GOVERNMENT OF PAKISTAN
Ministry of Commerce

Pakistan-India Trade Liberalization
Frequently Asked Questions (FAQs)

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Key Trade Terminologies and Agreements

1. What does MFN stand for?

MFN stands for the Most Favoured Nation. The Most Favoured Nation (MFN) principle requires that every WTO member will treat all its trading partners equally without any prejudice and discrimination. Therefore, if a member country grants some special favour or concession to another country, it will have to extend the same favourable / concessional treatment to all other WTO members. The essence of MFN principle is the 'equality of treatment' which can be summed up as “Favour one, favour all”. The MFN principle is embodied in Article-I of GATT, which governs trade in goods, Article-II of GATS i.e. agreement relating to Trade in Services and Article-IV of Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS).

2. Has India granted Pakistan the MFN status on goods and services?

India granted Pakistan MFN status in 1996, but Pakistan held back, citing strategic considerations.

3. Will granting MFN status to India allow them to receive any preferential or special treatment?

It does not mean that India will become a more favoured importing country. This only implies that Pakistan will give the same treatment to imports from India as it does to imports from any other WTO member states with which Pakistan does not have a Free Trade Agreement (FTA) or Preferential Trade Agreement (PTA).

Countries that enjoy special, favourable or preferential trade treatment are those with which Pakistan has an FTA or a PTA.

4. What is a Positive List?

A list of items that were allowed by Pakistan to be imported to Pakistan from India, as per appendix G of the Pakistan Trade Policy 2009-2012. This list was abolished in 2012.The Positive List comprised of 25% of all tradable tariff lines at HS digit level 8.

5. What is a Negative List?

A list of products or tariff lines (at Harmonized System Codes at 8-digit Level) that cannot be imported to Pakistan from India as per Pakistan Trade Policy 2012-2015, appendix G. This list replaced the Positive List in March, 2012. Currently there are 1209 (16% of all tradable tariff lines) HS 8 digit level products in the Negative List. Removal of the Negative List by Pakistan will tantamount to granting of MFN status by Pakistan to India.

6. What are the items included in the Negative list of Pakistan?

Some of the items in the negative list of Pakistan include: chemicals, plastic products, paper products, value added textiles, ceramic and glass products, metallic products, machinery, vehicles and transport equipment.

7. What were the items included in the Positive list of Pakistan?

Some of the items included basic food items; raw materials (especially those which are not produced in Pakistan); intermediate and capital goods (especially those which are not produced in Pakistan). Some of these items included; accessories for leather bags and footwear, reeling machines, chemicals for leather industry, traction motors and their spares.

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South Asia Free Trade Area (SAFTA)

8. What is SAFTA?

SAFTA (South Asia Free Trade Area) is constituted by the members of SAARC (South Asia Association for Regional Cooperation) which is an organization of South Asian nations and has eight member countries: Sri Lanka, Bhutan, India, Maldives, Nepal, Pakistan, and Bangladesh and Afghanistan. The Agreement on South Asian Free Trade Area (SAFTA) came into force from 1st January, 2006.

Under SAFTA, the member countries will implement the Trade Liberalization program (TLP) and reduce tariffs on trade among the member states on a schedule that would allow the less developed countries (LDCs) amongst the member countries a longer period for making adjustments.

India, Pakistan and Sri Lanka are categorized as Non-Least Developed Contracting States (NLDCS) and Bangladesh, Bhutan, Maldives, Nepal and Afghanistan are categorized as Least Developed Contracting States (LDCS). Non-LDCs members were scheduled to reduce the tariffs to 0-5% in a time period of 5 years. Sri Lanka was scheduled to reduce the tariffs in 6 years, while LDCs in 8 years. As per the TLP commitments, India and Pakistan reduced tariffs to 0-5% on all tariff lines except the SAFTA Sensitive List in January, 2013.

9. What is a Sensitive list under SAFTA?

Sensitive lists are lists of products of special interest to individual member countries that are exempted from low SAFTA tariffs. Each member country of SAFTA has been allowed to prepare its respective sensitive list of tariff lines or products which will remain excluded from the trade liberalization program (TLP) under the agreement and will, therefore, not be subject to tariff reductions. However, there is an understanding of gradual reduction in the sensitive list with a hope to phase it out eventually.

