistan began to actually open its economy and policies towards the ends of 1980s. A new industrial policy package was introduced in 1989 recognizing the whole and importance of private sector. A number of regulator measures were taken to improve the business environment.²⁷⁰

Board of investment (BOI) was set up to help generate opportunities for investment and provide services.²⁷¹ It is one window facility which helps to establish new industries. To facilitate foreign investment, Pakistan has signed bilateral agreement on the promotion and protection of investment with 46 countries.²⁷² Horizontal investment connotes investment in the same industry abroad as a firm operates at home. Horizontal investment arises when

²⁶⁹PravakarSahoo, *Foreign Direct Investment in South Asia: Policy, Trends, Impact and Determinants* (Tokyo: Asian Development Bank Institute, 2006), 12.

²⁷⁰Ibid.

²⁷¹Ibid.

²⁷²Ibid.

a firm duplicates its home country based activities at the same value chain stage in a host country through foreign investment.²⁷³

3.1.2 Legal and Regulatory Environment

In November, 1997 Govt. of Pakistan has announced the new investment policy which included major policy initiative to attract foreign investment. It was opened to sectors including services and agriculture and constitutes three fourth of GNP.²⁷⁴ The main objective of the policy to enhance the foreign trade in the field of industrial base expansion, infrastructure and software development, electronics, engineering, agro food, value added textile items, tourism and construction industry.²⁷⁵ Analyst in an analysis²⁷⁶ of 84 countries conducted for a period of 30 (1970-1999) years found that foreign investment effects directly and indirectly through its interaction with human capital. In a data of sample of eighteen Latin American countries for a period from 1970-1999, Binguet²⁷⁷ in (2003) found that foreign investment affects economy positively. Borensztein²⁷⁸ in (1998) found similar results in across six countries regression framework from 1970-1989 that inward investment has positive effects on economy through its interaction with human capital. Foreign investment on a reparable justice is also allowed in agriculture, services, infrastructure and social sector subject to the following conditions:

- a) The basis of joint venture is 60:40
- b) Foreign equity will be at least 1 million dollar
- c) Foreign companies registered in Pakistan will be allowed to invest and for social sector and infrastructure projects the joint requirement is waved and 100% foreign investment is allowed.

Foreign investors are allowed to hold up to 100% equity of industrial projects without any permission from the Government except in certain fields such as;

- 1) Arms and ammunition

²⁷³ "What is Foreign Direct Investment, Horizontal and Vertical Knowledge Base". <http://www.Guidewhois.com> (Accessed: 17.05.2013)

²⁷⁴ Ibid.

²⁷⁵ Ibid.

²⁷⁶ Li, X. & Liu, X., "Foreign direct investment and economic growth: An increasingly endogenous relationship." *World Development*, 33, (2005) 393-407.

²⁷⁷ Bengoa, M. & Sanchez-Robles, B., "Foreign direct investment, economic freedom and growth: New evidence from Latin America." *European Journal of Political Economy* 19(3), (2003) 529-545.

²⁷⁸ Borensztein, E., De Gregorio, J. & Lee, J.W. "How does foreign direct investment affect economic growth?" *Journal of International Economics*, 45, (1998) 115-135.

- 2) High explosive
- 3) Radioactive substance
- 4) Security printing, currency and mint
- 5) Alcoholic beverage and liquors.²⁷⁹

Foreign investment at 100% equity on a repatriable basis is allowed in the service, infrastructure, social and agricultural sector subject to certain conditions that the company shall register with the security and exchange commission of Pakistan (SECP) and also intimation to the State Bank of Pakistan.²⁸⁰

Since 1997, tariff and tax incentives have been given to the foreign investors. Remittances of royalty, technical and franchise fee, capital, profits and dividends are allowed. Foreign investment is fully protected through foreign investment (promotion and protection) act 1976, protection of economic reforms act 1992 and foreign currency accounts (protection) ordinance 2001.²⁸¹

In the manufacturing sector, custom duty on imported raw material used introducing for export is zero percent, while custom duty of 5% is charged on import of plants, machinery and equipments not locally manufactured. Import of raw material, sub-component for the manufacture of plants for sugar, cement, power, chemical, fertilizer, oil and gas is free. In all these sectors sale tax is zero. Govt. of Pakistan has signed an agreement to avoid double taxation with 52 countries including developed countries.²⁸²

3.2 Anti-Dumping Ordinance 2000

This ordinance was promulgated in the year 2002 which impose anti-dumping duties on the products which are imported into Pakistan and their price is less than the value of the same product in the country of origin. In this way an injury is caused to the domestic country. The question arises that how injury caused to the domestic industry is evaluated. It is an objective examination of all relevant factors, three of which are;

²⁷⁹ Ibid.

²⁸⁰ Ibid.

²⁸¹ Ibid., 13.

²⁸² Ibid.

- i. Volume of dumped imports
- ii. Effect of dumped import on prices in domestic market for like products
- iii. Consequent impact of dumped goods imposed on domestic producer of such products.²⁸³

There may be some other factors and the same are to be evaluated by the national tariff commission. The examination of impact of dumped goods is to be made by investigation conducted by the commission of all relevant factors. It includes having a bearing on the state of domestic industry, including but not limited to

- i) actual and potential decline in sales, profits, outputs, market shares, productivity, return of investment or utilization of capacity²⁸⁴
 - ii) factors effecting domestic prices²⁸⁵
 - iii) magnitude of dumping margin²⁸⁶
 - iv) Actual and potential negative effect on cash flows, inventories, employment, wages, growth, ability to raise capital investment.²⁸⁷
2. This ordinance enumerates the procedure for making an application about imposition of hunting dumping duties on the products imported before the commission. There are certain important factors which are required to be considered before any such application for imposition of duty is initiated. These are:-
3. A domestic industry can make an application only if it is supported by those domestic producer whose collective output is more than 50% of the total production of a domestic similar product produced by that portion of the domestic industry expressing either support for or opposition to the application.²⁸⁸
4. If a domestic producer supporting an application produces less than 25% of the total production of a domestic similar product produced by domestic industry then no investigation shall be started.²⁸⁹

²⁸³ http://www.biojudiciary.org/resources/pdf/098_GATT.pdf (accessed: June 23rd, 2013).

²⁸⁴ Article 17 (1) (a) of the Anti Dumping Duties Act Ordinance 2001.

²⁸⁵ *Ibid.*, b.

²⁸⁶ *Ibid.*, c.

²⁸⁷ *Ibid.*, d.

²⁸⁸ *Ibid.*, Article 24 (1).

²⁸⁹ *Ibid.*, Article 24 (2).

An investigation by the national tariff commission shall only be started when a written application is filed by or on behalf of domestic industry.²⁹⁰ This application shall be submitted to the commission which should be on prescribed form and given a number accompanied with the prescribed fee.²⁹¹ This should include evidence available to the applicant of dumping and injury within the meaning of this ordinance.²⁹² The application may contain any further information as required. If there is no sufficient evidence of either dumping or of any injury to initiate any investigation the commission has the authority to reject the application.²⁹³ If the commission is satisfied that an application has been made by or on behalf of domestic industry in the prescribed manner and prima-facie there is sufficient material about dumping and injury as defined in this ordinance then the commission shall initiate the investigation. On the other hand, if the commission is not satisfied to initiate any investigation it shall report the reasons to the applicants for not doing so. The commission shall also inform about its decision to the country exporting goods. The national tariff commission has a prescribed form on which this application could be made. It requires detailed information so that investigation could be initiated without any doubt. The commission may initiate an investigation at its own if it has sufficient material and evidence of dumping an injury to justify the initiation of proceedings. In case commission decides to make an investigation it has to give notice to all concerned which includes exporters, importers and any other representative of either exporting country or of any association etc. the commission is also required to publish a notice in the official gazette and at-least in one daily newspaper of Urdu and English country wide circulation.²⁹⁴ The commission is required to conclude the investigation within a period of 12-months and in case special circumstances the period can be extend to 18-months from the date of intimation. Any proceedings conducted by the commission shall not stop the custom authorities from their proceedings. The commission is supposed to make tentative assessment of determination of dumping and injury not before 60-days and not later than 180 days after the start of investigation. On the basis of this preliminary investigation stop gap arrangements can be made by the commission not earlier than 60-days from the date of start of investigation. These provisional measures which have been

²⁹⁰Ibid., Article 25.

²⁹¹Ibid., Article 20 (2) (a).

²⁹²Ibid., Article 20 (2) (b).

²⁹³Ibid., Article 23 (2).

²⁹⁴Ibid., Article 27 (1) (b).

applied shall not accede more than 4-months. In case on the request of exporter the commission can extend the time of application of this period that shall not accede six months. If the commission finds that dumping margin is very low of volume of dumped goods imported is very less then it shall stop the investigation. If the dumping margin is less than 2% of the percentage of export price or if the volume is less than 3% of total imports of the like products then it is considered as negligible. In cases in which the commission has made a positive initial determination of dumping and injury it may suspend or cancel an investigation without imposition of anti dumping duties when it receives satisfactory price of undertaking from an exporter to revise its price or receipt of area of exporter price.

Anti dumping duties shall be imposed and collected in the following ways:-

- 1) It may take the form of ad valorem or specific duties.
- 2) It may be imposed in addition to other duties levy on the product.
- 3) It is to be collected in the same manner as a custom duty as provided in the Customs Act 1969.
- 4) It can be imposed and collected on a non-discriminatory basis on imports of such products from all sources found to be done and causing injury.

So far as the refund of anti-dumping duties paid by the party which exceeds to the dumping margin then the party/exporter shall be refunded the actual amount of anti-dumping duty collected. The anti-dumping duties shall be refunded within a period of 12-months which shall not exceed 18-months. Any of the interested party can file an appeal to the appellate tribunal against any order of the commission regarding positive or negative final decision.

3.3 Agreement on Trade-Related Investment Measures (TRIMS)

It was felt that articles of GATT 1994 which relates to the restriction on trade and distorting effect of investment measures, further provisions that may be necessary to avoid adverse effects on trade were felt to be taken. In order to increase the economic growth of trade partnership it was desired to promote expansion and liberalize the world trade to facilitate the investment across the globe through free competition. In this regard care has been taken to the entry of trade, developed and financial needs of developing country

members especially least developed members. It has been kept in view that certain investment measures can create restrictions and has distorting effects. The measures on which country members have accorded is known as “agreement on trade related investment measures”. It comprises of nine articles and it is discussed as follows:

So far as the coverage of this agreement is concerned it applies to investment measures taken for trade in goods²⁹⁵ only. It has been made binding on the members countries that they shall not apply any condition which is inconsistent with GATT agreement 1994.²⁹⁶ All exceptions under general agreement on trade and tariff shall apply as appropriate to the provision of this agreement. Article 4 of this agreement brings little relaxation to the developed country members who shall be at liberty to deviate temporarily from the provision of article 2 to the extent and in such manner as provided in GATT 1994. The understanding on the balance of payment provision of GATT 1994 and the declaration on trade measures taken for balance of payment purposes permit the member to deviate from the provision of GATT 1994. The member countries within the period of 90-days coming in to force of WTO agreement shall notify the counsel for trade in goods of all trade related investment measures that are applying which are not in conformity with the provisions of this agreement. Such measures of general or specific obligations are to be notified along-with their main features.²⁹⁷ It is incumbent upon all developed country members that they shall eliminate all measures within a period of two years of entry into force of WTO agreement which are inconsistent with provisions of GATT 1994. In case of developing country members this period is five years and for least developed country members within seven years. In case of developing country members and least developed country members if they state any specific difficulties in implementing the provisions of this agreement then the counsel for trade in goods can extend a transition period for the elimination of measures which are inconsistent with the provision of GATT 1994.²⁹⁸ While considering the request, counsel shall keep in view the development, financial and trade needs of the members applying for the concession. A member country shall not modify terms of any trade related measures during the transition period from those

²⁹⁵http://trade.ec.europa.eu/doclib/docs/2008/december/tradoc_141703.pdf (accessed: January 29th, 2015).

