

**TRADE DEVELOPMENT AUTHORITY OF PAKISTAN ORDINANCE, 2009.**

**ORDINANCE LI OF 2009**

AN

**ORDINANCE**

*to provide for the establishment of the Trade Development Authority of Pakistan*

WHEREAS, it is expedient to provide for the development and promotion of exports of Pakistan;

And WHEREAS, there is a need to provide a dedicated effective and empowered organization within the Ministry of Commerce responsible and accountable for maximization of exports;

And WHEREAS, there is a need to provide effective support and structured interaction with stake-holders in the formulation of consistent, practical and effective trade policies, regulations and trade development initiatives;

And WHEREAS there is a need for establishing greater clarity of institutional arrangements and linkages for purposes of policy formulation and the development of initiatives and implementation thereof amongst the Ministry of Commerce trade development organizations and the private sector,

And WHEREAS, the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 Constitution of Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance:

CHAPTER I

**PRELIMINARY**

**1. Short title, extent and commencement.**-(1) This Ordinance may be called the Trade Development Authority of Pakistan Ordinance, 2009.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once and shall be deemed to have taken effect on and from the 3rd October, 2007.

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

- (i) "Authority" means the Trade Development Authority of Pakistan established under section 3;

- (ii) "Board" means the Trade Development Authority of Pakistan Board established under section 12;
- (iii) "Chairman" means the Chairman of the Board;
- (iv) "Chief Executive" means the Chief Executive of the Authority appointed under section 5;
- (v) "civil servant" means a civil servant as defined in the Civil Servants Act, 1973 (LXXI of 1973);
- (vi) "Commerce and Trade Group" means the Commerce and Trade Group created under the Administrative Reforms of 1973 vide Establishment Division's O.M. No.6/2/75-ARC, dated 8-5-1975;
- (vii) "Commerce and Trade Group Officer" means civil servant belonging to the Commerce and Trade Group of the Civil Service of Pakistan;
- (viii) "Committee" means a committee of the Board constituted under section 15;
- (ix) "critical success factors" means factors which are critical to the achievement, of the performance desired by the Authority;
- (x) "Director-General" means the Director-General of the Authority;
- (xi) "EMDF" means Export Marketing Development Fund established through Resolution No. P5(5)/65, dated 22nd January, 1966;
- (xii) "EMDF Board" means the EMDF Board set up under Resolution No.P5(5)/65, dated 22nd January, 1966;
- (xiii) "employee" means any officer or servant of the Authority;
- (xiv) "Executive Committee" means Executive Committee of the Board formed under subsection (8) of section 12;
- (xv) "exporters" means any individual or entity exporting goods or services;
- (xvi) "Export Promotion Bureau" means the Export Promotion Bureau established vide Ministry of Commerce Order No.28(19)-CE1/63, dated the 14th December, 1963;
- (xvii) "Fund" means the fund established under section 23;
- (xviii) "key performance indicators" means indicators that serve to measure the performance of the Authority.
- (xix) "Member" means a Member of the Board;

- (xx) "prescribed" means prescribed by rules or regulations;
- (xxi) "private sector person" means a person who is not in the service of Pakistan or of any statutory body or any body which is owned or controlled by the Federal Government or a Provincial Government including an officer of Chambers of Commerce and Industry and other trade bodies, a university or an educational institution;
- (xxii) "regulations" means the regulations made under this Ordinance;
- (xxiii) "resolution" means the EMDF Resolution No.P5(5)/65, dated 22nd January, 1966;
- (xxiv) "rules" means the rules made under this Ordinance;
- (xxv) "Secretary" means the Secretary of the Authority appointed under section 6;
- (xxvi) "sectoral" means the sectoral board;
- (xxvii) "supply chain management" means all activities, policies, and regulations etc., undertaken by the public or private sectors that impact upon production of goods and the provision of services for exports and imports which shall include but not be limited to, the sourcing of materials, production, logistics, infrastructure, financing, human resources, productivity, technology, environment and up to the delivery of finished goods to the port of destination.

## **CHAPTER II**

### **THE AUTHORITY**

**3. Establishment of the Authority.**-(1) An Authority to be called the Trade Development Authority of Pakistan is hereby established under the administrative control of Ministry of Commerce.

(2) The Authority shall be a body corporate have perpetual succession and a common seal with powers, subject to the provisions of this Ordinance, to enter into contracts, acquire, purchase, hold and dispose of both movable and immovable property including mortgage thereof and shall by its name sue or be sued.

(3) The Authority shall comprise the Chief Executive, the Secretary and such number of officers of the Authority as determined by the Board and shall function in accordance with the rules.

(4) All assets, liabilities, inclusive of, but not limited to intellectual property of Export Promotion Bureau shall stand transferred to the Authority on the commencement of this Ordinance.

(5) The Authority shall have the exclusive right to have and use all emblems, motto, logo, decorations, descriptive or designating marks and title now used by the Authority, the name "Trade Development Authority of Pakistan" or any similar grammatical variation thereof. The Authority shall also have the exclusive right to use any emblems, motto, logo, decorations, descriptive or designating marks or titles hereafter adopted by the Board for carrying out its objectives.

**4. Regional Offices of Authority.**-The Authority' may, with prior approval of the Board establish and close down its offices at such places in Pakistan as it considers necessary.

**5. Chief Executive.**-(1) There shall be a Chief Executive of the Authority who shall be appointed by the Federal Government.

(2) The tenure of the Chief Executive shall be three years extendable by the Federal Government. The Chief Executive shall, however, serve at the pleasure of the Federal Government.

(3) The Chief Executive shall be a person of high integrity, in full time employment of the Authority and shall have the relevant professional qualifications, relating to domestic and international trade, expertise, experience and knowledge of local and international markets, and with a successful track record.