10. What is the size of the sensitive list (India and Pakistan) under SAFTA?

Country	Number of Tariff Lines in Sensitive List[1]	
	6-digit level of HS Code	8-digit level of HS Code[2]
India	607	1753
Pakistan	936	1577

Non-Tariff Barriers

11. What are Non-Tariff Barriers (NTBs)?

NTBs are trade instruments, other than tariff, that are used to regulate and restrict trade in order to protect a domestic industry. Non-tariff barriers include quotas, levies, embargoes, sanctions and other restrictions.

12. What are the major Non-Tariff Barriers by India on Pakistan?

Some of the non-tariff barrier by India on Pakistan include: Sanitary and Phyto-Sanitary measures (SPS), Technical Barriers to Trade (TBT), custom procedures, financial measures, visa regime and para-tariffs.

13. Are there any Pakistan specific NTBs imposed by India?

There are no specific NTBs imposed on Pakistan by India. However, the existing NTBs by India are applied more stringently towards Pakistan.

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[1] "Sectoral Analysis of Pakistan-India Trade," IPP, December 2012.
[2] Research analysis conducted by IPP shows that when the Sensitive Lists are expanded to the HS 8 digit level

14. What are the major Non-Tariff Barriers by Pakistan on India?

Some of the non-tariff barriers by Pakistan on India include: Positive and now Negative List (embargo), restrictions on land movement across Wagah-Attari border, custom procedures, financial measures, visa regime and Para-Tariffs.

Potential Impact of Removing the Negative List to Normalize Trade between Pakistan and India

15. What are the Macro-Economic impacts of trade liberalization with India?

A conservative assessment of the potential macro-economic impacts on Pakistan, due to trade normalization with India, includes[3]:

- Gross Domestic Product (GDP):
    - By 2014-15, the GDP of Pakistan could be 1.5% higher than the scenario if the trade between Pakistan and India is not normalized. This potential marginal difference implies an increase in average household income of about $ 100 per annum.
    - Given the large size of the Indian Economy, the gains in GDP terms for India are only about 0.5%
- Poverty and Consumer Welfare:
    - By 2014-15, the number of poor will be less by 1 million in Pakistan than in a scenario in which trade is not normalized.
    - The consumer welfare gains are estimated at Rs 70 billion, equivalent to gains annually of Rs 2300 per household. The gains could be higher for Pakistan if India could further open up agricultural and textile markets.
- Employment:
    - While there may be some labor displacement in import-substituting industries, the net increase in employment in Pakistan in the medium run (3 years) is expected to be about 169,000, about 3% of the current labor force.
- Balance of Trade:
    - There is a likely improvement in Pakistan's global trade balance due to cheaper imports from India and larger exports. Research analysis shows that the global balance of trade of Pakistan could improve by $ 240 million annually.

16. What is consumer welfare mean?

Consumer welfare refers to the individual benefits derived from the consumption of goods and services. In theory, individual welfare is defined by an individual's own assessment of his/her satisfaction, given prices and income.

17. What is the potential increase in Pakistan's exports as a result of trade normalization with India?

The total potential diversion of India's annual imports to Pakistan is estimated to be close to $2.2 billion, equivalent to 9% of Pakistan's annual global exports and almost eight times the actual level of exports to India[4].

Of this total potential, Pakistan's exports to India are expected to increase in the medium run (approximately 3 years) from under $ 300 million in 2010-11 to just over $1.3 billion, an increase of over 300%.

[3] "Sectoral Analysis of Pakistan-India Trade," IPP, December 2012.
[4] "A Primer on Indo-Pak Trade," IPP, May 2012.

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18. What is the estimated potential for Pakistan's exports to replace India's current imports from other countries?

According to 2010-2011 statistics[5]:

Type of Product	India's Total Global Exports ($ Millions)	Potential Diversion to Pakistan's Exports ($ Millions)
Major exports of Pakistan	16,058	1,445
Other exports	8,510	782
Total	**24,568**	**2,227**

19. What are some of the specific products which can be significantly exported by Pakistan to India?

These include textile items such as; cotton yarn, cotton fabrics, polyester (primary) and men's or boy's suits; agricultural items such as, wheat, ethyl alcohol, dates; and other manufacturing items like cement, articles of sports, surgical instruments, leather and leather products.

Accordingly, the scope of trade creation is in products such as; garments, woven cotton fabrics, woven terry fabrics, citrus fruit and animal and vegetable fats and oils.

