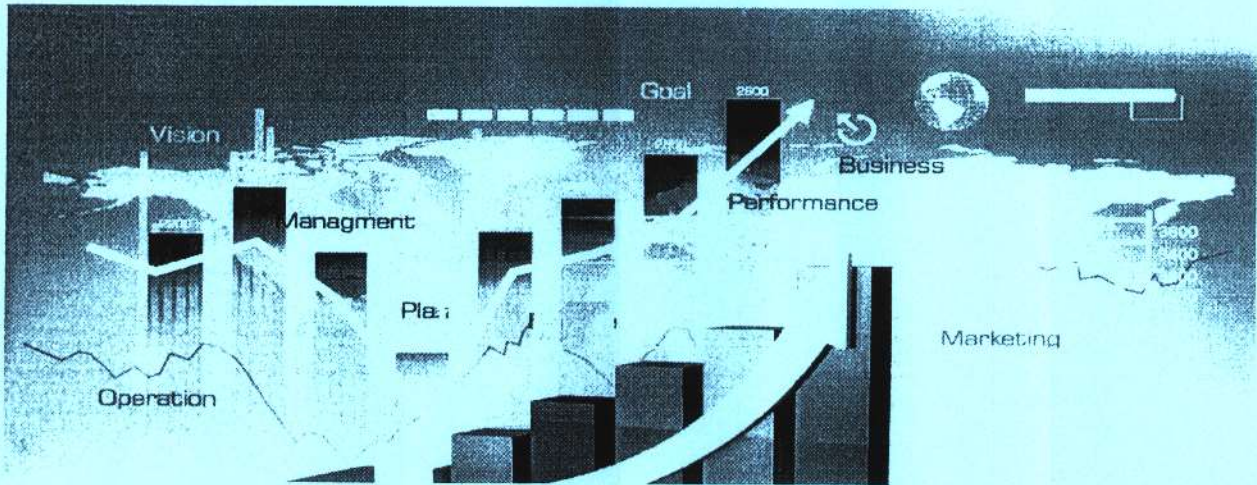


# SENATE OF PAKISTAN



## REPORT OF THE SENATE STANDING COMMITTEE ON COMMERCE AND TEXTILE INDUSTRY

THE PAKISTAN TOBACCO BOARD (AMENDMENT) BILL, 2017

**Report No.12**

*Presented by*

Senator Syed Shibli Faraz

Chairman



## SENATE SECRETARIAT

### REPORT OF THE STANDING COMMITTEE ON COMMERCE AND TEXTILE INDUSTRY ON THE PAKISTAN TOBACCO BOARD (AMENDMENT) BILL, 2017

I, Senator Syed Shibli Faraz, Chairperson of the Senate Standing Committee on Commerce and Textile Industry have the honor to present the report, on behalf of the Committee, on The Pakistan Tobacco Board (Amendment) Bill, 2017 referred to the Committee by the House on 24<sup>th</sup> October, 2017 for consideration and report.

2. The composition of the Committee is as under:-

I. Senator Syed Shibli Faraz,	Chairman
II. Senator Ilyas Ahmad Bilour	Member
III. Senator Mrs. Naseema Ehsan	Member
IV. Senator Karim Ahmed Khawaja	Member
V. Senator Mufti Abdul Sattar	Member
VI. Senator Dr. Muhammad Farogh Naseem	Member
VII. Senator Saud Majeed	Member
VIII. Senator Muhammad Usman Khan Kakar	Member
IX. Senator Ms. Rahila Magsi	Member
X. Senator Saleem Mandviwala	Member
XI. Senator Mrs. Rubina Khalid	Member
XII. Senator Haji Saif Ullah Khan Bangash	Member
XIII. Minister for Commerce	Ex-Officio Member

3. The Committee considered The Pakistan Tobacco Board (Amendment) Bill, 2017 in detail in its meetings held on 7<sup>th</sup> December, and 13<sup>th</sup> December, 2017. Final consideration of the Bill was held in the meeting dated 13<sup>th</sup> December, 2017, which was attended by the following members:-

I. Senator Syed Shibli Faraz	Chairman
II. Senator Muhammad Usman Khan Kakar	Member
III. Senator Mrs. Rubina Khalid	Member
IV. Senator Saleem Mandviwala	Member

4. The Committee observed that amendments proposed in the Pakistan Tobacco Board (Amendment) Bill, 2017 aim to broaden the scope of the definition of "tobacco" to avoid the problems faced by the PTB in collecting Cess/duties on different products of tobacco and settling



disputes amongst the Pakistan Tobacco Board (PTB), tobacco dealers, contractors and manufacturers.