²⁹⁶Martha Lara De Sterlini, "The Agreement on Trade-Related Investment Measures," In *The World Trade Organization: Legal, Economic and Political Analysis*, Springer US (2005): 437-483.

²⁹⁷http://www.jeanmonnetprogram.org/courses/wto/docs/Primary_Sources.pdf (accessed: August 25th, 2014).

²⁹⁸http://www.biojudiciary.org/resources/pdf/098_GATT.pdf (accessed: June 23rd, 2013).

prevailing at the time of entry into force of WTO agreement. This is to increase the degree of consistency with the provision of national treatment and quantitative restrictions. Trade related investment measure provides less than 180-days before the date of entry into force of WTO agreement which shall not benefit from the transitional arrangement.²⁹⁹

To safeguard the interest of established organization who are bound by TRIMS, the member country is restricted to apply during the transition period the same measure to continue investment profit

- i. where the products of said investment are like products of those of established companies and committee
- ii. where it is necessary to avoid distorting conditions of competition between the new investment and the established companies.³⁰⁰

Trade relating measures applied to the new investment are required to be notified to the counsel and its term shall be equivalent to his competitive effect to those applicable to established companies and its time of transition shall be the same. Investment measures applied under the discretionary authority shall be notified and the information which can prejudice the rights of the company is not supposed to be brought to public. Transparency is also one of the object of TRIMS and as per in the article of GATT 1994. Each member country is bound to notify its secretariat of publication in which investment measures may be found which includes those applied original and legal government within their limits. Each member is bound to give kind consideration to the requests received for information and is bound to give sufficient opportunity for consultation on any point raised from this agreement by any other member.³⁰¹ As per article 10 of GATT 1994 a member is not supposed to disclose the information which could cause harm or against the interest of company and its legitimate rights. Article 7 of agreement deals with the establishment of committee of TRIMS which is open to its members. The committee shall select its own chairman and vice chairman and it shall hold its meetings more than once in a year and

²⁹⁹ Ibid.

³⁰⁰ Ibid.

³⁰¹ Ibid.

also on the request of any member state.³⁰² The committee shall perform its duties given to it by the counsel for trade in goods and shall give an opportunity to the members to consult any matter relating to the operation and implementation of this agreement.³⁰³ It shall be monitored by the committee itself and its report shall be submitted to the counsel for trade in goods.³⁰⁴ Provision of article XXII and XXIII of GATT 1994 relates to dispute settlement understanding shall also apply under this agreement. Within a period of five years after the date of entry into force of the WTO agreement, the counsel for trade in goods shall review the marking of this agreement and where ever found appropriate shall purpose to the ministerial conference the amendments needed in the agreement.³⁰⁵ Meanwhile the counsel for trade in goods shall bring into consideration that the agreement should be complimented with provision of investment policy and competition policy.

It relates to the devaluation of articles of general agreement on trade tariff which relates to the restriction of trade and distorting effects of measures taken for investment. It says that negotiations should be elaborate and appropriate. It emphasizes that expansion and progress of trade all over the globe for facilitating the investment to increase the economic growth of all concerned. This is especially with reference to the member countries that are developing so as to create an environment of free competition. This Law emphasizes on a particular trade, development and economic needs of developing countries and especially for those members' countries which are leased developed. It has been recognized that certain measures for making investment can restrict the trade and cause distorting effects. This agreement as is evident from the name only relates to the trade in goods and TRIMS shall not be in consistence with any provisions of GATT 1994. In these types of agreements all exceptions under GATT 1994 shall apply as close as possible. However, for developing member country can deviate temporarily to the extent as provided in GATT 1994. It is required that within 90-days of the date of entry of WTO agreement the members shall submit to the council for trade in goods of all measures they are applying which are not in conformity with the provisions of this agreement.³⁰⁶ These general specific applications shall be notified along with their principle feature. Article-5

³⁰²http://www.biojudiciary.org/resources/pdf/098_GATT.pdf (accessed: June 23rd, 2013).

³⁰³<http://www.jus.uio.no/lm/wta.1994/landscape.pdf> (accessed: December 15th, 2014).

³⁰⁴http://www.biojudiciary.org/resources/pdf/098_GATT.pdf (accessed: June 23rd, 2013).

³⁰⁵ *Ibid.*

³⁰⁶http://www.jeanmonnetprogram.org/courses/wto/docs/Primary_Sources.pdf (accessed: August 25th 2014).

of TRIMS says that in case of developed member country shall remove those measures within a period of two years of the measures reported. If the member country is a developing nation the period is 5-years. In case the member country is least developed country the period is 7-years. The council for trade in goods can extend this period for the removal of measures on the request of developing member country. This facility is also available to least developed member country but it should mention the particular problems in implementing the provisions of this agreement. While taking in to consideration such a request the council shall take into consideration the individual development, financial and trade needs of the member country. A member country cannot modify the terms of any TRIMS during the period of transition which has already been reported to the council from those terms which were prevailing at the time of entry into force of the WTO agreement.³⁰⁷ A member country may apply during the transition period the same measures to a new investment subject to the condition that

- i. where the products of such investment are the similar products to those of the established enterprise and
- ii. To avoid distorting the conditions of competition in between the new and established investment.³⁰⁸

The measures taken in the new investment shall be notified to the council for trade in goods and its terms shall be equal to those applicable to the established enterprise and shall also for the same period. Transparency is the basic obligation of member countries of the TRIMS as mentioned in article-10 of GATT 1994. The member country is required to announce the secretariat of the publications in which those measures may be found. It also includes those applied by regional and local governments. The member countries are expected to a kind consideration to the requests and opportunities for consultation on any matter merging from this agreement and have been raised by another member.³⁰⁹ As required in GATT 1994 the member country shall not disclose any information which may cause prejudice and against the publications interest and rights, interest of others. A committee on trade related investment measures have also been established which is open

³⁰⁷ http://www.biojudiciary.org/resources/pdf/098_GATT.pdf (accessed: June 23rd, 2013).

³⁰⁸ Ibid.

³⁰⁹ Ibid.

for all members.³¹⁰ This committee shall elect its chairperson and others and is required to hold a session not less than once in year. If the member country made a request the committee shall meet on its request. It shall carry on its responsibilities given to it by the council for trade in goods. All the members are given an opportunity to bring in any matter relating to operation and implementation of the agreement which shall be monitored by the committee and report shall be submitted to the council for trade in goods annually.³¹¹ Within a period of five years as provided in article-9 after the date of entry into force of the WTO agreement the council for trade in goods shall review the operation as deemed appropriate.³¹² It shall submit to the ministerial conference the proposed amendments in the tax. For this review the council for trade in goods shall see whether the agreement should be complemented with the provisions on investment policy and competition policy.

3.4 Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIP)

1. This agreement comprise of 73-articles in total and it came into being to lessen the distortions and impediments to international trade keeping in view to promote and give protection to intellectual property right.³¹³ It was also in view that the measures and procedures to implement intellectual property right do not become a barrier themselves in the way of the legal trade. A need was felt to form new rules and discipline relating to the application of basic principles of GATT 1994 and other related international intellectual property agreements.³¹⁴
2. The provision of maintenance of standards and principles regarding availability, scope and trade related intellectual property right.³¹⁵
3. The provision of effective and proper means for trade related intellectual property right. Keeping in view the national legal system.³¹⁶
4. To provide effective and speedy procedures for the multilateral prevention and settlement of disputes between Government.³¹⁷

³¹⁰<http://www.jus.uio.no/lm/wta.1994/landscape.pdf> (accessed: December 15th, 2014).

³¹¹<http://www.austlii.edu.au/au/other/dfat/treaties/1995/8.html> (accessed: January 19th, 2015).

³¹²http://www.biojudiciary.org/resources/pdf/098_GATT.pdf (accessed: June 23rd, 2013).

³¹³http://www.ide.go.jp/English/Publish/De/pdf/01_01_02.pdf (accessed: July 17th, 2013).

³¹⁴http://www.jeanmonnetprogram.org/courses/wto/docs/Primary_Sources.pdf (accessed: August 25th, 2014).

³¹⁵ Ibid.

³¹⁶ Ibid.

³¹⁷ Ibid.

5. Transitional arrangements keeping in view the results of negotiations.³¹⁸

This agreement has been devised keeping in view the need for the multilateral frame work of principles, rules and disciplines dealing with international trade in counterfeit goods.

Recognizing;

- a. The intellectual property right as a private right;³¹⁹
- b. The underline public policy objectives of national system for the protection of intellectual property including developmental and technological objectives;³²⁰
- c. The special needs have leased developed member countries with reference to maximum flexibility in the domestic implementation of laws and regulations in order to enable them to create a sound and viable technological base. The importance of reducing reduction reaching strengthened commitment to resolve disputes on trade related intellectual property issues through multilateral procedure.³²¹ A desire has been shown established a mutually supportive relationship between world trade organization³²² and world intellectual property organizations (WIPO) as well as other relevant intellectual organization have agreed to give effect to the provisions of this agreement. The member countries are expected to but are not bound to give more protection in their laws as is required by this agreement but it should not contravene the provisions of this agreement. Member states are free to devise the suitable mode of implementing the provision of this agreement within their own legal system. For the purpose of this agreement the term intellectual property covers all types of intellectual property. The member countries shall give treatment to the nationals of other member countries has those are natural and legal persons that would meet the criteria for eligibility for protection the embarrass convention, burn convention and wrong convention. The member countries shall not derogate from the provisions of Paris convention, Bern convention,

³¹⁸ Ibid.

³¹⁹ Preamble of Agreement on Trade-Related Aspects of Intellectual Property Rights.

³²⁰ Ibid.

³²¹ Ibid.

³²² Ibid.

and Wrong convention. Paris convention deals with the protection of industrial property. Bern convention deals with the protection of literary and artistic work. Wrong convention refers to international convention for the protection of performer, producers and broadcasting organization. Article 3 of these agreement states that each member country shall give equal treatment to the nationals of other members whom it gives to its own national with reference to protection of intellectual property and it is called national treatment. Article 4 describes the most favored nation's treatment. It is with reference to protection of intellectual property and any advantage, favor, privilege granted a member country to the nationals of any other member country shall be given immediately and without any condition to the nationals of all other members subject to the following exceptions:-

Any advantage, favor, privilege or humanity accorded by member

- a) Deriving from international agreement on judicial assistance or law enforcement of a general nature.
- b) Granted in accordance with the provisions of Bern convention, wrong convention authorizes the treatment given the function not a national treatment but after treatment accorded in another country.
- c) Rights related to the performer, producers, broadcasters etc.
- d) Deriving from international agreement related to the intellectual property which entered into force prior to entry in to force of WTO agreement.

TRIPS has been divided into seven parts each of which deals with separate heading and they are further sub-divided into sections and then sections are comprised of several articles describing the detail of each heading.