Impact on Pakistan's Industry

20. What is the impact of trade liberalization on the Pakistani industries?

Products (either imported or produced locally) of the following industries in Pakistan will face increased competition from imports from India after the removal of import restrictions posed through the Negative List by Pakistan: [6]:

1. Iron and steel
2. Pharmaceuticals
3. Man-made filaments
4. Machinery and machinery appliances
5. Electrical machinery and appliances

21. How many agriculture products (at 6 HTS digit level) are currently not allowed to be imported from India due to be included in the Negative List?

Only 17 tariff lines of agriculture are not allowed to be imported from India as per the Negative List

22. What is the potential impact of the removal of the Negative List on Pakistan's agriculture sector?

Out of these 17 tariff lines India does not have any global exports in 11 tariff lines and therefore poses a negligible threat to the Pakistan's domestic industry. The remaining 6 items in which India does have global exports include are soya bean oil (HS 8 - 15071000), animal feed (HS-8 23099020) and live poultry and eggs (parent stock for hatching) and some tobacco products. Opening imports of soya bean oil, animal feed and eggs (parent stock) may benefit the domestic livestock sector.

[5] "Sectoral Analysis of Pakistan-India Trade," IPP, December 2012.

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Potential Intra-Industry Trade between Pakistan and India

23. What is Intra-Industry Trade (IIT)?

Intra industry trade is defined as simultaneous export and import of products in the same industry. There are two different types of intra-industry trade; horizontal IIT – this refers to the simultaneous exports and imports of goods classified in the same sector and at the same stage of processing; vertical IIT – this refers to the simultaneous exports and imports of goods classified in the same sector but at different stages of processing.

Being neighbors, Pakistan and India can form successful supply chain linkages and expand intra industry trade. Estimates reveal notable savings in terms of unit cost and freight in sourcing machinery and raw materials from India instead of traditional trading partners.

Out of tariff lines that were previously importable from India as per the Positive List[7] regime, the highest incidence of intra industry trade (IIT) is observed in textiles (cotton and woven fabrics), vegetables and fruits, hydrocarbons, primary plastic forms and rubber tires. The main agricultural items that show significant levels of intra industry trade are fresh vegetables, fruit and nuts and spices.

Dairy and Beverages may emerge as high potential IIT sectors as currently there is no intra industry trade between India and Pakistan. The analysis also shows a large potential of IIT in manufactures of metal, non-metallic minerals and cork and wood. At a further disaggregated level, the metal manufactures with highest IIT are cutlery, hand tools, sanitary ware and metallic cables. In the manufactures of minerals the most significant items are marble, glassware and ceramics.

India – Pakistan Cross Border Investment Opportunities

24. What is Foreign Direct Investment (FDI)?

Foreign Direct Investment (FDI) is an investment made by a company or entity based in one country, into a company or entity based in another country.

25. What are the travel regulations for the Indian and Pakistani investor?

India and Pakistan have agreed to a more liberalized visa regime of granting multiple-entry visa valid for a year, for Indian and Pakistani businessmen.

FDI in India

26. What are the forms in which business can be conducted by a foreign company in India?

Foreign investors may establish a business presence in India through the following options:

<u>Liaison office:</u> A liaison or a representative office can be opened in India subject to approval by RBI. Such an office can undertake liaison activities on its company's behalf. Some of these include:

<u>Branch Office:</u> Foreign companies can conduct their business in India through its branch office which can be opened after obtaining a specific approval from RBI. Subsequently, a certificate of establishing place of business in India is required to be obtained from Registrar of Companies (ROC).

<u>Project Office:</u> If a foreign company is engaged by an Indian company to execute a project in India, it may set up a project office without obtaining approval from RBI provided:

- The project is funded by inward remittances from abroad;
- The project is funded by a bilateral or a multi-lateral International Financing Agency;

[7] Pakistan allowed imports from India of only a limited number of tariff lines that were identified as the Positive List in Appendix G, Trade Policy of Pakistan, 2012. This list was abolished in March, 2012.

- The project has been cleared by the appropriate authority;
- A company or an entity in India has been granted a term loan by a Public Financial Institution or a bank in India for the project.

Wholly Owned Subsidiary: Foreign companies can set up wholly owned subsidiary companies in India in the form of private companies subject to FDI guidelines. A wholly owned or a subsidiary company has the maximum flexibility to conduct business in India when compared with a liaison or branch office.

Joint Venture with Indian partner: Foreign companies can also set up joint venture with Indian or foreign companies in India. There are no separate laws for joint ventures in India and laws governing domestics companies apply equally to joint ventures.
For registration and incorporation, an application has to be filed with Registrar of Companies. Once a company has been registered and incorporated in India, it is subject to laws and regulations as applicable to other domestic companies in India.

