

THE INTERNATIONAL
TRADE LAW
REVIEW

NINTH EDITION

Editors

Folkert Graafsma and Joris Cornelis

THE LAWREVIEWS

Published in the United Kingdom
by Law Business Research Ltd
Holborn Gate, 330 High Holborn, London, WC1V 7QT, UK
© 2023 Law Business Research Ltd
www.thelawreviews.co.uk

No photocopying: copyright licences do not apply.

The information provided in this publication is general and may not apply in a specific situation, nor does it necessarily represent the views of authors' firms or their clients. Legal advice should always be sought before taking any legal action based on the information provided. The publishers accept no responsibility for any acts or omissions contained herein. Although the information provided was accurate as at August 2023, be advised that this is a developing area.

Enquiries concerning reproduction should be sent to info@thelawreviews.co.uk.
Enquiries concerning editorial content should be directed to the Content Director,
Clare Bolton – clare.bolton@lbresearch.com.

ISBN 978-1-80449-199-7

ACKNOWLEDGEMENTS

The publisher acknowledges and thanks the following for their assistance throughout the preparation of this book:

ACTECON

AKIN GUMP STRAUSS HAUER & FELD LLP

BAKER MCKENZIE SAS

DUA ASSOCIATES

GH CONSULTS LLC

IBRACHY AND DERMARKAR

LINKLATERS

MCMILLAN LLP

MORI HAMADA & MATSUMOTO

NICOLAJ KUPLEWATZKY

PINHEIRO NETO ADVOGADOS

PORZIO RÍOS GARCÍA ABOGADOS

SÁNCHEZ DEVANNY

SKRINE

S.U.KHAN ASSOCIATES, CORPORATE & LEGAL CONSULTANTS

VAN BAEL & BELLIS

VVGB ADVOCATEN|AVOCATS

WIENER SOTO CAPARRÓS

PAKISTAN

*Saifullah Khan*¹

I OVERVIEW OF TRADE REMEDIES

As a member of the World Trade Organization (WTO) and a signatory to the General Agreement on Tariffs and Trade 1994 (GATT), Pakistan must ensure that its trade remedy framework complies with the WTO agreements. Its trade remedy mechanism is derived from internationally agreed rules and procedures under the auspices of the WTO. The National Tariff Commission (NTC), an autonomous government agency, is entrusted to conduct trade remedy investigations. The governing laws in Pakistan that deal with trade remedy measures came into force in 2001. The first anti-dumping investigation by the NTC was initiated in 2002 against the dumped imports of tinplate from South Africa and, since then, it has initiated 147² anti-dumping investigations and imposed 97 measures involving all the major industries, including iron and steel, chemicals, paper and paper board, textiles, petrochemicals, tiles and sanitary ware, packaging and automotive parts.

Pakistan has a growing semi-industrialised economy that relies on manufacturing, agriculture and remittances. Although since 2005 gross domestic product (GDP) has been growing by an average 5 per cent a year,³ this is not enough to keep up with fast population growth. The economy showed recovery from the pandemic (a 0.94 per cent drop in the fiscal year 2020) and maintained a V-shaped recovery by posting real GDP growth of 5.97 per cent in the fiscal year 2022, with the growth of the agricultural, industrial, and services sectors at 4.4 per cent, 7.19 per cent and 6.19 per cent respectively. The situation reversed again in 2023, when Pakistan's GDP saw only 0.3 per cent growth in the fiscal year 2022–2023, compared with the projected 5 per cent, according to the government Finance Division's Pakistan Economic Survey 2022–23.⁴ The agriculture sector grew by 1.55 per cent, while industry declined by 2.94 per cent and the services sector grew by only 0.86 per cent, contributing nearly 60 per cent of the country's GDP. This shortfall is due to many challenges emanating from an uncertain external and domestic economic environment. These challenges caused consumer price index inflation to remain on a higher trajectory, despite monetary tightening, which was primarily due to depreciation of the Pakistani rupee, according to the Finance Division's Monthly Economic Update and Outlook May 2023.

According to the World Bank's *Global Economic Prospects* report 'Pakistan faces challenging economic conditions, including the repercussions of the recent flooding and continued policy and political uncertainty. As the country implements policy measures to

1 Saifullah Khan is the managing partner at S.U.Khan Associates, Corporate & Legal Consultants.

2 https://www.wto.org/english/tratop_e/adp_e/adp_e.htm.