Chapter 4

4.1 Strategic Elements in Export Development

Role of trade policy is to put the country on the road to get economic growth by way of exports. Problems like crises of energy, closure of business due to law and order situation, reduction in foreign investment due to war on terror in Pakistan have worsened the situation. Effects of war are many fold. In war there is loss of life, destruction of property, withdrawal of investment from business. It also damages the image of country which ultimately results in loss of foreign investment in business. The direct and indirect cost is in the sense that it becomes difficult to interact from business to business. Due to bad law and order situation and weak economic conditions demand of our products at international level is very limited. Sarkar (2007)³²³ and Kentor (2003)³²⁴ conducted a test on sample of 51 less developed countries (LDC). Sarkar test that if a country with higher foreign investment relative to its gross domestic capital formation grows at a faster rate. The panel regression shows a positive relation for a group of eleven countries who had high GDP per Capita and high trade dependence. The time series analysis of the individual countries shows a positive relation for ten countries and a negative relation in four. In the majority of cases there is no long term relation regardless of whether or not the country is rich or poor or is classified as closed or open. Our economy is passing through a recovery process. In the year 2008 -09 our economy undergone an economic downfall in our major export markets which are America and European Union. Demand of our products decreased internationally. Moreover slump in the international market also badly affected Pakistan. Exports from Pakistan decreased considerably. Whereas little decline was also seen in Imports. Major loss was caused in the sector of readymade Garments. Our exports of leather and goods made from it also dropped. Exports of rice increased considerably. Other goods also registered an increase. Main export items are light machinery, medical equipment, electric fans, sports goods etc. An increase in the export of jewelry is also seen. If we look at the performance of country during the last decade our share in the international market has dropped. Keeping in view the nature of product and geographical

³²³ Sarkar, P. "Does foreign direct investment promote growth? Panel data and time series evidence from less developed countries, 1970-2002." *Munich Personal RePEc Archive*. (Working Paper No. 5176.) (2007)

³²⁴ Kentor, J. & Boswell, T. "Foreign capital dependence and development: A new direction." *American Sociological Review*, 68, (2003) 301-313.

situation of the country a change has been seen during last few years in international trade. In the international market share of non-textile goods increased. On the other hand share of non-textile goods in the export of country dropped which was already low. Simultaneously the economies which are in our competition, have considerably improved their share in non-Textile sector. In international market the growth rate in clothing sector is higher than textile. Pakistan is maintaining its share to some extent but is not getting benefit in its true spirit from highly paid clothing sector. The government, in a true democratic spirit, took all stakeholders on board and has developed a mode to go all out to remain firm in difficult times. Through Trade Policy 2009- 12 it is aimed to put the country on the path of growth through exports.³²⁵ Purpose and goals of trade policy is to make progress in the field of export, reduce poverty and to provide employment to the general public. The policy is aimed to increase competition within the country to overcome the effect of international crisis with the help of steps taken by the company's management.

Pakistani companies overcome the effects of international economic crisis with the help of their policies and steps taken. Current trade policy was devised keeping in view a number of challenges.³²⁶ These challenges includes: Infrastructure insufficiency, mainly in energy sector. Slow improvement in technical week infrastructure contributed an increase of challenges. Low labor productivity, low levels of manufacturing value addition, little Foreign Direct Investment in manufacturing and exportable sectors, tax evasion, increased the costs of exports as compared to imports of product and geographical diversification in exports.³²⁷ We have to bring a change so that our companies export those products which are of high value and demand so that they could earn more in the international world. It could be done by;

First, by bringing a change in the whole structure such as in labor, capital, production processes and enhancement of export competitiveness with the help of textile policy.

Second, Center ought to be made in making new ventures and likewise on modernization of apparatus.

Third, development ought to be made in fare market with exchanging accomplices

³²⁵ <http://gapcpakistan.com/tradepolicy.php> (accessed: September 12th, 2014).

³²⁶ Ibid.

³²⁷ Ibid.

and likewise with those nations with whom organized commerce understandings have been marked.

Fourth, Trade in services should be promoted as they are now in demand.

Fifth, is to get on domestic trade change and advancement where key zones, for example, wholesale and retail exchange, space and warehousing, transport, regulatory domain, advancement of present day business and levy practices require quick consideration.³²⁸

Pakistan's continuing debt servicing squeezed out 10% of Gross Domestic Product (GDP) in 1996- 97. As a percentage of total revenues, we siphon off 75% of these revenues into total debt servicing payments. Total debt is now 95% of GDP. On the other hand, Pakistan's domestic savings have shrunk to only 11.5% of GDP which are not enough to finance the investment of even 19%. Consequently, in order to achieve GDP growth beyond 6% per annum reliance has to be placed on the inflow of FDI. The present Government has, therefore, decided to focus on investment, particularly FDI, as the center piece of strategy for economic development. The focus now is to rationalize the tariff structure with scientific cascading, to make the country competitive with other Asian countries through providing incentives for investment, to provide facilitation and a policy direction to broaden the canvas for FDI. The main thrust is on restoring the confidence of investors - and stimulating the FDI inflow by offering an open door policy and tapping the potential of all major economic sectors like Manufacturing, Service, Social and Agriculture, thus achieving the targets for investment and global competitiveness as well as improving the Debt/GDP ratio. Although priority has been attached to investment and liberalization of economy for accelerated industrialization during previous PML Government, yet there have been problems of inconsistency and implementation of Economic Policies in the past. During previous years, the policies have been mainly inconsistent and resorted to adhoc-ism, incentives were drastically cut and investor's confidence was shattered - which resulted in negative industrial growth. Among the developing countries China alone received \$ 42.3 billion. However, Pakistan's share was only \$ 0.9 billion, a major part of which is accounted for by power sector. To assess the overall investment environment of an economy, investment as percent of Gross Domestic Product (GDP) is a good indicator. According to a study carried by Business Monitor

³²⁸ Ibid.

International, UK, in respect of investment as percent of GDP (1995) of selected Asian Countries (Malaysia, Thailand, China, Indonesia, Sri Lanka, India, Philippines, Pakistan, Bangladesh) – China started a process of legal reforms in desire to open its market in accordance with its requirement for joining WTO.³²⁹ One of China's policies is of reducing control over state owned enterprises or business whose ownership is government dominated.³³⁰ Pakistan ranks as the second lowest which indicates that Pakistan could not fully achieve the objective of creating investor friendly environment in previous years. From the review of Policy Regime for FDI, it is observed that up till now, only manufacturing sector has been completely opened for foreign investment while other major contributing sectors to GDP are Service Sector including construction and Agriculture Sector have remained almost closed for foreign private investment except Hotels & Tourism, Private Sector Power Generation and Export & Import Trade . It is an established fact that Service Sector plays a vital role in rapid growth of Manufacturing Sector, and in many countries it has even acted as catalyst towards economic growth. The emerging investment scenario of the world demands further liberalization of the economy at a very fast track so that Pakistan should remain competitive in international market for attracting foreign investment. This would also meet the requirements of WTO in this regard. By opening up the service, Social and Agriculture Sectors, we can offer many more avenues for foreign investment. Foreign investors initially coming in such business may be convinced to make future investments in manufacturing, as well. To tap investment potential, it is strongly felt that a clear and open door policy guideline should be provided in this regard. Our government aims to bring the local capacity of production in conformity with the international supply chain. Government should coordinate and organize the skill up gradation programs in the priority sector and build up institutions of skill education.

Special attention should be given to women education so that we can move away from traditional and low value export products.³³¹ It has been proposed to establish a fund to give incentive for making some improvements in managing firm's capabilities in

³²⁹ Halverson, Karen, *China's WTO Accession: Economic, Legal and Political Implications*, 27 B.C. INT'L & COMP. L. REV. 319 (2006) (discussing the implications for change including the potential for political and economic liberalization or a backlash into reactionary nationalism);

K. Thomas Liaw, *Investment Banking & Investment Opportunities in China: A comprehensive Guide For Finance Professional* (2007) (highlighting the key changes mandated by WTO accession.)

³³⁰ Huang, *The New Takeover Regulation*, *supra* note 15, at 154-55.

³³¹ *Ibid.*

several sectors to take Pakistan higher on the ladder.

Downsize the tariff policy keeping in view the structure of value addition in various industries. In order to address our strategic objective of product diversification our government should:-

Provide a clear policy framework on the development of chemical sector. Continue the successful initiatives provided to the Pharmaceuticals sector in the previous trade policies. Introduce necessary regulatory and initiate new development programs. Look into the supply side constraints in the meat products industry. Give facilitation to the foreign direct investment and export potential of mineral sector. Promote export of agro processed goods. Support is to be given to slight designing segments to trade all the more in lucrative markets. The exchange arrangement plans to make an uncommon trust of Rs. 25 billion for item advancement and promoting so as to expand the complexity level of the division and acknowledge accurate potential of this segment. Devise a medium term methodology to enhance trade of jewels and gems. Devise a long span procedure for essentially enhancing Pakistan's export of services.³³² Arrange for motivations to encourage innovation securing, reception, swap with the twin purposes of energy efficiency and ecological trade protection. To start thorough Leather items trade Plan in consultation with the real industrialists of leather division and to start a complete arrangement for the advancement of trade of Services. The Commerce Minister in his discourse said that; with a specific end goal to address our tactical destination of seeking after more terrific business access through broad exchange diplomacy, the government intends to energetically take an interest in the Doha Development Agenda transactions so as to expand the additions from exchange strategy, for Making unhindered commerce treaties an achievement as far as expansion in two-sided and territorial trade volumes with great terms of exchange for Pakistan. Captivate with the bigger exchanging accomplices like US and EU for more stupendous business sector access and use the Reconstruction Opportunity Zones for giving zero obligation facility for trade to US and to reinforce and use the exchange officers better for the security and advancement of Pakistan's business interest abroad.

It has been held by High Court Sind³³³ in imposition of restrictions on imports and exports Federal Government has been given powers to prohibit, restrict or otherwise to

³³² Ibid.

³³³ *Sapphire Textile Mills Limited v. Pakistan*

control import and export of goods or allow the same subject to regulations relating to trade practices or grant of license.

Upgrading the intensity of Pakistan would all in all hinge on the nature of governance and administration structures conveyed to actualize it. With a specific end goal to address our target of institutional change reasonable usage of Strategic Trade Policy Framework the Ministry of trade may as well take the following measures.

Set up an Export Investment Support Fund to channelize general society investments to the chosen divisions with clear target of effecting the structural change. Ministry might as well guarantee noteworthy changes in its acting and additionally in the working of Transport and Trade Facilitation Project, Trade Development Authority of Pakistan, National Tariff Commission, Pakistan Institute of Trade and Development, Pakistan Horticulture and Export Development Board, Directorate General of Trade Organizations, Trade Offices Abroad and other significant associations.³³⁴ The Ministry of Commerce might as well create proficient guiding and coordination systems that make the practical linkages between the Structural Trade Policy Framework with the Planning process in Pakistan and related line and sectoral services.³³⁵ Ministry might as well lead from the front in forming significantly more powerful Public Private Dialogue in the acknowledgment of the Objectives of the Strategic Trade Policy Framework.³³⁶

The extent that the overseeing and assessment of the Strategic Trade Policy Framework is concerned, the Pakistan Institute of Trade and Development Islamabad, an autonomous strategy research organization of the Ministry of Commerce, might as well attempt a methodical assessment of the effect of Trade Policy 2009-12 on the exchange performance of Pakistan with a perspective to improve the adequacy of distinctive trade policy intercessions, recommend course remedies and establish the experimental frameworks for the preparatory work for the following Trade Policy (minister, 2009).