5. The Committee noted that previously, "tobacco" was defined as any product made from only the leaves of the plants "Nicotiana Tobaccum" or "Nicotiana Rustica" and did not classify tobacco waste as a tobacco product. It is pertinent to mention here that the Supreme Court of Pakistan vide judgment dated 27-04-2015 declared the levy of FTC on Khaka, Karra, Rorh, etc. (products made from the main stalk of Rustica tobacco) ultra vires on grounds that these products were not covered under the definition of tobacco as per section 2(f) of the PTB Ordinance 1968.

6. The Committee also observed that not all parts of the plants "Nicotiana Tobaccum" or "Nicotiana Rustica" should be defined equally, due to a significant difference in both their price and their nicotine level. Therefore, Cess could not be levied at the same rate on all parts of the tobacco plants, as this would not only be unjustified, but will also lead to further litigation in the future.

7. After detailed deliberations, and giving hearing to all stakeholders, including the Pakistan Tobacco Board, the Pakistan Tobacco Company, Phillips Morris and the Tobacco Dealers Association, the Senate Standing Committee on Commerce and Textile Industry finalized the following amendments to the Pakistan Tobacco Board (Amendment) Bill, 2017:

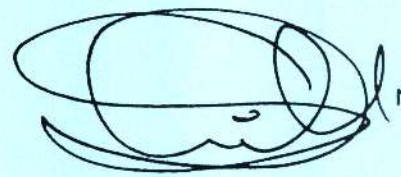
- In **Clause 2**, after **sub clause (f)**, the following proviso shall be inserted, namely:

**"Provided that Cess, Taxes, and duties will be levied at different rates on different parts of different types of the tobacco Plants"**

8. In view of the above, the Senate Standing Committee on Commerce and Textile Industry recommends that the Pakistan Tobacco Board (Amendment) Bill, 2017, as reported by the Senate Standing Committee Commerce and Textile Industry, may be passed as amended by the House. **The Bill as reported by Senate Standing Committee on Commerce and Textile Industry is annexed as "A", and the bill as passed by the National Assembly is annexed as Flag "B".**



(Iffat Mustafa)  
Secretary Committee



(Syed Shibli Faraz)  
Chairman



(AS REPORTED BY THE SENATE STANDING COMMITTEE)

A

BILL

further to amend the Pakistan Tobacco Board Ordinance, 1968

**WHEREAS** it is expedient to further amend the Pakistan Tobacco Board Ordinance, 1968 (I of 1958);

It is hereby enacted as follows:-

1. **Short title and commencement.**-(1) This Act may be called the Pakistan Tobacco Board (Amendment) Act, 2017.  
(2) It shall come into force at once.
2. **Amendment of section 2, Ordinance I of 1968:-** In the Pakistan Tobacco Board Ordinance, 1968 (I of 1968), in section 2, for clause (f), the following shall be substituted, namely:-

“(f) "Tobacco" means the commodity made from any part of the plant “Nicotiana Tabaccum” or “Nicotiana Rustica”, used or consumed in the manufacture of cigarettes or any other tobacco product or by-product through any other modes, forms and processes;”

**Provided that Cess, Taxes, and duties will be levied at different rates on different parts of different types of the tobacco Plants**

**Statements and objects of Reasons**

Pakistan Tobacco Board (PTB) has been established as a Semi-Autonomous Body under the Administrative Control of Ministry of Commerce through Ordinance No.1 of 1968, dated 08-02-1968 for promotion of the cultivation, manufacture and export of tobacco, tobacco products and matters ancillary thereto, alongwith the national interest of Pakistan in relation to economic and financial stability.

2. In the past, Peshawar High Court has instructed to bring about appropriate amendment in the definition of tobacco (Section 2 (f)) in the PTB Ordinance 1968 (amended through presidential Ordinance, 1972) through the Federal Government. PTB has also been facing unnecessary litigation in the court, observation of Audit in DAC and PAC on one hand and



perennial disputes with tobacco dealers, contractors and manufacturers of by-products like Khaka Khara and Rorh on the other.

3. The proposed amendments are essential to achieve the objectives as under:-
  - I. To enable PTB to wind up the court cases and audit paras which came to the surface directly or indirectly due to the limited scope of the definition of tobacco in the PTB Ordinance 1968.
  - II. To broaden the scope of definition of tobacco in accordance with the modern day requirements of tobacco industry; and to make it comprehensive and inclusive of all parts of the tobacco plant, its products and by-products made thereof.

**(MUHAMMAD PERVAIZ MALIK)**  
Minister for Commerce and Textile  
Minister-in-charge



## [AS PASSED BY THE NATIONAL ASSEMBLY]

A

## BILL

*further to amend the Pakistan Tobacco Board Ordinance, 1968*

**WHEREAS** it is expedient further to amend the Pakistan Tobacco Board Ordinance, 1968 (I of 1968);

It is hereby enacted as follows:-

**1. Short title and commencement** (1) This Act may be called the Pakistan Tobacco Board (Amendment) Act, 2017.

(2) It shall come into force at once.