3 <https://tradingeconomics.com/pakistan/gdp-growth>.

4 https://www.finance.gov.pk/survey_2023.html.

stabilise macroeconomic conditions, inflationary pressures dissipate, and rebuilding begins following the floods, growth is expected to pick up to 3.2 per cent in FY2023/24, still below previous projections.’

According to the Pakistan Economic Survey 2022–23, imports during the period from July to April in the financial year (FY) 2022/2023 amounted to US\$ 46.9 billion, compared with US\$ 65.5 billion in the same period in the previous financial year, a decline of 28.4 per cent, reflecting the impact of policy tightening and other administrative measures. The regulatory measures to curtail imports have included: imposition of a 100 per cent cash margin requirement on a total of 702 items; regulatory duties of up to 100 per cent levied on more than 800 luxury items; tightening of regulations for exchange companies; tightening of regulation of consumer financing; and an increase in cash reserve requirements for banks of 100 basis points between July and March in FY 2022/2023. Exports also declined between July and April of FY 2022/2023, down to US\$23.2 billion from US\$26.2 billion in the same period in the previous year – a drop of 11.7 per cent. This downturn was on account of weak global demand and lacklustre performance in the domestic economy in the face of the measures curtailing demand.

Pakistan’s economic growth is highly dependent on its exports because by earning foreign exchange it is able to finance its imports, stabilise its currency devaluation, service its debts and resolve the issue of its balance of payments deficit. However, the trade imbalance that has continued for decades cannot be reduced without having an effective import substitution strategy.

As the industrial sector is still underdeveloped, the market is dominated by imports in various sectors. As a result, any new investment in an industrial product faces immense competition from imports that are mostly dumped, in which case the only remedy available to the new industry is filing an anti-dumping application. There are many success stories, with the new industry not only flourishing after the imposition of an anti-dumping duty but also being able to expand its capacity further, resulting in fulfilment of domestic demand and creating exportable surplus. For example, the hydrogen peroxide industry was continuously incurring losses after its inception in 2008 because of dumped imports from multiple sources. The NTC conducted an investigation and levied anti-dumping duties, which levelled the playing field and allowed the industry to serve domestic demand and start exporting to other countries. With the expansion in domestic demand, local players also enhanced their capacity and new players entered the industry.

This was also the case with the flat steel industry. A major portion of this industry is made up of cold-rolled coils, galvanised coils and colour-coated coils. After the downfall of Pakistan Steel Mills, the private sector began setting up manufacturing units for flat steel products in Pakistan. The industry started its production in 2011 and was under severe pressure from dumped imports, which prompted it to file various anti-dumping applications against dumped imports of cold-rolled coils, galvanised coils and colour-coated coils. The NTC concluded anti-dumping investigations and imposed anti-dumping duties. After levying anti-dumping duties, the performance of the industry began to improve. Its capacity enhanced from 500,000 tonnes to 1.7 million tonnes per annum. Now, in addition to catering for domestic demand, Pakistan’s steel industry is competing in export markets with quality products.

Industries are increasingly becoming aware of their rights under trade defence laws. The NTC has conducted awareness sessions in various cities to let people know what trade remedies are available to them and how the process works. Gradually, more cases and

investigations are being opened concerning trade remedies, mostly related to anti-dumping. During the past year, most of the trade remedy investigations pertains to expiry or sunset reviews of anti-dumping duties imposed five years previously. The significance of trade remedy measures is demonstrated in the financial results of the industries during the period of levy of anti-dumping duties. The industries have undertaken capacity expansions, and their production, sales, capacity utilisation and profits have also increased manifold. New players have also entered the domestic market to enjoy a level playing field. For example, the imposition of anti-dumping duties benefited the sulphonic acid industry; the major producers who filed original anti-dumping application have increased their capacities and new capacities have also been installed during the period of levy of anti-dumping duty. Similarly, the polyvinyl chloride industry has also benefited from the level playing field provided by the imposition of anti-dumping duty and increased its capacity from 195,000 tonnes to 295,000 tonnes.

To date, Pakistan has not initiated any safeguard investigations. Only one application was filed under the Safeguard Measures Ordinance 2002 in July 2015 by the producer of soap noodles, which was not initiated by the NTC because there was a lack of 'sufficient evidence of serious injury to the domestic industry' and no 'surge of imports'. Further, only two anti-subsidy and countervailing applications have been filed by domestic industries and initiated by the NTC, as outlined below.