The development throughout 2009-10 remained moderate to a certain degree because of moderate worldwide demand and likewise because of the way that all the programs and measures of Strategic Trade Policy Framework might have a concise time slack before coming into full force. The Ministry, despite any precedent to the contrary, has presented a couple of fleeting markers, which add to the improvement of trade

³³⁴<http://www.gapcpakistan.com/tradepolicy.php> (accessed: July 11th, 2014).

³³⁵http://www.pakconsulatejeddah.gov.pk/Trade_Policy%20of%20Pakistan.pdf (accessed: November 23rd, 2014).

³³⁶ Ibid.

aggressiveness. It is anticipated that by 2012 the standing of Pakistan will move forward.

Karachi High Court in its judgment given the decision on import trade and procedure order 2004 that scope of Para 18 & 19 of import trade and policy order 2000 is confined to issues relating to importability of items and related matters. Ministry of commerce was empowered to control import and export and devise-policies in that behalf, but was not empowered to levy and duty, tax or surcharge which was within exclusive jurisdiction of Ministry of Finance/Revenue Division.

The Strategic Trade Policy Framework has set out the approach guidelines and recognizes the main activity ranges. In business, people need short term and long term assurance of interest rates on their investments prior in time. At present, there are no arrangements made by the govt. to provide finance on some fixed rates for short term and medium term. A fund should be created to control increase in interest rates. To resolve this issue guidance could be taken from finance ministry and state bank. Similarly to overcome the electricity problem ministry of water and power should enter in to agreements with electricity distribution companies on the terms which suit them. The agreements may contain penal and compensation clause. Insurance coverage to visiting buyers brings better results in restoring the confidence of investors. Now days, the purchasers, inspectors, their agents and intended buyers are reluctant to come to Pakistan so resultantly the exporters have to meet them abroad and resultantly cost of business increase. It has been seen that there are not only difficulties in coming, staying and travelling in Pakistan but there is another problem that insurance companies do not cover the risk on normal rates of premium.

If we see in the past the percentage of exports of goods from Pakistan has risen at a growth rate of 5.6 % and have hovered around 7-8 billion dollar during the decade of 1990's. From the year 2000 and onwards its pace raised and reached at the level of 9.1 % during the year 2001-04. With the passage of time change has occurred and share of primary commodities in exports has reduced and manufactured goods increased. Increase in the share of manufactured goods conversely decreased the fluctuation in the prices of primary commodities. In international market, Cotton yarn, cotton fabrics, garments, synthetic textiles, hosiery, Rice, leather related items, garments, sports items, surgical instruments and carpets are major exports of our country. Textile is the backbone of our exports. Share of Pakistan in international trade is very less. If we compare the share of

Pakistan in international trade with other developing countries it seems that we are unrepresented. Share of Pakistan in international export dropped in the decade of 2000 as compared to the decade of sixties whereas share of many other developing countries increased considerably. If we take the example of Korea its share in the year 1960 was 0.1% and it rose to 2.06% in 2000. It has been globally admitted that export base of Pakistan is very narrow and most of it could be attributed to cotton industry. Only three items which are leather, synthetic made ups and rice constitutes 78% of total exports. Export base of Pakistan is undiversified and is intense in low value added products and it is a matter of concern for us. Since 1998 very limited progress has been made in increasing the number of products and only 34 products have been added since then.

Pakistan still enjoys some favorable economic fundamentals. The country has often come out with pro-investment policies. Enormous literature on foreign investment flows and laws in Pakistan provides evidence of a very close relationship between the investment laws and Pakistan's economy e.g. Akhtaret al (2001)³³⁷, Khan 1996³³⁸, Guisinger (2001)³³⁹ Ashfaq (1997)³⁴⁰, Nishat et al (1998)³⁴¹, Sharif (1997)³⁴² and Khawaja (1995)³⁴³. Pakistan has to make strategic efforts in its exports to capture loins share in the world trade. It could be done by enhancing the exports of those products whose share in the world trade market is increasing and by reducing the exports of those products whose share is declining in the global trade. In the global trade share of manufacturing goods is around 63% and those of electronics is 40% Share of textile is only 6% in Pakistan it is vice versa. Pakistan's textile sector constitutes 63% of its exports and the engineering sector is only 3%. As far as hi tech exports are concerned there is no such item yet manufactured for international market. Most of the exports from Pakistan are of items in which low technology has been used. Pakistan will have to make serious concrete efforts

³³⁷ MH, Akhtar. Radice., H, "Foreign Direct Investment In Pakistan: Trends And Policy Issues" – *Journal Of Asian Business – The Association For Asian Studies, Inc. (2001)*

³³⁸ Khan., MZ, "Pakistan: Prospects for Private Capital Flows and Financial Sector Development," *the Annual General Meeting of the Pakistan Society of 1996, (1996)*

³³⁹ Stephen., Guisinger, "From OLI to OLMA: Incorporating Higher Level of Environmental and Structural Complexity into the Electic Paradigm" *International Journal of economics of business Volume 8 (2001) pp 2-3*

³⁴⁰ Khan., Ashfaq H., "FDI in Pakistan: Policies ond trends", *The Pakistan Development Review (1997). Pp. 959-985*

³⁴¹ Nisha, Muhammad and Aqeel., Anjum, "The Empirical Determinants of Direct Foreign Investment", *Savings and Development, (1998). Pg 85-98*

³⁴² Sharif., CM, *Foreign direct investment and economic growth: the case of Asian developing countries, (Fordham University, 1997)*

³⁴³ Saeed., Khawaja Amjad Prof: Dr. *Economy of Pakistan, (1995) p. 137*

to give rise to technologically based industrial production through induction of high tech industry in export oriented products. A major re-location of design services as well as back room operations such as call centers is taking place on the back of the IT revolution, Pakistan should benefit from these developments. Pakistan can learn from the experience of high performing Asian countries whose share has increased tremendously in the past. For example, during 1960, Korea's exports were US\$ 32 million, whereas Pakistan exports were US\$ 160 million. The exports of the two countries during the subsequent period increased at the following pace complex of the economy, favoring export development compatible with the requirements of sustainable growth trajectory. Projection of Exports: For MTRDF export (gross) are projected to increase from US \$ 14,050 in 2004-05 to US \$ 28,125 million in (Pakistan) 2009-10 at an annual compound growth rate of 14.9 percent. Out of primary commodities, export of cotton will slightly increase from US \$ 19million in 2004-05 to US \$ 35 million in 2009-10. Rice export increased (Pakistan) from US \$ 665 to US \$ 870 million. Among cotton based manufactured goods focus will be on items with high value addition of particular importance will be hosiery and readymade garments. Efforts will also be made to increase exports of non-traditional items and major thrust will be on the export of fish & fish preparations, carpets and leather products. Pakistan can still achieve higher growth in exports provided consistency and continuity in macroeconomic policies are pursued with political stability. Pakistan is the largest contributor in textile export. This segment is now going through transition phase. There are sufficient opportunities for those countries that have comparative advantages in textile. They will be significant players in international textile market. In Pakistan substantial investment has been made in this sector over the last few years to capture these opportunities. It has been seen that Pakistan is far behind in various sectors of product diversification, improvement of technology and in establishing high tech industries. Khawaja in his study titled as foreign direct investment: A review has explained the relationship between foreign investment and inflation. The results from his research emanating from an impulse response analysis supported the theoretical model show ³⁴⁴that 7% increase in Pakistan's inflation reduces US investment in Pakistan by 1.9% and increasing US domestic investment by 0.3%. It has concentrated only on textiles and clothing industries, that also on the lower end of the value addition chain. This is reflected

³⁴⁴ Khawaja Amjad Saeed Prof: Dr., "Foreign direct investment: fi A Review". *Investment and Marketing*, vol: 14' (2000)

in percentage share of industry in GDP. Asian countries, China, Indonesia, Malaysia and Korea have taken lead in increasing their shares from 15 percent to 53 percent during 1960-2003. Pakistan's share is only about 18 % during this period. Pakistan is also at the margin compared to Finland, USA, Korea, Ireland who are leaders with reference to main factor which effect growth in the sector of technology, public institution and global business competitiveness, human development, availability of scientists and technically trained manpower. Malaysia and China are potential leaders in these indices and India and Turkey are dynamic adaptors. Pakistan has to develop these factors of growth to attain the projected volume of exports by the terminal year of the MTFD. Developing an industrial base capable country for competing in a fiercely competitive global environment will however take time. The MTFD will be a launching pad for brining structure transformation in the industrial manufacturers and exporters therefore, are geared up to face the challenges of quota free environment.

Quetta High Court 23 in a case titled as Murree Brewery Company Limited v Province of Baluchistan explained article 151 of constitution of Islamic republic of Pakistan regarding prohibiting of export of goods. It is held that Notification or executive order, which invaded the authority of Art.151 of the constitution, prohibiting the export of goods of any, class, from one province to another, and was deterrent to free trade, commerce and intercourse throughout the, country could not be saved.

4.2 Steps for Export Promotion

4.2.1 Consistency in Economic Policies

The foremost pre- requisite for success of any export promotion policy is a sound and consistent macroeconomic environment, characterized by low inflation and sustainable fiscal and external imbalances. Above all a successful export policy requires that the exchange rate policy establishes and maintains competitiveness of the country's products. In addition to a sound macroeconomic environment, a grown export sector needs the support of a sound financial system, a reliable and adequate physical infrastructure network and a strong foundation of human resources that provide the skill, know-how, research and training at the appropriate level, adherence to international standards and entrepreneurship which can take advantage of the enabling environment. The major hurdle in the growth of clothing is lack of product and market diversification. Most of

clothing export of Pakistan has narrow range of products and very few avenues of markets are open for it. Currently an export from Pakistan mainly depends upon knit wear and men's wear. There is a need to balance these products we should produce women's wear, children's clothing with a higher emphasis on woven garments. Pakistan is exporting products having low quality and fewer prices whereas it has the capability to enhance revenue from exports by producing better quality products of international standards which can bring higher price. The main exports from Pakistan are in few products and their major markets are also very limited. Need has been felt to discover better markets which could be Africa, Brazil, Argentina. Sectors should be explored where demand is high and where market is competitive. (Pakistan). This needs to be pursued in a focused manner. Ten sectors that have been identified by the Export Promotion Bureau, as stage one, need to be pursued with national alignment and commitment of all stakeholders (Pakistan). On a longer term basis Pakistan need to identify other sectors that can provide continued and major export value increase. On geographic basis, Pakistan's exports are very low in South America, Africa, Eastern Europe, Central Asian Republics (CARs), Russia and Oceania. All these regions combined account for less than 8.0 percent of our 2003-04 exports. With focused attention we need to achieve greater market access in these regions followed by aggressive market development by the Export Promotion Bureau. Among these, the most rewarding could be CARs, Russia, Africa and Eastern Europe to start with. Regional countries such as Iran, Sri Lanka, Bangladesh, Afghanistan and India offer excellent opportunities as well.