**2. Amendment of section 2, Ordinance I of 1968.-** In the Pakistan Tobacco Board Ordinance, 1968 (I of 1968), in section 2, for clause (f), the following shall be substituted, namely:-

"(f) "Tobacco" means the commodity made from any part of the plant "Nicotiana Tabaccum" or "Nicotiana Rustica", used or consumed in the manufacture of cigarettes or any other tobacco product or by-product through any other modes, forms and processes;"

**STATEMENT OF OBJECTS AND REASONS**

Pakistan Tobacco Board (PTB) has been established as a Semi-Autonomous Body under the Administrative Control of Ministry of Commerce through Ordinance No. I of 1968, dated 08-02-1968 for promotion of the cultivation, manufacture and export of tobacco, tobacco products and matters ancillary thereto, alongwith the national interest of Pakistan in relation to economic and financial stability.



2. In the past, Peshawar High Court has instructed to bring about appropriate amendment in the definition of tobacco (Section 2 (f)) in the PTB Ordinance, 1968 (amended through Presidential Ordinance 1972) through the Federal Government. PTB has also been facing unnecessary litigation in the court, observations of Audit in DAC and PAC on one hand and perennial disputes with tobacco dealers, constructors and manufacturers of by-products like Khaka Khra and Rorh on the other.

3. The proposed amendments are essential to achieve the objectives as under:-

- (i) To enable PTB to wind up the court cases and audit paras which came to the surface directly or indirectly due to the limited scope of the definition of tobacco in the PTB Ordinance, 1968.
- (ii) To broaden the scope of definition of tobacco in accordance with the modern day requirements of tobacco industry; and to make it comprehensive and inclusive of all parts of the tobacco plant, its products and by-products made thereof.

**MUHAMMAD PERVAIZ MALIK**  
Minister for Commerce and Textile  
Minister-In-Charge



## SENATE SECRETARIAT

Subject: - MINUTES OF MEETING OF THE SENATE STANDING COMMITTEE  
ON COMMERCE AND TEXTILE INDUSTRY

A meeting of the Senate Standing Committee on Commerce and Textile Industry was held on 07<sup>th</sup> December, 2017, under the Chairpersonship of Senator Syed Shibli Faraz at 02.00 p.m. in Committee Room No. 4, Parliament House Islamabad.

2. The agenda before the Committee was as under:-

- I. To discuss the bill to amend the Pakistan Tobacco Board Ordinance, 1968, “(The Pakistan Tobacco Board (Amendment) Bill, 2017)” referred by the House in its sitting held on 24<sup>th</sup> October, 2017.
- II. Any other item with the permission of the Chair

3. The following members of the Committee attended the meeting:-

I.	Senator Syed Shibli Faraz	Chairman
II.	Senator Karim Ahmed Khawaja	Member
III.	Senator Mrs. Naseema Ehsan	Member
IV.	Senator Saud Majeed	Member
V.	Senator Haji Saifullah Khan Bangash	Member
VI.	Senator Mrs. Rubina Khalid	Member
VII.	Senator Saleem Mandviwala	Member

4. The meeting commenced with a recitation of the Holy Quran. Thereafter, discussion on agenda item no. I commenced.

### Agenda Item No. I

5. The Chairman Committee inquired why the proposed amendment was confined to just “Nicotiana Tobaccum” or “Nicotiana Rustica” variety of tobacco plant. The Committee was apprised that tobacco products were made from these two plants, and as per the existing law, tobacco was defined as products made from the leaves of the aforementioned plants. The proposed amendment aims to broaden the scope of the law, by defining tobacco as any product being manufactured from any part of the aforementioned plants, and not just its leaves. The Committee was also apprised that Cess used to be levied on the products manufactured from the stems of the two plants. The stem was being exported, and also being used in the manufacture of cigarettes. However, exporters and producers of tobacco products realized that since the stem was not covered in the definition, they need not pay duties on the same. To achieve this, they



approached the courts, and currently, 27 cases are pending in various courts. In light of these cases, the Supreme Court of Pakistan directed that the definition of tobacco in the PTB Ordinance of 1968 be amended accordingly.

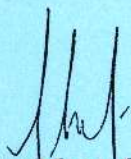
6. The Chairman Committee opined that the PTB should review its Ordinance of 1968, highlight any shortcomings, and either propose amendments or bring a new law for the approval of the Parliament. The Committee was apprised regarding falling exports of tobacco for the past 5 years. The Chairman Committee inquired what the PTB had done to address this issue. The Committee was apprised that exports were falling due to a lack of research and development, lack of promotion regarding tobacco crop, issues between tobacco growers and purchasers, and farming of non-recommended varieties of tobacco. PTB has started conducting educational seminars on recommended varieties of tobacco, and has also participated in an exhibition in Bali in 2017.