The first was filed in October 2011 along with an anti-dumping application against alleged subsidised and dumped imports of certain writing and printing paper into Pakistan, which originated in and was exported from Indonesia and Thailand. After the investigation was initiated, certain legal and jurisdictional issues were raised in the judicial courts of Pakistan resulting in injunction orders that held the NTC's investigation proceedings in abeyance. Indonesia subsequently challenged the investigation under Article 5.10 of the WTO's Anti-Dumping Agreement and Article 11.11 of the Agreement on Subsidies and Countervailing Measures (ASCM), claiming that these articles provide that any anti-dumping or countervailing duty investigation has to be terminated after 18 months from the date the investigation is initiated. In this case, Pakistan initiated the investigations in November 2011 and they were still pending in November 2013. After attempts to resolve the dispute failed, on 12 May 2014 Indonesia requested that the Dispute Settlement Body (DSB) establish a panel to examine the matter. However, Pakistan notified the DSB of its concerns over this request, stating that 'no provisional or definitive anti-dumping or countervailing duties had been imposed by Pakistan on the products in question' and Indonesia's share of the import market had grown since the initiation of the investigations by Pakistan, which meant the investigations did not have any economic impact on Indonesia. On 23 May 2014, pursuant to Pakistan's request, the DSB deferred the establishment of the panel. Pakistan terminated its countervailing investigation in June 2014.

The second countervailing application was filed in April 2016 against subsidised imports of fine cotton yarn from India. After a thorough investigation, the NTC determined subsidy margins and imposed provisional countervailing duties for four months. However, as the domestic industry filed both anti-dumping and countervailing applications simultaneously, the NTC decided to impose definitive anti-dumping duties in the final determination and countervailing duties were not imposed.

II LEGAL FRAMEWORK

Pakistan is a signatory to the Uruguay Round agreements, thereby making it a founding member of the WTO. For the WTO trade defence agreements to have legal force in Pakistan it was necessary for laws to be enacted in Pakistan that mirrored the provisions of these agreements. Therefore, to give effect in Pakistan to the provisions of Article VI of the GATT and to the Agreement on Implementation of the GATT, and to consolidate the laws relating to anti-dumping duties to offset dumping, to provide a framework for investigation and determination of dumping and injury in respect of goods imported into Pakistan and for ancillary or connected matters, the Anti-Dumping Duties Act 2015 (XIV of 2015), which reformed and repealed the Anti-Dumping Duties Ordinance 2000 (LXV of 2000) is in place.

Similarly, to give effect to the provisions of Articles VI and XVI of the GATT and to the ASCM, and to further strengthen the law relating to imposition of countervailing duties to offset subsidies, to provide a framework for investigation and determination of such subsidies and injury in respect of goods imported into Pakistan and for ancillary or connected matters, the Countervailing Duties Act 2015 (XIII of 2015), which reformed and repealed the Countervailing Duties Ordinance 2001 (I of 2001), is in place.

Finally, to give effect to the provisions of Article XIX of the GATT and to the Agreement on Safeguards to provide for the imposition of safeguard measures accordingly, to provide a framework for investigation and determination of serious injury caused by products imported into Pakistan and for ancillary or connected matters, the Safeguard Measures Act 2015 (II of 2015), which repealed and replaced the Safeguard Ordinance 2002 (XXXI of 2002), is in place.

To enforce these laws, the government established the NTC through the National Tariff Commission Act 1990. This Act was revised through the National Tariff Commission Act 2015 (XII of 2015) on 10 September 2015.

In addition to the above-mentioned Acts and Ordinances, the following rules were promulgated to establish the process of investigations: the Anti-Dumping Duties Rules 2001, the Countervailing Duties Rules 2001 and the Safeguard Measures Rules 2001.

III TREATY FRAMEWORK

Pakistan has a free trade agreement (FTA) with Sri Lanka (2005), preferential trade arrangements (PTAs) with Iran (2004), Mauritius (2007) and Indonesia (2012), and FTAs in goods and investments with China (2005) and Malaysia (2007). It is part of the Economic Cooperation Organization Trade Agreement and the South Asian Free Trade Agreement. Pakistan recently, signed two new preferential trade agreements – with Turkey and Uzbekistan.

No new trade agreement has been signed in the past few years. Pakistan is also in negotiations for FTAs and PTAs with certain other countries; for example, Afghanistan, Azerbaijan, the members of the Gulf Cooperation Council, Iran, Thailand, and the United Arab Emirates.

