

(NON-CONFIDENTIAL)

Preliminary Determination and Levy of Provisional Countervailing Duty on Subsidised Imports of Fine cotton yarn Originating in and/or Exported from India to Pakistan



Government of Pakistan
National Tariff Commission

REPORT

ON

**Preliminary Determination and Levy of Provisional
Countervailing Duty on Subsidised Imports of Fine
Cotton Yarn Originating in and/or Exported from the
Republic of India to Pakistan**

CVD No. 01/2016/NTC/CY
January 17, 2017

Preliminary Determination and Levy of Provisional Countervailing Duty on Subsidised Imports of Fine cotton yarn Originating in and/or Exported from India to Pakistan

The National Tariff Commission (hereinafter referred to as the “Commission”) having regard to the Countervailing Duties Act 2015 (hereinafter referred to as the “Act”) and the Countervailing Duties Rules, 2002 (hereinafter referred to as the “Rules”) is responsible to conduct anti-subsidy investigation for imposition of countervailing duties to offset injurious impact of subsidised imports on domestic industry and ensure fair competition thereof and to the WTO’s Agreement on Subsidies and Countervailing Measures (hereinafter referred to as the “ASCM”).

2. The Commission is conducting an investigation under the Act and the Rules on subsidised imports of fine cotton yarn carded or combed of 55.5 and above counts (hereinafter referred to as the “Fine Cotton Yarn”), originating in and/or exported from the Republic of India (hereinafter referred to as the “India”) to Pakistan. The Commission has made preliminary determination in this investigation under Section 13 of the Act. This report on preliminary determination has been issued in accordance with Section 25(3) of the Act and Rule 9 of the Rules.

3. In terms of Section 13(2) of the Act, the provisional countervailing duty could not be imposed earlier than sixty days and later than nine months from initiation of the investigation. This investigation was initiated on April 20, 2016, therefore, the Commission is required to make preliminary determination in this case latest by January 19, 2017. This preliminary determination is based on the information available with the Commission at this point of time.

A. PROCEDURE

4. The procedure set out below has been followed with regard to this investigation.

5. **Receipt of Application**

5.1 The Commission received a written application under Section 11(2) of the Act on February 22, 2016 from All Pakistan Textile Mills Association (“APTMA”) on behalf of following seven producers of fine (55.5 and above counts) cotton yarn (hereinafter referred to as the “Applicant”):

- i. Alhamd Corporation (Pvt) Ltd;
- ii. Acro Spinning & Weaving Mills Limited;

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- iii. M/s Babri Cotton Mills Limited;
- iv. Colony Textile Mills Limited;
- v. Hasan Limited;
- vi. Sally Textile Mills Limited; and
- vii. Saif Textile Mills Limited.

5.2 The Applicant alleged that the Fine Cotton Yarn is being exported to Pakistan at subsidised prices from India, which have caused material injury as well as there is threat of material injury to the Pakistan's domestic industry producing Fine cotton yarn.

5.3 The Commission notified receipt of application on March 01, 2016 to the Government of India and invited for consultations with the aim of clarifying the situation in accordance with Section 11(9) of the Act and Article 22.1 of the ASCM.

5.4 In response to the Commission's offer of consultations the Government of India did not respond before initiation of the investigation. However, the Government of India requested for consultations, which were held at the Commission's office in Islamabad on June 21, 2016 but both sides did not reach at any mutually agreed solution.

6. Evaluation and Examination of the Application

The examination of the application showed that it met requirements of Section 11(2) of the Act as it contained sufficient evidence of subsidised imports of Fine Cotton Yarn from India and injury to the domestic industry caused there from. The requirements of Rule 3 of the Rules, which relate to the submission of information prescribed therein, were also found to have been met.

7. Anti-Dumping Investigation on Fine cotton yarn Imported from India

7.1 The Applicant has also filed an application with the Commission on July 07, 2015 on behalf of the same seven units mentioned at paragraph 5.1 supra alleging that Fine Cotton Yarn is being dumped into Pakistan from India and have requested for imposition of anti-dumping duty on imports of the Fine Cotton Yarn from India.