(4) The Chief Executive shall be the Principal Accounting Officer, and shall, together with the Secretary, Directors General and any other officer nominated by the Board, be responsible for the management of all affairs of the Authority, and achievement of desired objectives. Subject to the rules made by the Authority, the Chief Executive shall be assisted by other subordinate officers and servants in carrying out the functions of the Authority. The Chief Executive shall report to the Board on all matters including those delegated by him to the subordinate officers in Authority.

(5) The Chief Executive shall be paid such remuneration as may be prescribed by the Federal Government.

**6. Secretary.**-(1) There shall be a Secretary of the Authority of BPS-21 or above of the services of the Federation who shall be appointed by the Federal Government.

(2) The Secretary shall report to the Chief Executive. The Chief Executive, Secretary shall, together with the Directors General and any other officer nominated by the Chief Executive, be responsible for the day to day implementation of the approved plans diligently, timely and effectively. Subject to the regulations made by the Board, Secretary shall be assisted by other subordinate officers and servants in carrying out the functions of the Authority.

(3) The salary, allowances, privileges and other facilities of the Secretary shall be prescribed by rules.

(4) The Secretary shall provide all secretarial services to the Board.

(5) Annual Confidential Report of the Secretary shall be initiated by the Chief Executive and countersigning authority shall be the Minister of Commerce.

**7. Working relationship between Chief Executive and Secretary.**-In case of a disagreement between the Chief Executive and the Secretary on a matter of policy or an individual issue, the Secretary shall have recourse to submit the matter to the Chairman of the Board initially via the Chief Executive, and, in the final resort, directly if the Chief Executive, does not refer the case to the Chairman of the Board.

**8. Human resource of the Authority.**-(1) The human resources of the Authority shall comprise the following, namely:

- (a) Commerce and Trade Group officers posted against their encadred posts;
- (b) contract employees paid from regular budget of the erstwhile Export Promotion Bureau;
- (c) contract employees paid from the EMDF in the erstwhile Export Promotion Bureau; and
- (d) Government officers on deputation.

(2) Notwithstanding anything contained in, any law for the time being in force, any rule or regulation or administrative order or other provisions of this Ordinance, all posts of Commerce and Trade Group presently in the Export Promotion Bureau shall stand transferred to, and encadred in the Authority along with their legal and financial implications. The Authority may recommend to the competent authority to take disciplinary action against any such employee.

(3) The terms and conditions of service of any person referred to in subsection (2) shall not be varied by the Authority to his disadvantage.

(4) The Ministry of Commerce shall continue to be the administrative Ministry for the Commerce and Trade Group. Matter relating to postings and transfers of officers belonging to Commerce and Trade Group in the Authority shall be made in consultation with the Authority.

(5) The Authority may, from time to time, employ persons to be employees of the Authority who shall be paid such market based remuneration and allowances in accordance with rules and regulations approved by the Board. These employees of the Authority shall hold office during the pleasure of the Authority and shall be liable to disciplinary action in accordance with the rules made hereunder.

(6) Posting of all government servants in BPS-17 and above in or out of the Authority, shall be made after consultation with the Chief Executive, who shall have the right to recommend surrender of those officers back to the Federal Government.

**9. Appointment of advisers, consultants and service providers.**-(1) Subject to subsection (2), the Authority may, with prior approval of the Board, employ consultants, agents, technical, professional advisers and service providers, within or outside Pakistan, including, advertising agents, event managers, designers, business representatives, public relations persons, architects, bankers, surveyors, valuers, accountants, lawyers, and persons in the field of information technology, communications, software and hardware to transact any

business, or, to do any act required to be transacted or done in the exercise of its powers. The performance of its functions or, for the better achievement of the purpose of this Ordinance

(2) Any decision of the Authority to employ advisers, consultants and service providers shall be made exclusively and transparently by the Authority in accordance with such policy guidelines as the Board may issue from time to time.

**10 Delegation of the Authority's functions or powers.**-(1) The Authority may, subject to such conditions and limitations as the Board may deem fit to impose, delegate any of its functions or powers to one or more of any officer of the Authority.

(2) The delegation of powers under this' section shall not diminish the responsibility or, prevent the concurrent performance or exercise by the Authority of the functions or powers so delegated.

**11. Authority to furnish information.**-The Authority shall furnish, through Ministry of Commerce, to the Federal Government, a Provincial Government or the Board, such information with respect to implementation of any policy it is pursuing or proposes to pursue in the performance of any of its functions under this Ordinance as the Federal Government of the Board may, from time to time, require.

### CHAPTER III

#### THE BOARD

**12. Management.**-(1) The general direction and administration of the Authority and its affairs shall vest in the Board.

(2) The Federal Government shall establish a Board consisting of the following members namely:-

(a) Federal Minister of Commerce	Chairman
(b) Chief Executive of the Authority	Vice-Chairman
(c) Secretary, Ministry of Commerce	Member
(d) Secretary, Ministry of Finance	Member
(e) Secretary, Ministry of Industries, Production and Special Initiatives	Member
(f) Secretary, Ministry of Textile Industry	Member
(g) Secretary, Ministry of Food and Agriculture and Livestock	Member
(h) Secretary, Board of Investment	Member
(i) Chief Secretary to the Government of Punjab	Member
(j) Chief Secretary to the Government of Sindh	Member

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| (k) Chief Secretary to the Government of N.-W.F.P.   | Member |
| (l) Chief Secretary to the Government of Balochistan   | Member |
| (m) Chief Secretary of Azad Jammu and Kashmir  | Member |
| (n) President of the Federation of Pakistan Chambers of Commerce and Industries  | Member |
| (o) President of the Overseas Chambers of Commerce and Industry  | Member |
| (p) Chairman, Central Board of Revenue   | Member |
| (q) Deputy Governor, State Bank of Pakistan  | Member |
| (r) Ten Members from the private sector to be appointed by the Federal Government in consultation with the Board including any persons nominated, by the Chairman of the Board |        |

(3) The Federal Government may, by notification in the official Gazette, increase or decrease the number of members of the Board and prescribe the qualification and mode of appointment of such members in such manner as it may consider necessary. The Federal Government shall have the power to appoint or remove any member of the Board as may be prescribed.

