

[AS PASSED BY THE NATIONAL ASSEMBLY]

A
Bill

to provide for a mechanism to carry out a commercial transaction under an inter-governmental framework agreement to promote, attract and encourage foreign states to have economic and business relations with the Islamic Republic of Pakistan;

WHEREAS in order to facilitate inter-governmental economic and commercial transactions, it is necessary to provide for a legal framework and for matters connected therewith and ancillary thereto;

It is hereby enacted as follows:-

1. Short title, extent and commencement.— (1) This Act shall be called the Inter-Governmental Commercial Transactions Act, 2022.

(2) It shall extend to the whole of Pakistan.

(3) It shall come into force at once.

2. Definitions.— (1) In this Act, unless there is anything repugnant in the subject or context,—

(a) “commercial agreement” means business agreements entered under the G2G agreement;

(b) “Cabinet Committee” means Cabinet Committee on Inter-Governmental Commercial Transactions;

(c) “commercial transaction” includes sale, purchase, investment, divestment, procurement, licensing, lease, joint ventures, assignments, concessions, services contracts, management contracts or such other mode of business transactions arising out of a G2G agreement or a commercial agreement;

(d) “Federal Government” means the Government of Pakistan as defined under Article 90 of the Constitution of the Islamic Republic of Pakistan; and

(e) “G2G agreement” or “inter-governmental framework agreement” means an agreement or memorandum of understanding entered between the Federal Government and government of a foreign state.

3. Inter-governmental framework agreement.— (1) The Federal Government may enter into a G2G agreement with the government of a foreign state for the purposes of this Act.

(2) The G2G agreement under sub-section (1) shall include broad parameters and mechanism for execution of intended commercial transaction.

(3) Unless provided otherwise by the Cabinet Committee, a commercial agreement under the G2G agreement shall be negotiated and executed between the nominated entities of the Federal Government and government of the foreign state.

(4) In case of entity nominated by the government of the foreign state, that government shall have either shareholding or control of the entity.

4. Constitution of Cabinet Committee.- (1) The Federal Government shall, by notification in the official Gazette, constitute a Cabinet Committee on Inter-Governmental Commercial Transactions.

(2) The Cabinet Committee may:

- (a) authorize negotiations for a G2G agreement between the Federal Government and government of a foreign state;
- (b) constitute a negotiation committee for a G2G agreement or a commercial agreement, as the case may be, and approve price discovery mechanism;
- (c) recommend approval of the G2G agreement or a commercial agreement finalized by the negotiation committee;
- (d) recommend for relaxations, exemptions, exclusions or concessions from regulatory compliance;
- (e) authorize fast track procurement of services of transaction advisors or consultants; and
- (f) take such decisions necessary for expeditious execution of the commercial transaction:

Provided that the decision taken under clauses (c) and (d) of sub-section (2) by the Cabinet Committee shall be placed before the Federal Government for approval.

(3) The Cabinet Committee shall facilitate and supervise the commercial transactions under this Act and pass necessary directions for removal of hurdles or difficulties.

(4) The Cabinet Committee may co-opt any person as a member or may require attendance of any person by special invitation as it deems appropriate.

(5) No act, decision or proceedings of the Cabinet Committee shall be invalid by reason of absence, vacancy or defect in the constitution of the Cabinet Committee.

5. Power to issue instructions.- The Federal Government may issue appropriate directions to a Provincial Government, local government, agency or authority concerned to implement the objective of the inter-governmental commercial transaction including land acquisition, rehabilitation and re-settlement, provision of utility services, construction of approach roads to the main highways and such other activities of similar nature.

6. Power to relax or exempt from regulatory compliance.- The Federal Government on recommendation of the Cabinet Committee, by notification in the official Gazette and subject to such conditions, limitations or restrictions if any as may be specified therein, may relax or exempt from a regulatory requirement or operation necessitated by any law for the time being in force for implementing the inter-governmental commercial transaction.

7. **Conflict of interest.**- If a person acting on behalf of the Federal Government or nominated entity has direct, indirect or perceived personal interest in any agreement under this Act, that person shall-

- (a) immediately disclose such interest in writing to the Cabinet Committee; and
- (b) not take part in any consideration on that matter unless the Cabinet Committee directs otherwise.

8. **Bar of jurisdiction.**- No court shall entertain an application, petition or suit against any process or act undertaken or done, intended or purported to be undertaken or done under this Act.

(2) No court shall grant an injunction or entertain any application for injunction against any process undertaken, intended or purported to be undertaken for a commercial transaction or agreement under this Act

9. **Indemnity.**- (1) No suit, prosecutions or any other legal proceedings or action in damages shall lie for anything done, procedural lapses or omission in exercise or performance of any functions, power or duty conferred or imposed by or under this Act or any administered legislation unless the act or omission is shown, beyond reasonable doubt to have been in bad faith.

(2) Notwithstanding anything contained in any other law, an investigating agency, anti-graft agency, law enforcement agency or a court shall not inquire into or initiate investigation for any procedural lapse or irregularity by any person in a commercial transaction or agreement under this Act unless there exists an evidence of personal monetary gain with corroborative evidence of link between such monetary gain to the undue benefit rendered to any party of the agreement.

(3) No person shall be sued in his personal capacity for action taken in his official capacity.

(4) Any procedural irregularity or lapse shall not affect, vitiate, set-aside, annul or rescind a commercial transaction or a commercial agreement under this Act.

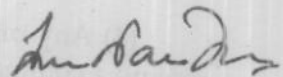
10. **Overriding effect.**- The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Companies Act, 2017 (XIX of 2017), Privatization Commission Ordinance, 2000 (LII of 2000), the Public Procurement Regulatory Authority Ordinance, 2002 (XXII of 2002), Public-Private Partnership Authority Act, 2017 (VIII of 2017), Securities and Exchange Commission of Pakistan Act, 1997 (Act No. XLII of 1997), Securities Act, 2015 (Act No. III of 2015) or any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

11. **Rules.**- The Federal Government may, by notification in the official Gazette, make rules for carrying out purposes and giving effect to the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

As it stands, there is no legislation for authorizing, negotiating and supervising inter-governmental agreements between the Government of Pakistan and government of a foreign state for the purposes of entering into business agreements. Under the proposed law, the Federal Government shall constitute a Cabinet Committee on Inter-Governmental Commercial Transactions and the primary function of the said Committee will be to negotiate and enter into inter-governmental agreement to allow state owned enterprises of both countries to carry out a commercial venture either in Pakistan or in a foreign country. The enactment of the proposed bill is imperative to promote, attract and encourage foreign states to have economic and business relations with the Islamic Republic of Pakistan.

2. The Bill has been designed to achieve the aforesaid objective.



Minister-in-Charge