7.2 The Commission has initiated an anti-dumping investigation on alleged dumped imports of Fine Cotton Yarn originating in and/or exported from India on August 20, 2015 and has made preliminary determination in this case on February

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15, 2016 in accordance with provisions of the Anti-Dumping Duties Act 2015. However, no provisional antidumping duty has been imposed on imports of fine cotton yarn from India.

7.3 In terms of Section 25(2) of the Act, no product shall be subject to both anti-dumping duties and countervailing duties under their respective laws for the purpose of dealing with one and the same situation arising from dumping or subsidised imports of the investigated product. However, this provision does not prohibit or prevent concurrent investigations of the same product under the Anti-Dumping Duties Act 2015 and the Countervailing Duties Act 2015.

8. Domestic Industry

8.1 Domestic industry in terms of Section 2(h) of the Act is defined as follows:

“domestic industry” means the domestic producers as a whole of a like product or those whose collective output of that product constitutes a major proportion of the total domestic production of that product; except when any such domestic producers are related to the exporters or importers, or are themselves importers of the allegedly subsidised product. In such a case “domestic industry” shall mean the rest of the domestic producers:

Explanation.– *For the purposes of this clause, producers shall be deemed to be related to exporters or importers only if –*

- (i) one of them directly or indirectly controls the other;*
- (ii) both of them are directly or indirectly controlled by the same third person; or*
- (iii) together they directly or indirectly control a third person:*

Provided that there are grounds for believing or suspecting that the effect of the relationship is such as to cause the producer concerned to behave differently from non-related producers and for that purpose one shall be deemed to control another when the former is legally or operationally in a position to exercise restraint or direction over the latter:

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Provided further that, in exceptional circumstances, as may be determined by the Commission, the domestic industry in relation to a product in question may be divided into two or more competitive markets and producers within each such market may be regarded as a separate industry if the –

- (i) producers within such a market sell all or almost all of their production of the product in question in such a market; and*
- (ii) demand in such a market is not, to any substantial degree, supplied by producers of the product in question located elsewhere in Pakistan;”.*

8.2 The information and documents provided in the application and the information obtained from APTMA shows that the domestic Fine Cotton Yarn manufacturing Industry comprises over the following 35 units:

**Table-I
Domestic Industry**

| S.No | Unit Name | S.No | Unit Name |
|-------------|-------------------|-------------|-----------------------|
| 1 | Kohinoor Mills | 19 | Azam Sarito |
| 2 | Nishat Mills | 20 | Ali Akbar |
| 3 | Nishat Chunian | 21 | Habib Textile |
| 4 | Sapphire Textile | 22 | Ittehad Textile |
| 5 | Gadoon Textile | 23 | Hassan Limited |
| 6 | Sally Textile | 24 | Ijaz Spinning |
| 7 | Bhanero | 25 | JK Textile |
| 8 | Gul Ahmad Textile | 26 | Fazal Cloth |
| 9 | Al Karam Textile | 27 | Chakwal Spinning |
| 10 | Sitara Textile | 28 | Idrees Textile |
| 11 | JDM | 29 | Crescent Textile |
| 12 | Babri Textiles | 30 | Superior Textile |
| 13 | Rehman Cotton | 31 | Umer Spinning |
| 14 | Saif Textile | 32 | Al-Hamd Textile |
| 15 | Colony Textile | 33 | NP Textile Karachi |
| 16 | ACRO Spinning | 34 | Diamond International |
| 17 | ACRO Textile | 35 | Nisar Spinning |
| 18 | Suraj Textile | | |

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8.3 Out of these 35 units, 7 units are themselves importers of the Fine Cotton Yarn from India. Further, the share in domestic production of these 7 producers have decreased over the period of time as given in the table XXVI infra, which is an indicative of shift in interest of these producers. Hence, these 7 units fall out the definition of the domestic industry in terms of Section 2(h) of the Act.

8.4 Keeping above in view, for the purpose of this investigation, the domestic industry is determined as rest of the 28 units producing Fine Cotton Yarn.

8.5 The Applicants are engaged in the manufacturing, marketing and distribution of Fine Cotton Yarn and other cotton yarn. The Applicants are neither related to importers and exporters nor they themselves have imported Fine Cotton Yarn from India during the period of investigation. Therefore, the Applicants were eligible to file an application under the Act.