(4) The Secretary shall serve as the Secretary of the Board.

(5) A Member, not being an ex officio Member, shall hold office for a term of three years and shall be eligible for re-appointment for another term of three year, provided that a Member shall cease to hold office on attaining the age of sixty-five years.

(6) A non-official ex officio Member shall hold office as Member till such time as he holds the office by virtue of which he is a Member and upon his transfer, retirement, resignation or removal from office, the person appointed in place of such Member shall hold office for the remaining term of that Member.

(7) If an official ex officio Member is absent from Pakistan or is unable to attend a meeting of the Board he may authorize an officer not below the rank of Additional Secretary or equivalent to attend the meeting and take decisions on behalf of the Member. A non-official ex officio member may authorize his vice-chairman or equivalent for the purpose in a similar situation.

(8) The Board shall form an Executive Committee consisting of the following members.-

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|--------------------------------------|----------|
| (a) Federal Minister of Commerce     | Chairman |
| (b) Chief Executive of the Authority | Member   |
| (c) Secretary, Ministry of Commerce  | Member   |

(d) Secretary, Ministry of Finance	Member
(e) President of the Federation of Pakistan Chambers of Commerce and Industry	Member
(f) President of the Overseas Chambers of Commerce and Industry	Member
(g) Deputy Governor, State Bank of Pakistan	Member
(h) Three other members of the Board who are from Private Sector	Member

(9) The Executive Committee shall be headed by the Chairman of the Board. The Board may, from time to time, delegate or withdraw any or all of its powers to the Executive Committee, which may take decisions on behalf of the Board. The Board may change the composition of this Executive Committee as and when required.

**13. Meetings of the Board.**-(1) The Chairman shall call the meetings of the Board, which shall meet as often as may be necessary for the performance of its functions, but not less than twice in a calendar year.

(2) The quorum for a meeting of the Board shall be two-fifths of the total membership with at least ten official ex officio Members including the Chairman and three, members from private sector. If the quorum is not present at a meeting, the Chairman shall postpone the meeting and convene a new meeting within two weeks and give notice of the date, time and place of the meeting and in such meeting the Chairman may take decisions even if the quorum is not complete.

(3) The decisions of the Board shall be taken by the majority of its Members present. In case of a tie, the Chairman or, in his absence, the person chairing the meeting shall have a casting vote.

(4) Any business, which may be necessary for the Board, to transact urgently and decided by the Chairman, may be carried out by circulation among all its Members and any proposal so circulated and approved by the majority of the Members shall require the approval of the Chairman.

(5) Subject to the provisions of this Ordinance, the procedure and conduct of business of the Board shall be regulated by the regulations made by the Board.

**14. Board may invite others to meetings.**-The Secretary of the Board may, with the approval of the Chairman, invite any person to attend any of its meetings or deliberations including any of its committees for the purpose of advising it on any matter under discussion but any person so attending shall have no right to, participate in any decision, or vote at the meeting or deliberation.

**15. Committees of the Board.**-(1) Subject to subsection (2) the Chairman may constitute such number of Committees of the Board as it considers necessary or expedient to assist it in the performance of its functions under this Ordinance.



(2) Any Committee constituted under subsection (1) shall act in accordance with the regulations made by the Board and shall include at least one officer of the Authority nominated by the Chief Executive or in his absence by the Secretary.

## **CHAPTER IV**

### **CONFLICT OF INTEREST**

**16. Disclosure of interest by Members.**-(1) A person shall be deemed to have an interest in a matter if he has any interest, pecuniary or otherwise, in such matter which could reasonably be regarded as giving rise to a conflict between his duty to honestly perform his functions under this Ordinance and such interest, so that his ability to consider and decide any question impartially or to give any advice without bias, may reasonably be regarded as impaired.

(2) A person having any interest in any matter to be discussed or decided by the Authority or the Board or a Committee shall, prior to any discussion of the matter, disclose in writing to the Authority, the Board or a Committee, as the case may be, the fact of his interest and the nature thereof.

(3) A disclosure of interest under subsection (2) shall be recorded in the minutes of the Authority, the Board, or a Committee, as the case may be, prior to any discussion of, or decision on, the matter.

(4) Where a Member discloses his interest,-

- (a) he shall not, save as provided in subsections (7), (8), and (9), take part nor be present in any deliberation or decision of the Authority, the Board or a Committee, as the case may be; and
- (b) he shall be disregarded for the purpose of constitution, of a quorum of the Board, the Authority or a Committee, as the case may be.

(5) Any Member or the Member of a Committee who fails to disclose his, interest as required by this section shall, on proof of such act as may be prescribed, be liable to removal from the Board or the Committee as the case may be.

(6) It shall be a valid defense for a person charged with the allegation of failure to disclose his interest under subsection (5), if he proves that he was not aware of the facts constituting such allegation and that he exercised due care and diligence in discovering the facts which he ought reasonably to have known in the circumstances.

(7) Every Member shall give written notice to the Authority of all direct or indirect pecuniary interests that he has or acquires in a body corporate carrying on a business in Pakistan. The nature of such interests and the particulars thereof shall be disclosed in the Annual Report of the Authority.