7. The Chairman Committee opined that tax revenue from sale of cigarettes was falling, and this was largely due to a rise in unbranded, un-licensed production of cigarettes, and a significantly lower price of the same.

8. The meeting ended with a mutual vote of thanks.

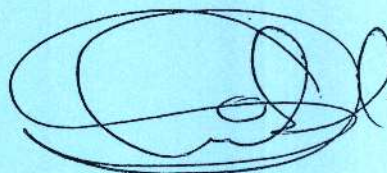
#### **Directives /decisions of the Committee**

- i. The Committee directed the PTB to devise mechanisms to prevent the production of sub-quality cigarettes and tobacco by-products in Pakistan, and also take the initiative to ensure increase in tobacco exports.
- ii. The Committee directed the PTB to review its Ordinance of 1968, highlight any shortcomings, and either propose amendments or bring a new law for the approval of the Parliament.



(Iffat Mustafa)

Dir. (R) / Secretary Committee



(Senator Syed Shibli Faraz)

Chairperson



## SENATE SECRETARIAT

Subject: - MINUTES OF MEETING OF THE SENATE STANDING COMMITTEE ON COMMERCE AND TEXTILE INDUSTRY

A meeting of the Senate Standing Committee on Commerce and Textile Industry was held on 13<sup>th</sup> December, 2017, under the Chairpersonship of Senator Syed Shibli Faraz at 11.30 a.m. in Committee Room No. 3, Parliament House Islamabad.

2. The agenda before the Committee was as under:-

- I. To discuss the bill to amend the Pakistan Tobacco Board Ordinance, 1968, "(The Pakistan Tobacco Board (Amendment) Bill, 2017)" referred by the House in its sitting held on 24<sup>th</sup> October, 2017.
- II. Any other item with the permission of the Chair

3. The following members of the Committee attended the meeting:-

I.	Senator Syed Shibli Faraz	Chairman
II.	Senator Muhammad Usman Khan Kakar	Member
III.	Senator Mrs. Rubina Khalid	Member
IV.	Senator Saleem Mandviwala	Member

4. The meeting commenced with a recitation of the Holy Quran. Thereafter, discussion on agenda item no. I commenced.

### Agenda Item No. I

5. The Chairman Committee observed that amendments proposed in the Pakistan Tobacco Board (Amendment) Bill, 2017 aim to broaden the scope of the definition of "tobacco" to avoid the problems faced by the PTB in collecting Cess/duties on different products of tobacco and settling disputes amongst the Pakistan Tobacco Board (PTB), tobacco dealers, contractors and manufacturers.

6. The Chairman PTB apprised the Committee that previously, "tobacco" was defined as any product made from only the leaves of the plants "Nicotiana Tobaccum" or "Nicotiana Rustica" and did not classify tobacco waste as a tobacco product. It is pertinent to mention here that the Supreme Court of Pakistan vide judgment dated 27-04-2015, declared the levy of FTC on Khaka, Karra, Rorh, etc. (products made from the main stalk of Rustica tobacco) ultra vires on grounds that these products were not covered under the definition of tobacco as per section 2(f) of the PTB Ordinance 1968.



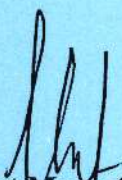
7. The Chairman Committee observed that not all parts of the plants "Nicotiana Tobaccum" or "Nicotiana Rustica" should be defined equally, due to a significant difference in both their price, and their nicotine level. Therefore, Cess could not be levied at the same rate on all parts of the tobacco plants, as this would not only be unjustified, but will also lead to further litigation in the future.

8. After detailed deliberations, and giving hearing to all stakeholders, including the Pakistan Tobacco Board, the Pakistan Tobacco Company, Phillips Morris and the Tobacco Dealers Association, the Senate Standing Committee on Commerce and Textile Industry finalized the following amendments to the Pakistan Tobacco Board (Amendment) Bill, 2017:

- After **Clause 2, sub clause (f)**, the following proviso shall be inserted, namely:

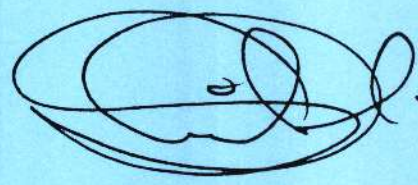
**"Provided that Cess, Taxes, and duties will be levied at different rates on different parts of different types of the tobacco Plants"**

9. The meeting ended with a mutual vote of thanks.



**(Iffat Mustafa)**

Dir. (R) / Secretary Committee



**(Senator Syed Shibli Faraz)**  
Chairperson