4.2.2 Competitiveness

To increase exports, competition is one of the key factors of the strategy. A product launched by one company is said to be competitive if it has much more qualities of the product offered by competitors. Price and quality are two basic means to achieve competitiveness. Price competitiveness means to offer a product at a price less than the competitors. In this way a firm can sell its products well. The other way is to manufacture high quality product which can justify high price. Better quality of products coupled with the affordable rates is a guarantee for more exports.

4.2.3 Cluster Development

To broaden the exports of a country cluster development is very helpful. A cluster is a sectoral and geographical concentration of SME that finds it difficult to exploit market opportunities. Cluster development gives an opportunity to these SMEs to complement each other's resources and expertise and achieve collective efficiency by means of economies of scale and specialization. This gives the enterprises competitive advantages and helps them to capture markets beyond their individual capacity. In various developing countries which include Malaysia, Indonesia, India, Cluster development has been found successful. If we take the example of India cluster development has a share of nearly 60 % of the total exports of manufactured goods of the country. In our country it also has a wider scope For example the light engineering industry of Gujranwala and Gujarat is a good example. It consists of large number of SMEs which have a lot of export potential; these enterprises have pooled their individual resources and expertise. Similarly cutlery industry of Wazirabad is another good example. A quantum change in exports can be achieved by enhancing the quality and quantity of our produce whether from indigenous materials or imported or a combination. In this regard Textile Vision be revisited and sectoral road maps be developed for al traditional export sectors plus those identified for product diversification. These are judiciously implemented and inter-ministerial monitored at the highest level by the Federal Export Promotion Board and Ministry of Textiles Industry.

- i. **Brand development:** It is an admitted position that companies from Pakistan have a very strong export base in the sector of textile but unfortunately they failed to develop their own brands and labels. When a product is sold with a brand name it achieve a highest level of value addition, but it requires investment by the manufacturer and similarly returns are also high.
- ii. **Packaging:** It has been seen that if the packaging of the product is very poor then it also affects the sale of the product. We can see it especially in the packing of fruits and vegetables and others purchasable items. This sectors also need special attention, in private sectors businessman are supposed to make investment in improving the packing of a product to make it more attractive in the international market.

4.3 Banks to Deal With Export and Import

Traders must be financially sound to face international competition. Therefore sufficient funds should be readily available as financial assistance and credit for exports. A separate bank is required to be established for this purpose. The bank should provide loans, credits and financial support on easier terms besides other services provided to the exporters for the growth of their business.

4.4 Products Based on Agricultural and Minerals

We can increase the exports of agricultural based products by taking more care by doing better processing and value addition. Incentives should be given by the concerned departments for improving processing industries, infrastructural facilities. Local Products like fishery, dairy, meat and vegetables, fruits, flowers should be given special attention. Allah almighty has blessed our country with huge quantity of natural resources. It is to be explored and export to other countries. These are finished precious stones, gems and jewelry. Facilities of processing should be provided at the door steps in the areas of deposits.

4.5 Joint Ventures

The competitors in a special field should collaborate with their foreigner partners and form a joint venture. In this way the benefit of transfer of technology and expertise can be achieved but unluckily Pakistani companies have failed to get benefit out of this opportunity. Pakistani companies are facing shortage of labor and or may be of raw material so they look ahead towards the countries which are self-sufficient in these sectors. Special attention is required to be given to the export oriented foreign international joint ventures with Chinese companies to attract foreign investors in the country. In this regard special efforts are required to be made by the export promotion bureau and Trade commissioners as an individual exporter at his level would be unable to enter in to such big deals. In Japan many years ago made ups manufacturing units were started closing so Japanese entrepreneurs became anxious to form a joint venture with south eastern countries. India, Thailand and Sri-Lanka attracted Japanese investors. Likewise Pakistan could be a land of opportunities for investment in textile and clothing sector. The benefit

of having a joint venture with Japan is that it will not only bring foreign direct investment but also latest technology in the country. Japan manufactures garments stitching machines.

4.6 Human Resource Development

If we improve human resources in the field of export marketing, quality control and general skill enhancement then conversely it will increase production and an atmosphere of competition among exporters. Those who are attached with the field of international fashion are required to be trained so that they could remain in touch with the continuously changing trends and to meet the clothing needs. Focus on specialized units; the setup of textile industry is based on vertically integrated units. This factor has reduced exports of traditional products from Pakistan. To market, search units are inflexible in their system and it requires large capital. For One process of the value chain such as knitting, waving, dyeing, finishing it would be more flexible and easy to meet the demands of international buyers as well as new markets. Our country has to ensure that quality, environmental and social concerns of the buyers of its products be handled intelligently. In past some concern have been shown which rest restricted the exports from Pakistan. To make sure that these problems may not occur again, some drastic steps should be taken. The exporters should get various certifications to show their importers that they meet the international standards. In this regards role of government is very important to educate the exporters as well as giving them assistance to meet these requirements. Followings actions are proposed;

- i. Liberal trade policies should be made which may also permit the relocations of plant and machinery from developed countries,
- ii. The standards and quality should be improved besides this there should be a check on quality control and certification to bring our products at par with international standards.

4.7 Export Processing Zone's Role

The export processing zones (EPZs) need is to cater to the requirements of the companies that are operating in its zone and facilitate these companies to encourage more business to emanate from these zones and to ensure that the product quality is of an international standard. They should provide subsidized services to the businesses to

encourage export growth. The EPZ needs to work in collaboration with the utility companies to ensure ready and affordable access to utilities such as electricity, gas and communication services. There should also be investment in infrastructural development in the EPZs. Image building: As a textile supplier, Pakistan's image has been that of a low quality, low price, and no consistent and unreliable supplier. This image needs to be changed. To change this image, and to project Pakistan as a quality supplier, participation in Textile Exhibitions in the past, however, its representation has been without any strategic planning. Goods displayed in such exhibitions should conform to international standards and should be in line with the world demand. For textile products, the patterns and fabrics should be in line with the fashion trends. We should give more attention to the markets of United States as well as European Union. Up till now Pakistani manufacturers of textile and clothing have failed to avail and get benefit of the limit of extra ordinary quota allocated to Pakistan. In international market not only the product but also image of the country is sold otherwise the product which is in competition may not be able to get good number of buyers due to poor image of the country exporting the product. Due to this having a good national image for marketing is very important.

4.8 Role of Trade Commissioners

For promotion of exports abroad commercial support is very essential. Commercial operations abroad are required to be completely reviewed. Role of trade bodies for effective business development should be admitted. The resource can be significantly and more productively be used apart from strengthen and resourcing it better. Pakistan is one of the few countries of the world which has no representation of its export promotion bureau abroad. Trade commissioners are required to play an effective role in the promotion of trade at international level. They are also required to interact with the foreign importers to get business for their domestic exporters. The trade commissioners should be professional and experts so that they can promote image of the country and get orders for their exporters.

In a case titled as *Muhammad Irshad v Deputy Director Adjudication*, it has been held by Sind High Court that foreign trade missions, chamber of commerce are supposed to initiate legal proceedings for recovery of sale proceeds against buyer in the country of export. The petitioner had given an undertaking to repatriate sale proceeds within the

prescribed time but failed to do so and thus had patently contravened the provisions of sec.12(1) of the Act. In this way the role of foreign trade commissioners and other related offices abroad has been emphasized.

4.9 Other Measures

- i. Education should be given to labor to increase their productivity. They should be given on job training, and their skills should be enhanced. They should upgrade themselves with latest techniques and acquire new knowledge. It will result in to high value added and low unit labor cost. Since in the business small enterprises are also involved so the government should involve itself for giving proper training to the labor.
- ii. Efforts should be made to improve physical and financial infrastructure at the seaports and airports and it should also include shipment, clearance, cargo space, and handling etc. Cost of power supply gas, telecommunication should be low and be constant for the export industry. Long term financing should be provided by the financial institutions on easy terms.
- iii. Government should make sure that Proper knowledge is given to the exporters who also understand the requirement of time. Downstream and upstream industries should be established. Development of engineering goods and chemical industry is important for diversification of country's export.
- iv. In textile sector expansion should be made in products having good value. If we convert one pound of cotton into finished fabric it will bring less money in the world market as compared to the same cotton converted into woven garments will bring more. Demand for blended fabrics is increasing rapidly so there are opportunities for investment in this sector.
- v. Cost of manufacturing synthetic fiber and yarn in the local market should be fixed in comparison with international prices.
- vi. To overcome the problem of refund of sales, simple procedure should be developed. It will give time to exporters to give attention on the marketing and development of their products rather than concentrating on devising methods for sale tax refunds.
- vii. Many firms are owned by families and administered by family members and

associates. Since most of them are nonprofessional and non-technical so it brings lack of professionalism in the firm. Due to this functions of the firm are not governed properly which results in low productivity. Professional managers and skilled manpower should be employed to run these industries.

- viii. Role of small and medium enterprises in Pakistan is very important in production of export goods. They are doing it in a disorganized manner which results in problems of shallow quality, delivery slippages, unreliability and departure from stipulations. Their technical knowledge is very limited and the focused level of technical, organizational and financial expertise leaves much to be desired. Pakistan has to ensure that: it has an apparent advantage in the textile segment. It is a labor intensive industry and Pakistan has an abundance of labor. Pakistan's land is also conducive for the growth of cotton and it has an ample supply of the quality cotton.

4.10 Overview of Pakistan's Trade

During the year 2008 and 09 export of Pakistan decreased to 17.8 million dollars which was 19.1 billion dollars during 2007-08. In the trade policy for the year 2008-09 target of 22.2 billion dollars was set. It was done by keeping view the growth of export in the previous year which was 13%. This target of export of goods could not be achieved due to many factors which were internal and external. On the external side the factors were economic down term in our major markets which were for example United States and European Union. Second were negative travel advisories and the third and most important was the image of Pakistan portrait as a supplier of low quality goods. On the domestic side the factors were high cost of finance, short fall of electricity deteriorating law and order situation and the most important was decrease of foreign investment which was mainly because of poor performance of related departments responsible for import and export of Pakistan.³⁴⁵

4.11 Small and Large Scale Industries

³⁴⁵Star Flour Mills vs. Province of Punjab, PLD 1996 Lahore 687.

As per present situation preparation of long term tariff policy cannot be ignored. The primary objective of STPF is to prepare a balanced tariff policy and structure which includes long term and short term tariff measures for creating competition in the industry and going up in the sophistication ladder. It is the need of the hour to formulate such type of tariff policy which could reduce or remove anti-export biases. It would help the country to give a better response in reducing the tariff and binding. In order to achieve following objectives we have to re-design our national tariff policy.

- i. Insurance from non-aggressive ineffectual universal and government industry be withdrawn;
- ii. Tax on investment should be minimized to reduce the cost of business;
- iii. The authentication of viable assurance rates and ostensible security rates be made;
- iv. Review the tariff protection principle;
- v. Announcement of special Incentives for export items and industry.

4.12 Monetary Policy

The competition in exports can be effected in case the cost of production is increased due to interest costs in the time of tight monetary policy. Overall interest policy should be in line with the demand, price increase, budget shortfall, exchange rate policy but sometimes it becomes a tool for dampening the cost of production. For the industries dealing with exports, few scheme should be devised .It ought to be of trade refinancing and sectorial credit allotment. Boundaries are essential to be re- confined, tuned and again set.