(8) If a Member is not the Chairman and, the Chairman becomes aware that a Member has an interest, the Chairman shall,--

- (a) consider that the Member should not take part, or continue to take part, as the case may require, in determining the matter and direct the Member accordingly; or
- (b) In any other case, cause the Member's interest to be disclosed to the persons concerned in the matter including any person whose application is pending decision or adjudication by the Authority.

(9) The Member in respect of whom a direction has been given under clause (a) of subsection (8) shall comply with the direction.

(10) In case the Member is the Chairman of a Committee, he shall disclose his interest to the Chairman who shall decide the matter as may be prescribed by regulations made by the Board.

(11) Subject to subsection (8), the Chairman or the Member or Chairman of a Committee who has any interest in any matter referred to in this section shall not take part, or continue to take part, as the case may require, in determining the matter.

**17. Disclosure of interest by others.**-(1) Where a person who, in the course of,-

- (a) performing a function, or exercising a power, as a delegate of the Board;
- (b) performing functions or service as an employee of the Authority; or
- (c) performing a function or services in any capacity by way of assisting or advising the Authority, 4 ie Board, any Committee or any delegate of the Authority, is required to consider a matter in which he has an interest, such person shall forthwith give to the Authority a written notice stating his interest in the matter and setting out particulars of the interest.

(2) The person referred to in 'subsection (1) shall also declare his interest in accordance with that subsection whenever it is necessary to avoid the conflict of interest.

(3) Where a person discloses his interest in the matter under this section, the Authority shall decide the matter as may be prescribed by regulations made by the Board.

## **CHAPTER V**

### **DISQUALIFICATIONS, REMOVAL, RESIGNATION AND VACANCIES**

**18. Disqualification of Members.**-No person shall be appointed or continue as a Member if he-

- (a) has been convicted of an offence involving moral turpitude;
- (b) has been or is adjudged insolvent;

- (c) is incapable of discharging his duties by reasons of physical, physiological or, mental unfitness and has been so declared by a duly constituted Medical Board appointed by the Federal Government;
- (d) being a Member, absents himself from three consecutive meetings of the Board, without leave of the Board and in the case of a non-official ex officio or an ex officio Member, fails to appoint another person to act as Member under subsections (6) and (7) of section 12, as the case may be, or
- (e) fails to disclose any conflict of interest at or within the time provided for such disclosure by or under this Ordinance or contravenes any of the provisions of this Ordinance pertaining to unauthorized disclosure of information.

**19. Removal, resignation and vacancies.**-(1) Subject to sub-section (2), appointment of any Member may, at any time, be revoked and he may be removed from his office by order of the Federal Government if it is found that such person stands disqualified under section 18.

(2) Unless a disqualification referred to in section 18 arises from the judgment or order of a Court or Tribunal of competent jurisdiction under any relevant provision of applicable law, a Member shall not be removed or his appointment revoked without any enquiry by an impartial person or body of persons constituted in accordance with such procedure, as may be prescribed by rules made by the Board in case of a Member, and such rules shall provide for a reasonable opportunity for him to be heard in his defense.

(3) A Member from private sector may at any time resign his office by a written notice addressed to the Federal Government through the Board.

(4) The office of a Member shall ipso facto be vacated if he dies.

## CHAPTER VI

### POWERS AND FUNCTIONS

**20. Powers and functions of the Board.**-(1) The Board shall be the supreme decision making body of the Authority having the power to supervise, control, direct and, regulate the affairs of the Authority and shall have the following functions, namely:

- (a) to establish short, medium and long term critical success factors and key performance indicators for the Authority;
- (b) to review performance of the Authority annually including against pre-agreed critical success factors and key performance indicators;
- (c) to advise the Federal Government in the Ministry of Commerce;
- (d) to consider and approve with or without modification any rules and regulations proposed to be made by the Authority under this Ordinance;
- (e) to consider and approve with or without modification the budget for each financial year of the Authority, and approve expenditure there from;

- (f) to express its opinion in writing on any policy matter referred to it by the Federal Government or the Authority; and
- (g) to exercise all such powers and perform all such functions as are conferred or assigned to it under this Ordinance;

(2) All policy decisions, including any change in previously established policy, in respect of all and any matters within the jurisdiction of the Authority shall be made only by the Board. The Board may also adopt policy recommendations of the Authority with or without modifications as the Board may deem fit in its sole discretion.

(3) The Board shall have the authority to delegate any of its powers to Chief Executive.

(4) The Authority shall be the Secretariat of the Board.

**21. Powers and functions of the Authority.**-(1) The Authority shall have all such "powers" as may be necessary to perform its duties and functions under this Ordinance.

(2) The Authority may, having regard to its functions and to exercise its powers efficiently, organize itself into divisions, departments or such other sub-divisions as it may consider expedient, with the approval of the Board.

(3) The Authority may, having regard to its functions and to pursue the purposes of this Ordinance efficiently, appoint and notify any committees, bodies, form entities etc. consisting of employees, persons of the private sector or Government.

(4) The Authority may, from time to time, identify matters suggesting to the Board to make policy decisions and may also make recommendations regarding policy to the Board for its consideration provided that any matters referred to the Board by the Authority shall require prior approval of the Chief Executive, except in the case where the Chairman makes such a reference.