The government strongly believes in free trade regimes and has always supported efforts aimed at promoting free trade and open market policies. However, statistics in recent years have revealed that Pakistan has been unable to boost its international trade performance despite seeking to implement various trade liberalisation policies. The bilateral trade with its FTA partners has also been running into a continuous deficit, indicating that it has not been able to take advantage of the free trade agreements. However, the recent renegotiation of Pakistan's FTA with China is a step in the right direction by incorporating China's preferences

when considering relevant exportable products in Pakistan. The renegotiated agreement reflects, to some extent, Pakistan's economic priorities. It adopts strong commitments in areas where the agreement obligations are in line with its growth strategy.

Pakistan has approved its first-ever National Tariff Policy 2019–2024 (NTP). The NTP recognises the importance of using import tariffs for industrial development and export growth. It is based on the principles of:

- a* employing tariffs as an instrument of trade policy rather than revenue generation;
- b* maintaining vertical consistency through cascading tariff structures (increasing tariff with stages of processing of a product);
- c* providing time-bound 'strategic protection' to the domestic industry during the infancy phase; and
- d* promoting competitive import substitution through time-bound protection, which will be phased out to make the industry eventually competitive for export-oriented production.

In accordance with these principles, any protection given to the domestic industry will be limited to a certain specified time and will be gradually withdrawn to promote free trade. These principles have also been considered while announcing the recent Finance Bill 2022 and the Finance Bill of 2021, and certain anomalies have been removed in cascading tariff structures, few targeting interventions to promote and protect domestic industries have been made and tariffs have been rationalised on industrial raw materials and intermediate goods. Continuing its commitment under the NTP, the government has exempted import duties from a large number of tariff lines of raw materials, and there are certain other tariff lines where import duties have been reduced.

To achieve trade facilitation in an automated environment, reduce clearance times for legitimate trade and improve compliance through increased access to regulatory information and functions, the Pakistan Single Window system has been launched. This ensures greater collaboration and coordination between Customs and other border regulatory agencies at the national and international level for coordination of border management and increases transparency in regulatory processes and decision-making.

All these initiatives demonstrate Pakistan's commitment to facilitate trade to and from Pakistan.

IV RECENT CHANGES TO THE REGIME

The NTC has faced certain limitations and problems in past years in relation to protecting the domestic industry after the WTO was established and using trade remedy measures. As a result, the government revised the NTC Act 1990 and the Anti-Dumping Duties Ordinance 2000, the Countervailing Duties Ordinance 2001 and the Safeguard Measures Ordinance 2002. New legislation was promulgated on 26 February 2015.

The revised National Tariff Commission Act 2015 is a more expansive piece of legislation compared with the repealed NTC Act 1990, with a few additional provisions and detailed explanation of old provisions. The absence of provisions relating to the quorum of the NTC in the previous legislation to take valid decisions was a major obstacle in the way of providing protection to the domestic industry from foreign exporters' unfair trade practices. This issue is addressed in the new legislation along with providing qualification and experience criteria for members of the NTC. The constitution of the NTC was revised and the number of

members was raised from three to five to ensure that, with expanding trade ties, there are enough members to serve industries in a timely manner. A provision on the qualification and eligibility of members was added to make sure that members are capable of understanding the sensitive issues relating to tariff protection and trade defence laws, among other things.

Further, in the revised legislation, it was ensured that no act, proceeding or decision of the NTC can be held invalid by reason only of the existence of a vacancy or defect in the Constitution of the NTC. Under the previous legislation, many investigations were deemed invalid because of a defect in the quorum. This provision enables the decisions of the NTC to remain valid. The amended text extends the terms of the members to five years, because it takes significant time for members to become fully aware of the substantive and procedural mischiefs of the trade defence laws, including the need to fully apprehend the economic and cost accountancy issues. It also ensures that, in the absence of a notification by the government, automatic procedures will ensure that NTC members continue to perform their functions for another period of one year.

Major changes made to anti-dumping and countervailing laws are as follows.