9. Standing of the Application

9.1 In accordance with Section 11(8) of the Act, an application shall be considered to have been made by or on behalf of the domestic industry only if it is supported by those domestic producers whose collective output constitutes more than fifty percent of the production of the domestic like product produced by that portion of the domestic industry expressing opinion either support for or opposition to the application. Section 11(8) of the Act further provides that no investigation shall be initiated when domestic producer expressly supporting an application account for less than twenty five percent of the total production of the domestic like product produced by the domestic industry.

9.2 The application fulfills requirements of Section 11(8) of the Act. The Applicants produced 42.70 percent of total domestic production of Fine Cotton Yarn during the period from July 1, 2014 to June 30, 2015. Details of the production of Fine Cotton Yarn by the domestic industry are as follows:

**Table – II
Unit-wise Production during the year 2014-15**

| S No | Name | % Share in production | Status |
|-------------|-----------------------------------|------------------------------|---------------|
| 1 | Alhamd Corporation (Pvt) Ltd. | 8.14 | Applicant |
| 2 | Acro Spinning &Weaving Mills Ltd. | 9.13 | Applicant |
| 3 | Babri Cotton Mills Ltd. | 4.02 | Applicant |
| 4 | Colony Textile Mills Limited | 11.85 | Applicant |
| 5 | Hasan Limited | 8.16 | Applicant |

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| | | | |
|--------------|-----------------------------|--------|-------------|
| 6 | Sally Textile Mills Limited | 0.86 | Applicant |
| 7 | Saif Textile Mills Limited | 0.55 | Applicant |
| 8 | Others (21 Units) | 57.30 | Indifferent |
| Total | | 100.00 | |

Source: the Applicant

9.3 The Applicants represent 42.70 percent of the domestic production of the domestic industry. The Application is supported by 100% of the producers who are expressing their opinion on application. Thus, the standing requirements as given in section 11(8) of the Act are met and it is determined that the application is made on behalf of the domestic industry.

10. Applicant's Views

The Applicant, *inter alia*, has raised following issues in their application regarding subsidised imports of Fine Cotton Yarn, material injury and threat of material injury to the domestic industry:

- i. Fine Cotton Yarn imported from India into Pakistan and Fine Cotton Yarn produced by the domestic industry in Pakistan are like products in terms of Section 2(p) of the Act;
- ii. The exporters/foreign producers from India are exporting Fine Cotton Yarn to Pakistan at subsidised prices;
- iii. India is the world second largest producer of fine cotton yarn with 21percent share in world's total production. India is also the second largest exporter of cotton yarn with 16.70 percent share.
- iv. Subsidies being provided by the Government of India ("GOI") to its textile sector are contributing a lot in development and exports of its Fine Cotton Yarn.
- v. The GOI's subsidy schemes/programs can be divided into two main categories, which are as follows:
 - a. Central subsidies (provided by the Central Government); and
 - b. State-wise Subsidies (provided by State Governments)

The Applicant alleged 61 schemes/programs under above mentioned categories. List of alleged schemes/programs is attached at Annex-I:

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- vi. Export of Fine Cotton Yarn by the exporters/foreign producers from India to Pakistan at subsidised prices has caused and is causing material injury to the domestic industry mainly through:
 - a. significant increase in volume of subsidised imports of the investigated product;
 - b. price undercutting, price depression and price suppression;
 - c. decline in: sales, market share, profits and productivity; and
 - d. negative effects on: cash flows, growth and investment;

- viii. The Applicant has also claimed threat of material injury to the domestic industry due to alleged subsidised imports of the Fine Cotton Yarn from India on account of:
 - a. substantial increase in installed production capacities of the Indian producers of Fine Cotton Yarn;
 - b. substantial increase in inventories of Fine Cotton Yarn of the Indian producers/exporters;
 - c. volume of alleged subsidised imports of Fine Cotton Yarn has an increasing trend at a significant rate over the POI; and
 - d. prices of the alleged subsidised imports of the investigated product are undercutting prices of the domestic like product

11. Initiation of Investigation

11.1 The Commission upon examining accuracy and adequacy of the evidence provided in application established that there is sufficient evidence of alleged subsidised imports of Fine Cotton Yarn from India and consequent injury to the domestic industry, to justify initiation of an investigation in accordance with Section 11 of the Act. Consequently, the Commission decided to initiate an investigation on April 20, 2016.