(5) Without prejudice to the generality of the foregoing provisions of this section, the Authority shall perform the following functions, namely:

- (i) to recommend to the Board a national policy for maximizing exports from Pakistan of goods and services and after approval of the Federal Government to develop strategy and plans within the policy framework given by the Board;
- (ii) to develop a consistent, sustainable and result oriented, holistic export development plan, outlining vision, objectives, strategies and plans as approved by the Board;
- (iii) to achieve synergy in development of exports at a national level by forging effective liaison with private and public stakeholders and avoiding duplication of efforts;

- (iv) to encourage and promote research in trade and policy related studies that may facilitate in formulating an effective export policy and plans;
- (v) to plan, organize exhibitions, delegations to and from Pakistan;
- (vi) to plan and organize local, international and inter-provincial export promotional conferences, workshops, seminars etc.;
- (vii) to plan and organize foreign trade promotion through advertising in local, and international print electronic and other appropriate media;
- (viii) to liaise with trade bodies abroad;
- (ix) to encourage and reward leading exporters from Pakistan through recognition and rewards, initiatives and incentives etc. including making recommendations to the Federal Government for export awards including civil awards;
- (x) to promote export of sectors where separate sectoral boards/bodies currently exist or will be formed in the future, notwithstanding anything contained in any other law for the time being in force;
- (xi) to examine supply chains of strategic export sectors and develop plans and initiatives for strengthening supply base including exporters' capabilities and capacities;
- (xii) to sensitise and co-ordinate through Ministry of Commerce, with concerned Ministries, Divisions and Departments for the development of sectoral road maps;
- (xiii) to monitor progress against these plans for information of the Board;
- (xiv) to coordinate through Ministry of Commerce, with the Federal and Provincial Governments and related organizations for a concerted supply chain initiative;
- (xv) to provide visa assistance to outgoing or incoming businessmen, whether Pakistani or foreign nationals, in co-ordination with the Ministry of Foreign Affairs and foreign Missions in Pakistan;
- (xvi) to encourage, establish and manage where appropriate export development centres, business support units, display centres and facilities, and information centres, and exporters training institute etc.;
- (xvii) to promote exporters and stakeholders' education and training of intermediaries of export related supply chain;
- (xviii) to encourage the organized development of the export business and the related corporate and commercial sectors in Pakistan;

- (xv) to facilitate the availability of finance to exporters, export oriented small and medium enterprises, risk management of exporters and international buyers, energy and infrastructure needs of exporters and related industrial areas and zones, quality management, social, environmental and security needs and generally all aspects of export facilitation etc.;
- (xx) to encourage and promote human resource development in the export sectors;
- (xxi) to encourage and promote and train new exporters;
- (xxii) to promote export skill development initiatives and related matters including training initiatives and institutes;
- (xxiii) to coordinate through Ministry of Commerce, with Federal and Provincial Governments agencies and organizations with a view to achieving synergies thereby minimizing duplication of efforts;
- (xxiv) to pursue with respective stakeholders the development of policies, regulations and standards for the export of goods and services;
- (xxv) to provide advisory support to stakeholders;
- (xxvi) to be responsible for all matters related to trade development and promotion by Commercial Officers posted in Pakistani Missions abroad. This shall include the training, trade targets, monitoring, and performance evaluation against these trade targets. The Chief Executive of the Authority shall be a member of the committee for selection of the Commercial Officers to be posted abroad;
- (xxvii) to prepare and seek Board's approval of the annual budget;
- (xxviii) to manage funds available to the Authority in accordance with rules and regulations approved by the Board;
- (xxix) to make rules for the conduct of the Authority with approval of the Board including rules for the management of,-
  - (a) human resources, including appointments, remuneration, appraisals, resignations, allowances, incentives etc. of all employees;
  - (b) incomes and expenses;
  - (c) procurement of goods and services;
  - (d) administrative and financial authority policies and delegation thereof; and

- (d) employee welfare funds and initiatives;
- (xxx) to have the administrative control of warehouses and other trade development entities owned by the Authority in Pakistan and abroad;
- (xxxi) to establish its own stationery and supplies and printing source independent of the Printing Corporation of Pakistan;
- (xxxii) to export archives of the Authority;
- (xxxiii) to use the training institutions, corporate entities and facilities etc. established by the Authority for export development purposes;
- (xxxiv) to secure custody and preservation of all documents submitted to and emanating from the Authority;
- (xxxv) to set up National, Provincial and Sectoral trade committees;
- (xxxvi) to implement directives of the Federal Government and the Board relating to export development and promotion;
- (xxxvii) to prepare Annual Report of the Authority;
- (xxxviii) to consider other matters referred to the Authority by the Federal, a Provincial Government, a Division or a Department;
- (xxxix) to consider and suggest reforms of the laws, rules and regulations relating to exports;
- (x1) to perform such functions and exercise such powers-under this Ordinance or any other law for the time being in force as may, after the commencement of this Ordinance, be delegated to it by the Federal Government and exercising any power or performing any functions conferred on it by or under any other law for the time being in force;
- (x1i) to inculcate a quality assured ethic in exporters while encouraging value addition of exports;
- (x1ii) to take, initiatives for maintaining facilities etc. to improve the performance of exporters in the interest of generating economic activity, reducing cost of doing business and enhancing supply chain efficiency;
- (x1iii) to maintain the confidence of exporters by appropriate communications;
- (x1iv) to receive, process and store, efficiently and quickly, the documents lodged with, and the information given to, it under this Ordinance;

- (x1v) to ensure that the documents and information referred to in clause (xlv) are available soon as possible for access by the public;
- (x1vi) to improve existing methods and devise new options for the expeditious settlement of claims and disputes between exporters and their buyers;
- (x1vii) to promote the establishment and development of professional, educational and training organizations connected with exports with a view to improving the management of export business; and
- (x1iii) to promote awareness among exporters and buyers and all relevant stakeholders with respect the benefits of exports and services of the Authority and general policies of the Federal Government.