- a* A new subsection was added to the revised laws, which states that termination of an investigation or conclusion of an investigation without imposition of measures shall not be a bar to filing a *de novo* application for a new investigation immediately after the termination or conclusion of the investigation. The NTC shall treat the application in accordance with provisions of these laws.
- b* A lesser duty rule was introduced in the revised anti-dumping law, which was not present in the earlier laws. The lesser duty rule is not mandatory; the NTC has the discretion of whether to apply the rule in an investigation.
- c* A provision was added to strengthen export-oriented industries, which stated that anti-dumping duties, whether provisional or definitive, imposed under these laws shall not be levied on imports that are to be used as inputs in products destined solely for export.
- d* Clarification of what may constitute circumvention has been added to the provision relating to anti-circumvention measures to ensure conformity with the latest developments in anti-circumvention practices. The remedial measures applicable in the event that the NTC determines circumvention have also been clearly stated. Further, a subsection was added concerning *suo moto* actions of the NTC, describing the timeline of anti-circumvention investigations.
- e* A section has been added on monitoring, evaluation, qualification and disqualification criteria as well as clear and effective working procedures for the functioning of the Anti-dumping Appellate Tribunal (the Tribunal) covering the matter of the quorum and discipline.

Certain additional amendments to anti-dumping and countervailing laws are currently being discussed. The domestic industry has made various proposals to remove the provisions relating to the lesser duty rule and the exemption of anti-dumping and countervailing duties for export-oriented industries and to reinstate earlier versions of the laws.

V SIGNIFICANT LEGAL AND PRACTICAL DEVELOPMENTS

A major development in trade remedy measures in recent years was the change of circumstances review investigations initiated and concluded by the NTC. Until the end of 2019 (after a period of 18 years since trade remedy laws were promulgated), the domestic industry had never invoked the provision of a change of circumstances review.⁵ The NTC had also never conducted a change-of-circumstances review investigation. When duties were levied, they remained applicable for the entire period for which they were levied initially and at the same rate determined in the final determination of the investigation.

During December 2019, the first-ever application for a change of circumstances review of anti-dumping duties was filed with the NTC. This application was filed by the domestic hydrogen peroxide industry against imports from Bangladesh. The industry alleged that the circumstances that were prevalent during the period of the investigation had changed significantly, leading to a situation where the existing anti-dumping duties were no longer effective and the quantum of the anti-dumping duty rates in force had to be increased. On 26 August 2020, the NTC concluded its review and definitive anti-dumping duties were imposed on dumped imports of hydrogen peroxide imported from Bangladesh. The original range of 10.67 per cent to 12.14 per cent was revised to 15.38 per cent to 16.1 per cent, effective from 26 August 2020.

Following this, the domestic industry producing sorbitol solution filed for a change of circumstances review along with a sunset review of anti-dumping duties levied on dumped imports of sorbitol 70 per cent solution (Sorbitol) into Pakistan originating in or exporting from India, or both. The industry alleged that the Indian exporters had absorbed the anti-dumping duties and, therefore, imports of Sorbitol from India had continued after the imposition of anti-dumping duties at dumped prices. The review investigation was concluded, and the Commission determined that the available data does not support the claims made by the applicant that circumstances for production and sales of Sorbitol in India have significantly changed. It has, therefore, concluded that redetermination of anti-dumping duty is not required.

The initiation of these reviews and positive outcome of one of the cases have laid the foundation for interim reviews for the domestic industry before the expiry of anti-dumping duties, and for increased anti-dumping duties in expiry reviews.

Another important issue is the filing of writ petitions before judicial courts (high courts) against the decisions and determinations of the NTC. The high courts used to grant stay or injunction orders that restricted the NTC from proceeding further in investigations, or rendered anti-dumping duties inapplicable or prevented them from being collected for a certain period. Because of these stay orders, industries often did not experience the benefits of anti-dumping duties being levied. In *Tameer Steel Zone v. Government of Pakistan & Others*,⁶ the NTC raised a preliminary objection about the maintainability of the writ petitions on

5 Article 11.2 of the WTO Anti-Dumping Agreement.

6 In the matter of NTC Notices of Final Determination dated 19 January 2017, 8 February 2017 and 13 June 2018 in respect of cold-rolled coils, galvanised steel sheets and colour-coated steel sheets.

the grounds that petitioners have an alternative remedy available under Section 70 of the Anti-Dumping Duties Act 2015 – the Tribunal. Therefore, these writ petitions are not maintainable. In this case, the high court observed that:

There is no dispute regarding the fact that an alternative remedy is now available to petitioners. We have been informed that the appellate tribunal stood fully constituted according to the composition provided in section 64 of the Act. The appellate tribunal is by now fully functional, having lawful authority to consider pleas of the petitioners and grant the appropriate relief, if the petitioners were found entitled thereto. The petitioners can therefore have recourse to the remedy provided by section 70 of the Act. A remedy of further appeal before the High Court has also been provided under subsection (13) of section 70 of the Act. Thus a robust and full-fledged mechanism for dispute resolution has been provided under the Act.