4.13 Exchange Rate Policy

For the promotion of export and to manage imports a stable exchange rate is the first and foremost requirement. Our country needs established internal and external environment which includes steadiness in the prices of oil, food, foreign aid and FDI. Nominal and real exchange rate can be affected by positive or negative shocks of macro environment. This will determine the profit of exports as compare to imports. The trends of exchange rates are most of the time controlled by the free market instrument and

managed by the State Bank for promoting export and controlling tentative import. This is due to the reason of avoiding wide fluctuations and for promotion of smooth and proper adjustments.

4.14 Improving Business Processes

In the rapidly increasing competition over the Globe, the capacity to re develop the business processes plays an important role in business improvement. In Pakistan there is need to enhance rapidly its manufacturing and firm level efficiency. We should restructure and re define these processes so as to bring them in line with the international level. This is necessary to enhance productivity and improve competitiveness.

4.15 Innovation and Technology up Gradation

In order to take the country up in the sophistication, it is a prerequisite that the firms should be technically capable. Capacity of firms should be increased for technology absorption, development and innovation creation. It is proposed to designate some reasonable amount of funds to establish technology, skill and management funds.

4.16 Skill Upgradation and Enhancing Competitiveness of Firms

God has given our country a huge potential but despite that we have failed to enhance our labor productivity as compare to our competitors. In order to give better skill training Government has done a lot during the recent past and has taken many initiatives. STPF has cooperated in the skill up gradation program especially in the field of giving skill to women workers. In this regard industry relating to instruments of surgery is considered as sector on priority due to retardation in its growth which is because of shortage of qualified and trained manpower. To overcome the deficiency, a center for the training, designing, research and development is needed to be established.

4.17 Reforms and Development of Domestic Commerce

In domestic commerce there should be a policy to regulate demand and supply for the support and development of entrepreneur. This will result in the protection of

consumer as well as domestic industries and also economic growth shall be sophisticated and valued. A domestic wing should be set up in each Commerce Ministry and its task should be to identify the major areas in which reforms and developments could be made. In domestic parade retail and whole sale trade is the front end. Chain of supply is linked with the transport industry. The subsidies and incentives given should be regulated as it causes impact on the competition and potential for growth. It also effects the production of modern business practice. Improvements should also be made in taxation matters which causes hurdle in the production of domestic trade. Issues of enforcement on contract and its repudiation which bring bad name to the business in different ways should be resolved. Monopoly of leading firms which restrict the business to few buyers or suppliers should be eliminated. It reduces the business to limited facilities and in this way its growth stops. Copy rights and intellectual property rights should be protected. The development of skills and improvement to processes of business give rise to business. The above mentioned points are the subject matter which varies in different agencies and their collective efforts shall bring positive results.

4.18 Gender Sensitive Trade

Now it has been worldwide admitted that female are not less than male. They have the ability to learn the skills. They have equal stamina and their equal capacity has now become almost essential to give variety at work place. Huge benefits can be derived if these skills are harnessed and mobilized giving strengthens to woman folk. In Pakistan initiative are being taken to increase the role of women in the economy of country. The trade policy for the year 2009-2012 is a gender sensitive policy. Men and women are affected from trade policy differently. At present in our county women are working in less skilled and low paid sectors. We have to increase the trend of getting higher education in women only then it is hoped that the women shall reach at middle level and higher level in administration, supervisions and skills. Now women are performing key role in the export sector than before. Even then we have to do more to compete with other growing muslin economies like Malaysia and Bangladesh. Their women are expert in various sectors. In order to implement the strategic trade policy frame work (STPF) certain drastic steps are required to be taken by the Government to get the benefits of the women which are the majority population of the country. They should be given incentives and encouraged in the

sectors like; designing, cultural industries, skill enhancement programs. Steps should be taken to enhance and persuade independent, research and analysis that how the services of women could be utilized in a beneficial manner. It has now been recognized that major organizations can play a pivotal role in producing and development of new products and markets. The state should work with the private sectors to enhance their capabilities, but in the countries like Pakistan where there are large number of small and medium enterprise it is needed that policies and programs should be made to upgrade these small and medium industries to the global level. In the Medium Term Developments Frame Work (MTPF) 2005-2010 Government has laid great stress upon shift of its aid to development of communication and estimates of common facilities center, so that the exports and produce of SME sectors be enhanced. In this regard many projects are also in the pipeline for the improvement of the sectors. A sports industry development center at Sialkot (SIDC) and women business incubation center (WIBC) at Lahore has been established. In various sectors, expansion is being made in the sector of Dairy Development, Jims Jewelry Development, Stone Development and furniture sector Development.

4.19 Policies Consolidation – Women Brilliant Multi-Tasking Skills

It has now been recognized all over the world that women are good learner and they learn skills better than men. It has become more and more important to have variety at work place. These inherent skills duly harnessed and mobilized can benefit the economy, which empower the women. Several initiatives are being taken to increase the role of women in the economy of country. Current Trade Policy is a gender sensitive trade policy. It has now been recognized that trade policies affect both genders different. Due to structural gender inequalities women are generally more embarrassed. In Pakistan majority of women work in low paid sectors as they are unskilled .They are not in a position to negotiate about their wages and working environment. Women are mostly employed in textile and garment industries. Since now females are more conscious about getting education especially technical education so now they are in competition with males at administrative, supervisory and high skill levels. In Pakistani women have started playing an a key role in export sector but even then we are far behind from other Muslim countries like Malaysia and Bangladesh which are getting benefit from expertise of women in true sense various fields. Government should give special incentives to

encourage women in export oriented services.³⁴⁶ Skill enlargement programs for women in export sectors are started. Women should be given opportunity to participate in international exhibitions and their ratio as compared to men should be enhanced. Research analysis should be made as how to enhance trade related capabilities of women.

Restraints to market access and monetary expenses of sexual orientation difference are evacuated. Ministry of Commerce might as well concede that vast firms and corporations can assume a vital part in advancing new items and markets since they can handle adequate of those with higher quality. It is getting to be exceptionally critical that keeping in mind the end goal to meet the necessities of huge purchasers Government may as well work with the particular area to aid the firms to enhance their competencies. In Pakistan there are extensive number of SMES, so there is prerequisite to initiate policies and projects pointing at the assimilation of SMES into worldwide quality chains.³⁴⁷

Numerous ventures are under approach to boost the worldwide competitiveness of SME segment. There is a requirement to impact the development competitiveness activities of these organizations. An enhanced execution by these segments can improve the fabricated worth included Pakistan. The Ministry of business may as well completely help the destinations of National SME Policy and might as well likewise team up with SMEDA to make it fruitful. One paramount measure is the distribution of considerable funds from Export Investment Support Fund (EISF) for another era of SMES.³⁴⁸ With the blend of right strategies and impetuses, SMES can turn into the primary apparatuses of quality expansion and intricacy. Greening of the Export Sector implies sustenance of economy. Ministry of Commerce may as well compel the linkages between technology up-gradation / substitute and greening of assembling in Pakistan.³⁴⁹ It ought to be done by supporting the energy proficient and carbon impartial innovations and gears in high esteem areas. To offer expansion to innovation based competition for exports in the assembling zone a Green Technologies Fund is being initiated. It might give motivations on the utilization of energy proficient and environment friendly gear through tax and awesome quality motivating forces with the assistance of ENERCON and different stakeholders.

³⁴⁶<http://www.pakistantanners.org/documents/PTA-173%20ST%20Policy%20Frame%20Work%202009-12.pdf> (accessed: November 30th, 2014).

³⁴⁷ Ibid.

³⁴⁸ Ibid.

³⁴⁹ Ibid.

As the global markets return to normalcy after due development of recovery and consolidation in the near future, Pakistan can only create a progressive diversity with extensive structural changes like ornamental economies of scale, productivity augmentation through process re- engineering, civilizing product exposure, increase in value-addition and market diversification.³⁵⁰ In addition to other essential improvements, the textile value chain still remains the single largest donor to Pakistan's exports with strong reward linkages.³⁵¹ If our competitors continue ornamental their world market share, our textiles and clothing sectors would face an uphill task to reverse the harmful growth of last year to a positive long term growth.³⁵²Our textile policy contains short term and long term trial to sustain the textiles and clothing manufactures to overcome the existing problems created by the global down turn and provide them essential to overcome the day to day competitive challenges in the field.³⁵³Our textile policy holds fleeting and long haul trial to manage the textile and apparel makers to beat the existing issues made by the worldwide down turn and furnish them fundamental to conquer the everyday intense tests in the field. Trade Policy Framework might impact the Textile Policy through its changed trial as well as policies .The Ministry of commerce may as well give its backing to the Ministry of Textiles towards an able execution of Textile Policy. In this respect, the accompanying activities ought to be given high priority:

- i. Advancement of new speculation and modernization of apparatus;
- ii. For enhancement of trade blend, custom obligation may be zero rated on;
- iii. Import of artificial strands other than polyester staple strand;
- iv. Custom duty on import of sizing chemicals may be withdrawn;
- v. Stronghold of warehousing in key markets, obliging immediate archiving conveyance;
- vi. Brand improvement system, to support the foundation of provincial and universal brands Rationalization of levy on the rule of falling to give the trading business an environment which backs producing instead of exchanging;
- vii. Activities for more stupendous business access, improving and developing agreeableness of Pakistani materials and apparel in specialty markets and broadening of trade to fresher objectives;

³⁵⁰ Ibid

³⁵¹ Ibid.

³⁵² Ibid.

³⁵³ Ibid.

- viii. Activities to push more successful holding of neighborhood and remote presentations and genuine interest.

Chapter 5

5.1 Conclusion and Suggestions

5.1.1 Access and Trade Diplomacy Market

Market Access Initiatives consecutively enhance our exports in these hard times, Pakistan desires an early market access particularly in the US and Europe, which are now major export destinations of our goods.³⁵⁴ The Government of Pakistan is keenly busy with the US and European Union on this version. After finalization of sites of Zones, Ministry would setup an organization with useful links with the Provincial Government to make sure competent utilization of the conveniences and implement the observance issues. For the market entrance in European Union, we are hoping to have bilateral FTA.³⁵⁵ At a mutual level, we have major market entrance in China through a Comprehensive FTA Agreements with Malaysia and Sri Lanka also provides large market access to Pakistan.³⁵⁶

Ministry of Commerce is taking some measures to increase and expand Pakistan's exports to several countries. Ministry is fully receptive to opportunities accessible by the Regional Trade Agreements (RTAs) such as SAFTA and ECOTA of which Pakistan is a member. Ministry of Commerce should continue trying to help these RTAs become forceful players in the international market. Pakistan is also in cooperation with ASEAN and block of GCC countries to enlarge its trade with these important trading blocks. The Ministry should realize that more should be done to endorse the bilateral and regional FTAs which Pakistan has initiated.³⁵⁷

The Ministry should expand a Communication Strategy of each of the new initiatives to ensure bigger contribution by the private sector in making these FTAs work maximizing gains from multilateralism.³⁵⁸ Pakistan is dynamically participating in Doha Development Agenda (DDA) discussions. With its key interests in NAMA, Agriculture, Services, addressing Non-Tariff Barriers (NTBs) and actions relating to trade facilitation, Pakistan is trying for an evenhanded product of DDA.³⁵⁹ The Ministry realizes that the reduction of

³⁵⁴ 1.1 Introduction (Chapter-1)

³⁵⁵ 1.9 Obligations of World Trade Organization and Free Trade Agreements (Chapter-1)

³⁵⁶ 2.6.8 Conditional Granting of Market Access and National Treatment (Chapter-2)