**22. Supplementary provisions.**-(1) All guidelines, decisions and directives whether of the Board or the Authority shall be in writing expressed by resolutions, orders or in such other form as may be appropriate in the circumstances and shall be authenticated in the manner prescribed by the regulations and where so provided by regulations, also sealed, with the seal of the Authority.

(2) All policy decisions and directives of the Board and the Authority respectively shall be published and the Board and the Authority shall make such publications available to the public.

(3) The Authority shall, in adjudicating upon the rights of any person whose application on any matter it is required to consider in the exercise of any power or function under this Ordinance, give the reasons for its decision after giving the person right of hearing.

## CHAPTER VII

### FINANCE

**23. Fund.**-(1) For the purpose of this Ordinance, a non-lapsable Fund is, hereby, establishes which shall be administered and controlled by the Authority.

(2) The Fund shall consist of,-

- (a) such sums as the Federal Government may from time to time grant through non-lapsable regular budget;
- (b) grants of money and sums borrowed or raised by the Authority for the purposes of meeting any of its obligations or discharging any of its duties;
- (c) fees, penalties or other charges levied or collected by the Authority; and all other sums or property which may in any manner become payable to or vested in the Authority in respect of any matter incidental to the exercise, of its functions an powers.



(3) The regular budget of defunct Export Promotion Bureau along with the EMDF, shall vest in the Board which may approve release to the Authority.

(4) All expenditures shall be incurred in accordance with financial and administrative rules and regulations, approved by the Board.

(5) the Authority may open and operate one or more accounts in local, or in foreign currency, in any scheduled bank.

**24. Budget.**-The Authority shall, in respect of each financial year, prepare its own budget and submit it after obtaining approval from the Board to the Federal Government, through the Ministry of Commerce, three months, before the commencement of every financial year.

**25. Expenditure to be charged on the Fund.**-(1) The Fund shall be expended for the purpose of--

- (a) paying any expenditure lawfully incurred by the Authority including but not limited to, the remuneration, in cash or kind, of the Chief Executive, Secretary and Director-Generals and all employees appointed and employed by the Authority including performance bonuses, provident fund contributions, superannuating allowances or gratuities and legal fees and costs and all other fees, expenses and costs;
- (b) paying any other expenses, costs or expenditure properly incurred or accepted by the Authority in the performance of its functions or the exercise of its powers under this Ordinance;
- (c) purchasing or hiring equipment hiring of premises, machinery and any other materials, acquiring land and erecting buildings, and carrying out any other work and undertakings in the performance of its functions or the exercise of its powers under this Ordinance;
- (d) repaying any financial accommodation received or moneys borrowed under this Ordinance and the profit, return, mark-up or interest due thereon, howsoever called; and
- (e) generally, paying any expenses for carrying into effect the provisions of this Ordinance.

(2) Without one hundred and twenty days of its establishment, the Authority shall prepare and submit to the Board for its approval, a budget for the period up to and including the end of the then current financial year and thereafter it shall not later than thirty days before the expiry of each financial year, submit to the Board for approval a budget for the next financial year.

(3) Subject to subsection (4), no expenditure shall be made for which provision has not been made in any approved budget except if made from any previously approved funds, unless further approval is sought and obtained from the Board.

(4) The Authority may transfer funds, with approval of the Board, from one head of account to the other but the total expenditure shall not exceed the total approved Budget. In exceptional cases a maximum of ten per cent of total budget expenditure may be exceeded with the prior approval of the Board.

(5) The Authority shall act as the secretariat of the Board and provided all the necessary facilities to enable the Board to exercise its powers and perform its functions under this Ordinance and the necessary and proper expenses in that connection shall form part of the budget of the Authority.

**26. Accounts and audit.**-(1) The Authority shall maintain complete and accurate books of accounts of its actual expenses and receipts in such form as the Federal Government may after consultation with the Controller General of Accounts, direct.

(2) The Authority shall also maintain its balance sheet, statement of income and expenditures account and statement of sources and application of funds with explanatory notes to the accounts, in accordance with international accounting standards and other standards as notified by the Federal Government for this purpose.

(3) The Authority shall cause to be carried out audit of its accounts by the Auditor General of Pakistan.

(4) Notwithstanding the audit provided in subsection (3) the Auditor General of Pakistan shall have the power to audit or cause to be audited the accounts of the Authority.

(5) The Authority shall cause proper accounts to be kept and shall as soon as practicable after the end of each financial year cause to be prepared for that financial year a statement of accounts of the Authority which shall include a balance sheet and an account of income and expenditure.

(6) The auditors shall make a report to the Authority, upon the annual balance sheet and accounts, and in any such report they shall state whether in their opinion the balance sheet is a full and fair balance sheet containing all necessary particulars and properly drawn up so as to exhibit a true and correct view of the affairs of the Authority and in case they have called for any explanation or information from the Authority, whether it has been given and whether it is satisfactory.

(7) The Authority shall, within one hundred and twenty days of the close of financial year, submit to the Board for approval an Annual Report of the Authority along with the report of Auditor General of Pakistan mandated under subsection (3), of section 26.

**27. Power to obtain finance, borrow money and receive grants.**-(1) The Authority may, from time to time, and with, the approval of the Federal Government obtain finance or borrow money from sources within Pakistan or from abroad, as the case may be, with such rate of return, profit, mark-up or interest payable thereon, as the case may be, and for such period and upon such terms as to the time and method of repayment and otherwise, in respect of any sums required by the Authority for meeting any of its obligations or performing any of its functions.

(2) The Authority may also accept with the approval of the Federal Government grants, aid, loans etc. from entities both domestic, and international, including multilateral agencies.

**28. Investment.**-(1) Subject to subsection (2), the Authority may, insofar as its moneys are not required to be expended under this Ordinance, invest in such manner as the Authority considers appropriate.