The high court relied upon many cases in this judgment, including *Collector of Customs Lahore and others v. University Gateway Trading Corporation and another*,⁷ in which the Supreme Court observed the following:

it hardly needs any elaboration that where a particular statute provides a self-contained mechanism for the determination of questions arising under the statute where law provides a remedy by appeal or revision to another Tribunal fully competent to give any relief, any indulgence to the contrary by the High Court is bound to produce a sense of distrust in statutory Tribunals. Petitioner without exhausting his remedy provided by the statute filed Constitutional petition. Constitutional petition, in circumstances, was not maintainable.

Accordingly, the court in *Tameer Steel Zone v. Government of Pakistan & Others* ordered that all the writ petitions should be converted into appeals and shall be deemed to have been filed before the Tribunal on the dates they are filed before the high court. All the records were directed to be transmitted to the Tribunal and the petitioners were directed to appear before the Tribunal on 28 December 2020.

The court further directed that consignments, already cleared on receipt of post-dated cheques or bank guarantees without payment of anti-dumping duties in pursuance of interim orders of the court, will be subject to a final determination of the Tribunal in their respective converted appeals. Until then, neither the post-dated cheques nor bank guarantees can be cashed.

Therefore, this judgment established that if an alternative remedy is available under the law, a direct writ petition before a high court is not maintainable.

In a recent judgment, the Tribunal dismissed the grounds used by interested parties to exclude a domestic producer from inclusion within the scope of domestic industry, because the producer's imports formed the dumped sources. The Tribunal judgment held that the behaviour of the producer concerned had to be seen with reference to the application for anti-dumping duty, and exclusion of the domestic producer concerned would unduly skew the data of the application. This has clarified the issue of the standing of the domestic industry where any of the domestic producers have also imported the subject product.

7 Reported as 2005 SCMR 37.

In another development in trade remedy law, the past year saw the reaffirmation of the previous practice of the National Tariff Commission not to change dumping margins during a sunset or expiry review. For any change in dumping margins, the interested party now has to file an application for a change-of-circumstances review.

For more than a year now, there have been no new anti-dumping investigations. All the ongoing investigations or those already determined by NTC relate to sunset reviews of anti-dumping duties levied five years ago. There may be a number of reasons for this, including the impact of covid-19, higher freight costs, exchange rate depreciation etc. Higher freight costs and exchange rate depreciation meant that the landed cost of imports increased significantly making imports less attractive. In this context, the domestic industry could increase its sales at reasonable margins. Further, the fact that imports have been controlled and restricted over the course of the past year or because of the current account deficit also played a role in preventing any influx of imports, thereby eliminating the need to invoke trade defence remedies.

In the most recent quarter, a few industries have shown interest in filing anti-dumping applications, but the NTC has been dysfunctional since January 2023 owing to non-appointment of members and a chairperson. In fact, there are a few sunset review investigations pending at various stages with no prospect of developments or determinations being made until the NTC is reconstituted. As a consequence, the anti-dumping duties on the products for which the applications for sunset review were duly filed by the domestic industry have since expired. Further, the fate of anti-dumping duties in the ongoing sunset review investigations that have not been completed within the prescribed timeline is also uncertain.

VI TRADE DISPUTES

As regards trade remedies, Pakistan has been party to eight WTO disputes, five as complainant against the United States (two cases), the European Union, South Africa and Egypt, and three as respondent against Indonesia, the United Arab Emirates and the European Communities (EC). Four of these cases are summarised below.

i DS107: Pakistan – Export Measures Affecting Hides and Skins

On 7 November 1997, the EC requested consultations with Pakistan in respect of a notification enacted by the Ministry of Commerce of Pakistan prohibiting the export of, among other things, hides and skins, and wet blue leather made from cow hides and cow calf hides. The EC contended that this measure limited the access of EC industries to competitive sourcing of raw and semi-finished materials. The matter was resolved through a mutually agreed settlement between the EU and Pakistan.

ii DS470: Pakistan – Anti-Dumping and Countervailing Duty Investigations on Certain Paper Products from Indonesia