³⁵⁷ 1.15 Overview of Trade Policy Consultation Mechanism (Chapter-1)

³⁵⁸ 4.1 Strategic Elements in Export Development (Chapter-4)

³⁵⁹ 2.6.1 Introduction (Chapter-2)

tariff unaccompanied, however, is not sufficient to boost exports and we would continue trying to address the issues such as NTBs, fulfillment issues such as labor & situation and technical barriers to trade (TBT).³⁶⁰ Trade and Climate Policy are becoming more and more knotted. A failure to agree on how to address universal warming could weaken half a century of opening up of world trade as there is a chance that countries or buyers start striking penalties on countries that do not believe limits on carbon emissions or an equalization on imports from countries that have not agreed to cut emissions. If the govt. withdraws subsidies on exports and substantial reduction in conjugal trade distorting Subsidies with caps on major items such as cotton, wheat and rice.³⁶¹ Also open unexploited areas such as dairy, horticulture and steamy products, provided we enlarge our productive capabilities professionally. Pakistan would persist participating aggressively in the dialogue on the issues, e.g. Intellectual Property Rights (IPRs), Strengthening of Geographical Indicators, Clash Decision Procedures of the WTO and Revision of Agreement on Traffic Defense Laws and Rules and WTO Reforms adopting the unsurpassed endeavor advance to guard the national awareness. In hope of the achievement of DDA dialogue, the Ministry has started the obligatory diagnostic work to enlarge apt document responses keeping in view different probable scenarios.³⁶² The Ministry should also set up ample, high eminence human and institutional resources to enable Pakistan to gain from the conclusion of the surrounding. The Ministry realizes that the mutual organism and universal trade will keep on embryonic yet after the ending of DDA.³⁶³ With the abolition of tax peaks and equalization of worldwide tariffs by the developed and budding countries, at remarkable levels, there are apt to be many new issues for consideration. Pakistan would prolong to struggle to bring more evenhandedness, simplicity and inescapability in the worldwide traffic.

5.1.2 Enhancing Regional Trade

Pakistan has soil borders with China, Afghanistan, Iran and India. These countries are our natural trading allies. In accumulation to China, which now has become a major worldwide player in traffic and asset, the other adjoining countries are also registering

³⁶⁰ 1.9 Obligations of World Trade Organization and Free Trade Agreements (Chapter-1)

³⁶¹ 1.3 What is a Multinational Corporation (Chapter-1)

³⁶² 3.4 Agreement on Trade-Related Aspects of Intellectual Property Rights (Chapter-3)

³⁶³ 2.6.1 Introduction (Chapter-2)

major growth.³⁶⁴ We are also as well as the Central Asian States and Gulf Cooperation Council (GCC) countries in our newly reputable classification of provincial allies and would attempt to have stronger trade links with all our regional partners in a two-side. Throughout the last 20-years, the track of trade has extensively distorted. This constituency has indeed become a big import objective. The local trade, because of the benefits of immediacy in the short run and with the likelihood of upward provincial contribute chains and outlay flows, has become a big chance for any exporting country.³⁶⁵ Promoting regional trade to the shared gain of the regional trade partners is a vital objective of the STPF. It is hoped that Pakistan's exports to the constituency would swell at to at least 25%. Pakistan would engage its regional partners for recovered market access, trade facilitation and trade endorsement in order to give a big advance to the regional trade. The Government realizes that sustainable political and financial affairs with India are vital to influence the reimbursement of intraregional trade and hope that a booming conclusion of the merged dialogue would considerably swell and dig out these relations. Transit Trade Agreement (TTA) with Afghanistan is of huge substance to Pakistan for horizontal, lawful and swift pour of merchandise across and to have market access in the Central Asian States so that this trade is equally favorable to all the parties. It is hoped that the negotiations for the new Agreement will be concluded by the end of this year by addressing the concerns of stakeholders of the countries.

With reference to the agreement entered between different parties from different countries the provision of arbitration clause has been very exhaustively discussed by the Sind High Court in its famous case of *Lakhara Power Generation Company Limited (LPGCL) V KARADENIZ Power ship Kaya Bey*.³⁶⁶ The question before High court was that whether the arbitration clause of the contract which had been declared void ab initio was distinct and separate from the main contract. It has been held that an arbitration agreement was distinct and separately from the main contract was “part of very alphabet of arbitration law” doctrine of seperatability could apply to save the arbitration agreement even where the main contract was void. So we see that our superior courts have given very rational decisions on very delicate points.

³⁶⁴ 4.2.1 Consistency in Economic Policies (Chapter-4)

³⁶⁵ 2.2.3 Objectives of Quantitative Restriction (Chapter-2)

³⁶⁶ *Lakhara Power Generation Company Limited (LPGCL) V KARADENIZ Powership Kaya Bey*, 2014 CLD 337.

Likewise in *Raja Parvaiz Ashraf vs. Election Tribunal*³⁶⁷ it was held that the appellant was involved in the corruption case of Rental Power Plants reported as 2012 SCMR 773. The Court rather to give any decision referred the matter to NAB for further probe.

5.1.3 Governance and Management Framework of Strategic Trade Policy Framework

Achievement of Strategic Trade Policy Framework in extensively attractive export competitiveness environment of Pakistan mainly depends upon significance of supremacy and structure deployed to employ it by unusual stakeholder. Given the kind of challenges Pakistan is opposite, the state wants to become more active to secure competitiveness enlargement and should gravely set up maximum political and managerial possessions to the mission.³⁶⁸ The Ministry realizes that half the obscurity in making STPF success dishonesty in the successful execution.

5.1.4 Enhancing Institutional Efficiencies

To successfully employ the STPF, it is vital for state institutions to be prevailing and more outstandingly well placed to take crucial decisions.³⁶⁹ Regrettably, we are experiencing circumstances where many institutions are beleaguered with institutional crumble. More often than not, the anticipated results, particularly the ones reliant and policy overlaps / interdependencies in a multi stakeholder shoot milieu, are compromised.³⁷⁰ The Ministry realizes that the supervision of STPF would necessitate to be supported by extensive institutional muscle of own stakeholders. In addition to that, there would be a need for closer coordination amid these institutions for suitable achievement and assessment of sectoral strategies.³⁷¹ The Ministry of Commerce's role in this view becomes more central that it has formerly been, as the entire stakeholder expects it to take the direct in pushing the agenda for export competitiveness.³⁷² The Ministry hopes that with full political support, it would be able to work out logical and all inclusive strategies that address the

³⁶⁷ *Raja Parvaiz Ashraf vs. Election Tribunal*, PLD 2013 Lah 552.

³⁶⁸ <http://www.pakistantanners.org/documents/PTA-173%20ST%20Policy%20Frame%20Work%202009-12.pdf> (accessed: November 30th, 2014).

³⁶⁹ 4.11 Small and Large Scale Industries (Chapter-4)

³⁷⁰ 4.1 Strategic Elements in Export Development (Chapter-4)

³⁷¹ 4.16 Skill Up gradation and Enhancing Competitiveness of Firms (Chapter-4)

³⁷² 1.15 Overview of Trade Policy Consultation Mechanism (Chapter-1)

issues acknowledged in STPF for speedy redresser with the help of other Ministries and Departments.³⁷³ The Ministry is sentient that it wants a glowing working institutional architecture inside the Ministry of Commerce of an effective achievement of Strategic Trade Policy Framework, with a strong management at the top. The Ministry would launch the required institutional reforms in the Ministry and its affiliates for establishing obvious benchmarks for their piece.³⁷⁴ The Trade Officers abroad play an important role in bringing the exporters and importers close by bridging the information gap among the offices and insist, making psychoanalysis of competitors export strategies, building an image of Pakistani export products and providing common facilitation to Pakistan's export enrichment. Our trade officers should play a dynamic role in implementing the STPF and could be evaluated on the foundation of their contribution thereof steering and Coordination Arrangements.³⁷⁵ The Ministry should utilize the contemporary logical framework to employ and estimate unusual interventions and initiatives of the STPF.

5.1.5 Financing the Export Competitiveness Development

A constant crisis in Pakistan has been requiring public and private outlay to realize the desired policy impacts. The Planning Commission had conceived the outlay obligation of US \$ 60 to US \$ 65 billion in early 2007 to boost the share of manufacturing, with a higher value further content, to 23% in 2013.³⁷⁶ (Pakistan) However, the essential investments in infrastructure and in the provision of sectoral public produce could not be materialized.³⁷⁷ Where there is require public goods could not be materialized. Where there is a need of a national competitiveness expansion approach and arrangement, there is a need of financing the compulsory programs and projects to execute the proposed strategies.³⁷⁸ It is through a quantitative and qualitative tracking of the results of these strategies and expenditures involved that the administration would be able to decide about more sensible allocation of resources with a view to boost competitiveness.³⁷⁹ Without such a system, we would not be able to defeat the dispute of the "Dispersal of responsibilities for enhancing expansion and export competitiveness".

³⁷³ 4.11 Small and Large Scale Industries (Chapter-4)

³⁷⁴ 4.11 Small and Large Scale Industries (Chapter-4)

³⁷⁵ 4.1 Strategic Elements in Export Development (Chapter-4)

³⁷⁶ 4.1 Strategic Elements in Export Development (Chapter-4)

³⁷⁷ 1.9 Obligations of World Trade Organization and Free Trade Agreements (Chapter-1)

³⁷⁸ 4.9 Other Measures

³⁷⁹ 1.1 Introduction (Chapter-1)

5.1.6 Reorienting Relationship between Government and Industry

A booming implementation of Strategic Trade Policy Framework hinges upon an admiration of central role being played by STPF in enhancing growth and export competitiveness by all the stakeholders. With STPF finalized after a general discussion with all the stakeholders,³⁸⁰ the Government is embarking upon a new epoch of helpful exploit with the Industry. The Ministry hopes that the industry would be able to organize itself more professionally by cementing new solidarities, transcending slender domains of sectors and local representations.³⁸¹ A weak accomplishment ability of the mediator business support organizations has been a major problem in the realization of common objectives such as skilling, efficiency improvement, scaling, etc. STPF has been equipped in the rouse of a realization that the falling competitiveness of Pakistan's exports is a nationwide challenge, which can exact enormous damage to the business and people in Pakistan if our reaction is not befitting.³⁸² A strategy measure, initiative or spur inscribed in any trade policy, work through an implementation instrument unusual to the nature and working of the explicit intervention. The Ministry would arrange satisfactory resources to develop effective accomplishment strategies for each of the chief interventions with the first quarter with the help of appropriate stakeholders.³⁸³ The Ministry would also look on the relevant Implementation Management Units (IMUs) to establish / produce baseline data to assist the assessment of the yield of a definite quantity and its significance and helpfulness in contributing to the awareness. A think tank which is independent in its self in the field of international trade is helpful to expand and succeed believable monitoring and evaluation plans for each of the accomplishment mechanisms adopted by relevant IMUs.³⁸⁴ On the root of a widespread counseling process, there should be harmony amongst stakeholders involved in international trade so it becomes a locomotive of growth and wealth in Pakistan. It is believed that setting the export targets becomes dim if the transitional indicators are not identified, monitored and enhanced. In case of export growth, the Enabling Trade Index indicators being used by World Economic Forum can be

³⁸⁰ 4.11 Small and Large Scale Industries (Chapter-4)

³⁸¹ 1.3 What is a Multinational Corporation (Chapter-1)

³⁸² 4.16 Skill Upgradation and Enhancing Competitiveness of Firms (Chapter-4)

³⁸³ 1.15 Overview of Trade Policy Consultation Mechanism (Chapter-1)

³⁸⁴ 2.2.2 Slow phase of implementation (Chapter-2)

a helpful starting point for STPF. Pakistan has slide from 92 to 101 position.³⁸⁵ The square indicators are:

- i. Access of Domestic and foreign market
- ii. Competence of customs administration,
- iii. Effectiveness of import export procedure,
- iv. Precision of border administration,
- v. Accessibility and quality of transport,
- vi. Road and rail network,
- vii. Accessibility and value of transport services,
- viii. Availability and use of ICTs,
- ix. Dogmatic atmosphere and physical security.