(2) The Authority may invest its money in listed securities or any derivative thereof subject to approval of the Board.

**29. Bank accounts.**-The Authority may open and maintain its accounts in rupees or in any foreign currency at such scheduled banks as it may from time to time determine.

## **CHAPTER VIII**

### **GENERAL**

**30. Common seal.**-The Authority shall have a common seal and such seal shall be kept in the custody of the Chief Executive or such other person as may be authorized by the regulations made by the Authority. Documents required or permitted to be executed under seal shall be specified in and authenticated in such manner as shall be authorized by regulations made by the Authority with approval of the Board.

**31. Public servants.**-(1) The members, employees and other persons authorized to perform or exercise any function or power under this Ordinance or rendering services to Authority as consultant or adviser shall be deemed to be employees of the Authority and their terms of employment shall be strictly governed by the regulations made by the Authority and shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

(2) Save as otherwise provided by this Ordinance and only for the purpose so provided nothing herein contained shall be construed to mean that any person referred to in subsection (1) is or shall be deemed to be in the service of Pakistan or is to be regarded or treated as a civil servant. The provisions of this section shall not be applicable to the officers of Commerce and Trade Group working against their encadred posts, and Government officers on deputation.

**32. Appeal to the Appellate Bench of the Board.**-(1) There shall be an Appellate Bench to hear and adjudicate appeals against the decisions of the Authority.

(2) The Appellate Bench shall consist of not less than three members of the Board who shall be appointed by the Federal Government and the decision of the Authority shall be expressed in terms of the opinion of the majority.

(3) Any person aggrieved by the decision of the Authority, may within thirty days of the decision prefer appeal to the Appellate Bench.

(4) Any person aggrieved by the decision of the Appellate Bench may within thirty days of the order or decision, prefer appeal to the Federal Government whose decision shall be final.

**33. Indemnity.**-No suit, prosecution or other legal proceeding shall lie against the Federal Government or any Provincial Government or local authority or any other person exercising any power or performing any function under this Ordinance or for anything which is in good faith done or intended to be done under this Ordinance.

**34. Power of the Federal Government to issue directives.**-The Federal Government may, as and when necessary, issue directives to the Authority on matters of policy, and such directives shall be binding on the Authority, and if question arises as to whether any matter is a matter of policy, the decision of the Federal Government shall be final.

**35. Power to make rules.**-The Authority may, with the approval of Federal Government in the Ministry of Commerce by notification in the official Gazette, make rules for the purpose of this Ordinance.

**36. Power to make regulation.**-The Board may, by notification in the official Gazette make regulations, not inconsistent with the provisions of this Ordinance and rules, for carrying out the purposes of this Ordinance.

**37. Dissolution of the Export Promotion Bureau.**-The Export Promotion Bureau is hereby dissolved and at all times thereafter--

- (a) all powers exercisable by the Federal Government under any provisions of any law, order, resolution for the time being in force which immediately before the commencement of this Ordinance, having been delegated to Export Promotion Bureau, shall be exercisable by the Authority;
- (b) all assets, rights, including intellectual property, powers, authorities and privileges and all property, movable and immovable, cash and bank balance, reserve funds, investments and all other interests and rights in, or arising out of such property and all debts, liabilities and obligations of whatever kind of the Export Promotion Bureau subsisting immediately before its dissolution shall stand transferred to and vest in the Authority;
- (c) in any other law, rules or regulation of Federal Government or the Provincial Government or Trade bodies of Pakistan reference to the expression "Export Promotion Bureau" shall be construed to be a reference to the "Trade Development Authority of Pakistan" from the commencement of this Ordinance;
- (d) all persons currently employed by the Export Promotion Bureau in BPS-1 to 16, whether from regular budget or contract employees paid from regular budget, and contract employees paid from EMDF, shall be given an option to join the Authority;
- (e) for the service rendered in the Export Promotion Bureau such person referred to in clause (d). who joins the Authority as its permanent employee, shall be

entitled to such benefits including the transfer of benefits to the Authority as may be prescribed by the rules;

- (f) but, in the event if such a person referred to in clause (d) elects to remain a civil servant, he shall be retained in the Authority in his current status at Government pay scales and terms of employment but shall be obliged to perform duties in accordance with the job description, rules, regulations, policies and guidelines given by the Authority;
- (g) a person referred to in clause (d) who opts not to join the Authority shall continue to draw his pay, allowances privileges or other benefits as he was drawing while holding the post in the Export Promotion Bureau and unless he is appointed by the Federal Government to another post or otherwise ceases to remain in Government service on account of retirement, dismissal, removal, discharge from service or in any other manner applicable, to a civil servant, the cost for paying salary, allowance and other benefits to such person shall be borne by the Authority;
- (h) subject to the provisions of subsections (2), (3) and (4) of section 8, the civil servants of BPS-17 and above of Commerce and Trade Group, who are working against their encadred posts and those on deputation from such \* posts working in other departments of the government, shall be given an option to join the Authority;
- (i) in the case of civil servants of BPS-17 and above of Commerce and Trade Group who elected to remain civil servants, the provisions of subsections (2), (3), and (4) of section 8 shall apply;
- (j) civil servant of BPS-17 and above who elects to join the Authority as its permanent employee, shall be subject to an assessment process for employee. skills and competencies and past performance, and thereafter considered for employment in the Authority and after acceptance by the Authority as its permanent employee he shall cease to be civil servant and option by such officer, once exercised, shall be irrevocable;
- (k) a person referred to in clause (i) who opts not to join the Authority, shall continue to work in the Authority, his pay, allowances privileges or other benefits shall not be less than what he was drawing before commencement of this Ordinance;
- (l) all debts and obligations incurred or contracts entered into or rights acquired and all matters and things engaged to be done by, with or for the Export Promotion Bureau before the coming in to force of this Ordinance, shall be deemed to have been incurred, entered into, acquired or engaged to be done by, which or for the Authority, as the case may be;
- (m) all suits and other legal proceedings instituted by or against the Export Promotion Bureau before the commencement of this Ordinance shall be, deemed to be suits and proceedings by or against the Authority as the case may be and may proceed and be dealt with accordingly;