On 27 November 2013, Indonesia requested consultations with Pakistan relating to the continuation of, and failure to terminate in a timely manner, certain anti-dumping and countervailing duty investigations on certain paper products from Indonesia. In 2014, Indonesia requested the creation of a panel, but this was deferred. The NTC subsequently terminated the investigations.

iii DS500: South Africa – Provisional Anti-Dumping Duties on Portland Cement from Pakistan

This case relates to the imposition of provisional anti-dumping measures by South Africa on the import of Portland cement products from Pakistan. On 10 November 2015, Pakistan requested consultations with South Africa, but the dispute did not settle or move forward. South Africa imposed final anti-dumping duties, and an expiry review was initiated in December 2020. On 10 June 2022, the International Trade Administration Commission of South Africa issued a regulation extending the definitive duty imposed on imports of Portland cement from Pakistan following the conclusion of the sunset review. The rate of duty ranges from 25 per cent to 68.87 per cent.

iv DS538: Pakistan – Anti-Dumping Measures on Biaxially Oriented Polypropylene Film from the United Arab Emirates

On 24 January 2018, the United Arab Emirates requested consultations with Pakistan concerning Pakistan's anti-dumping measures on imports of biaxially oriented polypropylene film from the United Arab Emirates. A panel was established and composed on 7 May 2019. On 18 January 2021, the panel report was circulated to members. On 22 February 2021, Pakistan filed an appeal before the Appellate Body on certain issues of law and legal interpretations in the panel report.

VII OUTLOOK

Pakistan has cut its GDP growth estimate for FY 2022/2023 to 0.29 per cent, from an earlier estimate of 2 per cent, with a contraction in industrial growth underscoring concerns about the possibility of an acute economic crisis. Overall growth in the country was stunted by slowdowns in the agriculture, industrial and service sectors – with growth levels estimated at 1.55 per cent, -2.94 per cent and 0.86 per cent respectively in these sectors, according to the National Accounts Committee.

According to the Asian Development Outlook of April 2023,⁸ Pakistan's GDP growth is projected to slow to 0.6 per cent in FY 2023/2024, down from 6 per cent in the past fiscal year, as the economy struggles to recover. The major reasons for this projected slow economic growth were 2022's devastating floods, ballooning inflation, a current account deficit and an ongoing foreign exchange crisis. 'Pakistan's economy continues to face strong headwinds while the past year's catastrophic floods have exacerbated the economic and financial challenges,' said Asian Development Bank (ADB) country director for Pakistan Yong Ye.

In FY 2023/2024, industrial growth is forecast to continue decelerating, reflecting fiscal and monetary tightening, a significant depreciation in the local currency, and higher domestic oil and electricity prices. Climate change poses a grave challenge to Pakistan's economic, social and environmental development. According to the Global Climate Risk Index, the country has ranked among the 10 most vulnerable nations worldwide throughout the past two decades. Climate-induced extreme weather has led to thousands of fatalities and colossal losses in agriculture, infrastructure and the economy.

Pakistan has been trying to reach a deal with the International Monetary Fund to disburse a stalled US\$1.1 billion of funding from a US\$6.5 billion bailout agreed in 2019.

8 <https://www.adb.org/publications/asian-development-outlook-april-2023>.

According to Central Bank statements, Pakistan's foreign exchange reserves had dropped to US\$4.19 billion, barely enough to cover a month of controlled imports. Subsequently hit by devastating floods and political chaos last year, Pakistan's US\$350 billion economy has nosedived in the past year, down from over 6 per cent growth. In April 2023, Pakistan posted its highest-ever rate of inflation, 36.4 per cent, and its currency has depreciated to a historic low.

In FY 2023/2024, growth is forecast to rise to 2 per cent, assuming the resumption of macroeconomic stability, implementation of reforms, post-flood recovery and improving external conditions, according to the ADB. 'Yet, with a history of resilience in the face of adversity and depending on a fast return to stability twinned with robust macroeconomic and structural reforms, Pakistan can bounce back,' said the ADB's Yong Ye.

In support of this, the fact that Pakistan's economy rallied after the covid-19 crisis indicates that the country has enormous potential to overcome its challenging economic situation. The post-pandemic recovery was the result of well-coordinated fiscal and monetary policy responses that led to a remarkable expansion in Pakistan's industry and services sectors. In the long run, it is anticipated that appropriate policy measures supported by structural reforms will turn the current difficult economic situation around, leading to Pakistan's economic recovery.