27. How does a foreign company invest in India? Is it the same for Pakistani investors?

In sectors other than those prohibited above, FDI can be made either under the:

- Automatic route; or
- Government route, i.e. with the specific prior approval of the Foreign Investment Promotion Board (FIPB), Ministry of Finance.

Automatic Route: FDI in sectors/activities permitted under automatic route does not require any prior approval either by the Government or Reserve Bank of India (RBI). The investors are only required to notify the regional office concerned of RBI within 30 days of receipt of inward remittances and file the required documents with that office within 30 days of issue of shares to foreign investors.

Government Route: FDI in activities not covered under the automatic route requires prior government approval. Such proposals are considered by the Foreign Investment Promotion Board (FIPB) in terms of the prescribed guidelines. The companies are required to notify the concerned regional office of RBI of receipt of inward remittances within 30 days of such receipt and within 30 days of issue of shares to the foreign investors. Please refer to Appendix 1, for guidelines followed by the FIPB when considering each proposal.

28. What sectors is FDI prohibited in?

FDI is prohibited for all countries in:

- Retail Trading (except single brand product retailing)
- Lottery Business including Government /private lottery, online lotteries, etc.
- Gambling and Betting including casinos etc.
- Chit funds
- Nidhi company
- Trading in Transferable Development Rights (TDRs)
- Real Estate Business or Construction of Farm Houses
- Manufacturing of Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes
- Activities / sectors not open to private sector investment e.g. Atomic Energy and Railway Transport (other than Mass Rapid Transport Systems).

Foreign technology collaboration in any form including licensing for franchise, trademark, brand name, management contract is also prohibited for lottery business and gambling and betting activities.

29. What are other restrictions for Pakistani investors?

As per Circular 1, 2012, of Consolidated FDI Policy of India:

Opening up a Liaison/Branch/Project Office in India: The rule with respect to Pakistan states "without prior permission of the Reserve Bank, no person being a citizen of Pakistan, can establish in India, a Branch or a Liaison Office or a Project Office or any other place of business."

Issuing of shares under the Employees Stock Option Scheme (ESOPs): Listed Indian companies are allowed to issue shares under the ESOPs to its employees or to the employees of its joint venture or wholly owned subsidiary abroad, who are resident outside India, other than to the citizens of Pakistan. Similarly, unlisted companies can issue ESOPs to employees who are resident outside India, other than to the citizens of Pakistan. ESOPs can be issued to citizens of Bangladesh with the prior approval of Foreign Investment Promotion Board (FIPB).

Prohibition on acquisition or transfer of immovable property in India: No person being a citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal or Bhutan without prior permission of the Reserve Bank shall acquire or transfer immovable property in India, other than lease, not exceeding five years.

Foreign Direct Investment (FDI) in Pakistan

30. What are the forms in which business can be conducted by a foreign company in Pakistan?

Foreign investors may establish a business presence in Pakistan through the following options:

Liaison office: The activities of a Liaison Office are restricted to promotional activities, provision of technical assistance, exploring the possible of joint collaboration and export promotion on behalf of the parent company in Pakistan. Such office is strictly restricted from entering into revenue generating activities and is required to meet its operational expenses through remittances from its parent company via normal banking channels and converted to local currency account.

Branch Office: A Branch Office activity is restricted to the extent stated in the signed agreement/contact. It cannot indulge in commercial or trading activities. Revenues generated or profits earned can be repatriated to the head office, subject to payment of applicable taxes.

Subsidiary/Joint Venture: A foreign company can set up its own wholly owned subsidiary in Pakistan or establish a joint venture company with a Pakistani or foreign partner, subject to fulfilling the policies for FDI and requirements of the Companies Ordinance, 1984. A subsidiary or a joint venture company can be formed as a private company or a public company Key Differences between a public company and a private company are highlighted in Table 2, below.

31. How does a foreign company invest in Pakistan? Is it the same for Indian investors?

Unlike India's investment policy towards Pakistan, Pakistan does not explicitly follow a discriminatory investment policy with respect to India.

32. What sectors is FDI prohibited in?

FDI is prohibited for all countries in the following sectors in Pakistan:

- Arms and ammunition
- High explosives
- Radioactive substances
- Security Printing, currency and mint
- Alcoholic beverages or liquors
- Postal Service