- (n) the EMDF shall stand transferred to Authority and shall vest in the Board, which shall approve its release to the Authority;
- (o) all officers, employees, servants, or any other person holding any post in connection with the affairs of the EMDF shall continue to remain contractual employees of the Authority till the unexpired terms of their contract;
- (p) in the event of a person referred to in clause (o) option to be an employee of the Authority and accepted by the Authority, he shall cease to be an employee of the EMDF and shall be entitled to such remuneration, allowances and other terms and conditions of employment as were applicable to such persons as EMDF employees, but, in the event of such a person opting not to join the Authority, he may continue to be employed as contractual employee of the Authority for the remaining unexpired term of his contract under such terms and conditions that were applicable to such persons as EMDF employees;
- (q) all officers, employees, servants, or any other person holding any post in connection with the affairs of the EMDF shall be required to inform the Authority within a period not exceeding six months from the commencement of this Ordinance of their intention to offer themselves for employment to the Authority. However, in all cases where the unexpired period of the contracts is less than six months, such persons shall be required to notify, the Authority thirty days prior to the expiry of their contract period;
- (r) save as otherwise provided in this Ordinance, all debts and obligations incurred or contracts entered into or rights acquired and all matters and things engaged to be done by, with or for the Federal Government under or pursuant to the EMDF before its transfer to the Authority, shall be deemed to have been incurred entered into acquired or engaged to be done by, with or for the Authority, as the case may be;
- (s) all suits and other legal proceedings instituted by or against the Federal Government under, or pursuant to, the EMDF before its transfer to the Authority, shall be deemed to be suits and proceedings by, or against the Authority as the case may be and may be proceeded with and be dealt with accordingly;
- (t) On commencement of this Ordinance, the EMDF Board shall be replaced by the Board established under this Ordinance and EMDF operations shall continue in the same manner as before and the decisions already taken by the EMDF Board before such commencement shall be deemed to have been validly taken by the Board under this Ordinance;
- (u) till notification of Authority's financial rules along with the delegated powers for incurring expenditure, the delegation of powers for making expenditure in Export Promotion Bureau vis-a-vis regular budget receipts and EMDF, shall continue to remain as they were before the commencement of this Ordinance;
- (v) the authority of Vice-Chairman Export Promotion Bureau to make expenditure of up to four million rupees,' and those of Chairman Export Promotion Bureau

and Commerce Minister of up to five million rupees shall continue till financial rules of Authority are notified by the Federal Government. With the creation of Authority, the designations of Vice-Chairman Export Promotion Bureau and Chairman Export Promotion Bureau shall stand substituted by Secretary and Chief Executive respectively; and

- (w) save as otherwise provided in this Ordinance, nothing in this Ordinance shall affect or be deemed to affect anything done, action taken, investigation or proceedings commenced, order, rule, regulation, appointment, document, or agreement made, fee directed, resolution passed, direction given, proceedings, taken, or instrument executed or issued under or pursuant to any law amended or repealed by this Ordinance and any such thing, action, investigation, proceedings, order, rule, regulation, appointment, document, agreement, fee, resolution direction, proceedings or instrument and decisions shall, if in force on the commencement date, and not inconsistent with any of the provisions of this Ordinance, continue in force and have effect as if it had been validly done, taken, commenced, made, directed, passed, given, executed or issued under this Ordinance.

**38. Validation of actions etc.**-Anything done, actions taken, orders passed, instruments made, orders of appointment made, proceedings initiated, process or communications issued, powers conferred, assumed, exercised by the Authority or its officers and servants on and after the 7th March, 2007, and before the commencement of this Ordinance shall be deemed to have been validly done, made, issued, taken, initiated, conferred, assumed and exercised and the provisions of this Ordinance shall have, and shall be deemed always to have had, effect accordingly.

**39. Removal of difficulties.**- If any difficulties arise in giving effect to any provision of this Ordinance, the Federal Government may make such order, not inconsistent with the provisions of this Ordinance, as may be necessary to remove the difficulty.

**40. Repeal and savings.**-Upon the commencement of this Ordinance,-

- (a) the Government of Pakistan, Export Promotion Bureau Resolution No.P-5(5)65 dated 22nd January, 1966, and Government of Pakistan, Ministry of Commerce, Order No.28(19)-CE/63, dated 4th December, 1963, shall stand repealed;
- (b) all funds, properties, rights and interest of whatsoever kind issue, powers exercised and enjoyed, possessed, owned or vested in the EMDF Board setup under Government Pakistan, Export Promotion Bureau Resolution No.P-5(5)/65, dated the 22nd January, 1966, and any liabilities legally subsisting against the EMDF Board and the said Bureau shall stand transferred to the Authority established under this Ordinance;
- (c) everything done, action taken, obligations or liabilities incurred, rights and assets acquired decisions taken by the EMDF Board, persons appointed or authorized in the EMDF, powers conferred, funds, donations or grants made, orders issued and rules or regulations made, by the EMDF Board established under the Resolution referred to in clause (b) immediately, before the commencement of this Ordinance shall be deemed to have been validly done, taken, incurred, acquired, appointed, authorized, conferred, created, made or issued under this Ordinance.