It is anticipated that Pakistan can be brought to a position below 80 with the definite and coordinated deed of all the major stake holders. Position of Pakistan dropped from 55th to 41st place as far as the level of complexity of its exports is concerned.³⁸⁶

5.1.7 Forms of International Business: Trading Goods across Borders-- Export and Import

A manufacturer of goods in United Kingdom may intensely sell abroad or its goods may find their way across national boundary without its knowledge. They may be sold to distributors who in turn sell them both domestically and abroad. The trading of goods across boundary, the import and export of goods is the initial stage of international business. The actor engaged in trading need not cross those boundaries themselves. There is no need for any equity capacity to move across those borders. US Producers of Pharmaceutical products may have no interest in establishing productive facilities outside U.S but if there is a market abroad that company may wish to sell its goods there. A further question involves the currency to be used. A US company may not be concerned with its ability to convert deutsche marks into dollars; it may be worried that the value of the deutsche marks vis-a-vis the dollars will change between the time of the contract and the time of receiving payment. The company will be even more concern if the goods are

³⁸⁵ 1.10 Legal sources of international trade law (Chapter-1)

³⁸⁶ 4.10 Overview of Pakistan's Trade (Chapter-4)

being sold to a country where the currency is "soft". The currency of many third world nations would not be accepted by all US Bank for conversion into dollars.

5.1.8 Factors to be considered in International Trade

Many of the aspects concerning international transactions are different only in degree from some domestic transactions, but others are novel and have no counterpart in any domestic transactions. These factors are illuminated by examining the risk arising out of such transactions and whether these risks are heightened by the fact that the transactions are international. Once a transaction is identified as international it will usually involve distance between the parties and therefore, require transportation of goods. It will also involve more than one legal system, and could involve different currencies. In addition it is more likely that buyer and seller do not know each other and do not wish to trust each other or to rely upon litigation for protection. The primary risk to seller is of not being paid after shipping the goods. Thus seller wants some assurance of payment. Trade policy is not only the compilation of announcements made by government from time to time or trade related actions taken by the government from time to time. It is also a formal document issued once in a calendar year in which changes made in the document are mentioned. It gives impact through revenue generated through trade protection. Trade policy normally contains justification for the changes planned and statements on trade matters. The responsibility for formation of trade policy lies with the federal Government under the concerned ministry which is ministry of commerce. The present situation of globalization and world trade organization possesses dominant position over trade policy in the direction and vision of an export focused economy.

After extensive research it was discovered that the trade policy of Pakistan is as of now focused around the foreign relations of Pakistan with different countries and local associations instead of on investment markers and money related ramifications consequently is a little consistency in the policy on account of the constantly changing political situation of this locale of the world. Emulating are proposals for enhancing the trade policy of Pakistan.

The greatest preference Pakistan can benefit through the WTO is the further change of its textile industry. Since the expiry of the Multi-Fiber Arrangement agreement in 2005, the

trade quotas for Pakistani textile have been lessened in the worldwide market and Pakistan depend vigorously on WTO for new trade portions, consequently campaigning ought to be carried out so as to attain more quotas through WTO. Also the rebuilding of textile industry must be accomplished and quality included items ought to be made and traded instead of crude materials and amounts ought to be secured in this respect.

Full use of trade quotas ought to be used as the shortfall in quota utilization results in criticism from the importing countries barring the trade liberalization. Pakistan has not had the capacity to use its trade quotas without bounds in light of the vitality emergency. Mechanical part must be prioritized while choosing the appropriation of vitality.

The multi-lateral trade transactions plan in the WTO ought to likewise incorporate that the different quotas in trade should be independent of the non-quota trade agreements and no barring should be imposed on other articles of trade if quota is granted in one article e.g. textiles.

Conceding MFN status to diverse countries is critical in light of the fact that countries are worried about bound levy rate as opposed to connected rate, so open mindfulness ought to be made in this respect before giving the status, if the choice is contradicted, as on account of India.

Pakistan's activities in WTO ought to be focused around local co-operations in trade instead of political alliances, along these lines Pakistan could be a piece of future trade agreements of WTO.

Trade relations with Russia have not been secured on true ability due to Pakistan's slant towards the US in all kind of policy making. India then again has profited enormously from trade with Russia. Cultivating trade relations with Russia is a paramount part of trade strategy in light of the fact that Russia holds key positions in different local trade acquaintanceships. As of late Russia turned into the part of WTO following 18 years of arrangements and India is a standout amongst the most quickly developing economies of the world. Conceding MFN status to India is a positive venture in pushing provincial trade and investment collaboration; however the current financial states of Pakistan are not suitable enough for such a step. MFN will guarantee respectably lower levies on import of Indian products bringing about expanded imports from India which will have decimating

impacts on the neighborhood producing industry. It is worth perceiving that India allowed MFN status to Pakistan in 1996, however no considerable focal point have been attained from this in view of the way that the most noteworthy levy in India are on rural and material area and therefore Pakistani exporters still can't get to the Indian markets. Trade with India will be gainful once Pakistan determines its vitality emergency fortifies its economy and uproot trade obstructions on materials and farming, along these lines MFN status might be given a functional significance. At this time, the legislature ought to counsel the material, car, cowhide, article of clothing and pharmaceutical producers while selecting the things for concessionary duty to India and for settling the negative rundown with a specific end goal to spare domesticated industry from any harm. Additionally hardware and semi-completed items could be transported in from India at more level costs as contrasted with the current choices.

Trade relations with China have proved being exceptionally useful for Pakistan, however there is a huge awkwardness between imports and exports. The extensive imports from China have effectively influenced the local assembling industry in view of the less expensive costs of the foreign made merchandise. The statutory structure of China's investment regime, and the context in which it was prorogated provides investors with greater predictability of government actions is more transparent and user friendly which shows China's commitment to attract foreign investment.³⁸⁷ Along these lines as to the trade relations with China, we can suggest the accompanying two point motivation:

- i. Checks ought to be forced on the trade things transported in from China. Inclination ought to be given to China regarding imports of services. A negative list should be maintained in order to save the local manufacturers.
- ii. Extensive visits to China ought to be organized the Pakistani producers and exporters by the Ministry of Commerce in order to explore the Chinese market, which is the largest in the world so that exports to China could be increased.

SAARC countries avoiding India and especially Bangladesh and Sri Lanka give extraordinary chance to the Pakistani exporters. Since these countries are exceptionally crowded and have a little horticultural base to sustain their extensive populaces, Pakistan

³⁸⁷ *China's FDI regime both (1) broke "dramatically with past economic and legal policy, thereby explicitly signaling to foreign investors China's desire for capital from abroad" and (2) the regime's structure "proves relatively more transparent and user friendly than its Indian counterpart.*

can trade agrarian merchandise to these countries and the main rivalry confronted by Pakistan in this respect is from India. Bond is an alternate imperative fare to the SAARC countries and Pakistan confronts less rivalry in this respect. Steps ought to be taken to build the bond preparation with a specific end goal to endeavor the South Asian market. Likewise Pakistan can additionally contend in gadgets, for example, Fans, Washing Machines and so on. China and Far East countries posture intense rivalry in this respect yet Pakistani products have the preference of low costs and less expensive logistics, accordingly Pakistani exporters can overwhelm these territories as the quality requests of SAARC countries are lower as contrasted with whatever remains of the world. Honoring PTA status to these countries could be a positive advancement in this respect.

Afghanistan offers the biggest market in the area to be misused by Pakistani exporters. China and India are the two primary contenders of Pakistani items in Pakistan however Pakistan has the playing point on the premise of its as far back as anyone can remember imparted fringe to Afghanistan and in this way Pakistan can contend on the premise of low costs as a result of less expensive logistics. Notwithstanding made merchandise, Pakistan can export services to Afghanistan. In addition the anticipated benefits to be created from the Gawader port very rely on upon trade relations with Afghanistan and Central Asian States. Pakistan can likewise import less expensive vitality assets, especially common gas from the Central Asian States, an understanding in this respect has as of now been made with Turkmenistan; the obstructions to its usage must be evacuated immediately. Pakistan ought to take the heading part for trade participation in this locale and ought to start the thought of a New Silk Road, going through Afghanistan to the Central Asian States, joined with the Motorway arranges in Pakistan. Along these lines the Gawader port will be used by Central Asian States and Pakistan can gain expansive measure of foreign trade as travel charges. A subsidizing gathering for the proposed New Silk Road might be organized securing stores from universal supporting orgs. The Free Economic Zones set up by WTO in the Central Asian States are yet to be used by Pakistani speculators and exporters, government ought to organize visits to build mindfulness about these FEZS.

Trade with Iran takes after an exceptionally basic standard; Pakistan can send out shabby agrarian items to Iran and can get shoddy fossil energizes for understanding its vitality emergency; however trade with Iran is getting more troublesome for Pakistan because of the global approvals forced on Iran. Then again, Pakistan ought to transform its stance in

this respect and ought to agree with Brazil and China who voted against the authorizations. Local financial participation can yield much better comes about for Pakistani economy.

The following recommendations should be adopted in order to improve the volume of trade:

1. Pakistan ought to advertise the export of services as there is a colossal potential in this respect. Telecom and programming could be the pioneer businesses in this respect. Pakistan can export these services to other underdeveloped countries in Africa and South Asia. Detail in this respect must be enhanced and the Ministry of Commerce ought to structure a Services Statistics Wing keeping in mind the end goal to keep up the information of administrations through experts which Pakistan can fare to immature countries. In order to maintain the data of services through professionals which Pakistan can export to underdeveloped countries? Since the implementation of GATS there is a large market for services in Africa to be explored.
2. It is imperative to enhance the law and order in the country keeping in mind the goal to invite foreign investors to the country which is exceptionally essential for supporting the economy of the country in the current situation.
3. The Ministry of Commerce ought to structure a WTO Wing keeping in mind the goal to expand campaigning and guarantee consideration of Pakistan's diversions in future WTO agreements. In this way Pakistan can take the advantage of the WTO regime to the fullest.
4. Value addition ought to be carried out to the export articles and finished goods ought to be sent out as opposed to crude products. Foreign financing might be used for securing the assembling industry for such merchandise.
5. Trade policy ought to be focused around the standards of Autonomous Trade Liberalization and territorial participation ought to be expanded.
6. The quality of merchandise ought to be enhanced keeping in mind the end goal to contend in the worldwide business sector. A training institute should be established by the Ministry of Commerce in this respect.
7. Legislation should be carried out for intellectual property protection and copyright laws should be modified on the international recommendations. This is very important for inviting investment.

8. Trade Policy ought to be defined for more than one year so as to accomplish consistency. Annual modifications and checks should be applied.

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