11.2 In terms of Sections 11(13) and 11(15) of the Act, the Commission issued a notice of initiation, which was published in the Official Gazette¹ of Pakistan and in

¹ The official Gazette of Pakistan (Extraordinary) dated April 20, 2016.

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two widely circulated national newspapers² (one in English language and one in Urdu language) on April 20, 2016. Therefore, investigation concerning subsidized imports of Fine Cotton Yarn into Pakistan from India (classified under PCT³ No. 5205.1500, 5205.2700, 5205.2800, 5205.3500, 5205.4700 and 5205.4800 contained in the First Schedule of Customs Act, 1969 (IV of 1969)) was thus initiated on April 20, 2016.

11.3 In accordance with Section 11(16) of the Act the Commission notified High Commission of India in Pakistan on April 22, 2016 by sending copy of the notice of initiation with a request to forward it to all exporters/foreign producers of Fine Cotton Yarn in India. Copies of notice of initiation were also sent to the exporters/foreign producers of India whose complete addresses were available with the Commission, the known Pakistani importers, the Applicant and other domestic producers on April 22, 2016.

11.4 The Commission also sent copies of full text of the written application (non-confidential version) to the known exporters/foreign producers in India and the High Commission of India in Pakistan on April 22, 2016 in accordance with Section 11(16) of the Act. Further, copy of full text of the written application (non-confidential version) was made available to other interested parties by placing it on the public file.

12. Investigated Product and Domestic Like Product

12.1 Sections 2(m) and 2(o) of the Act defines the investigated product and the like product as follows:

- i. **Investigated Product:**
“‘‘investigated product’’ means a product which is subject to an investigation under this Act”.
- ii. **Like Product:**
“‘‘like product’’ means a product which is alike in all respects to an investigated product or, in the absence of such a product, another

² The daily “Ausaf” and Daily “News” of April 20, 2016 issue

³ “PCT” is the abbreviation for Pakistan Customs Tariff. PCT heading in Pakistan is equivalent to Harmonized Commodity Description and Coding System up to six-digit level

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product which, although not alike in all respects, has characteristics closely resembling those of the investigated product”.

12.2 For the purposes of this investigation and given the definitions set out above, the investigated product and domestic like product are identified in the following paragraphs.

12.3 Investigated Product

12.3.1 The investigated product is fine cotton yarn carded or combed of 55.5 and above counts, originating in and/or exported from India to Pakistan. It is classified under Pakistan Customs Tariff (“PCT”) Heading Nos. 5205.1500, 5205.2700, 5205.2800, 5205.3500, 5205.4700 and 5205.4800. It is used by weaving mills for production of cotton fabrics.

12.3.2 Following is the current (2016-17) tariff structure for import of fine cotton yarn:

**Table-III
Tariff Structure**

| S. No. | PCT No | Description | Customs duty | Regulatory duty* |
|---|-----------|---|--------------|------------------|
| Cotton yarn (other than sewing thread), containing 85 % or more by weight of cotton, not put up for retail sale. | | | | |
| i. | 5205.1500 | Measuring less than 125 decitex (exceeding 80 metric number) | 05% | 10% |
| ii. | 5205.2700 | Measuring less than 106.38 decitex but not less than 83.33 decitex (exceeding 94 metric number but not exceeding 120 metric number) | 05% | 10% |
| iii. | 5205.2800 | Measuring less than 83.33 decitex (exceeding 120 metric number) | 05% | 10% |
| iv. | 5205.3500 | Measuring per single yarn less than 125 decitex (exceeding 80 metric number per single yarn) | 05% | 10% |
| v. | 5205.4700 | Measuring per single yarn less than 106.38 decitex but not less than 83.33 decitex (exceeding 94 metric number but not exceeding 120 metric number per single yarn) | 05% | 10% |
| vi. | 5205.4800 | Measuring per single yarn less than 83.33 decitex (exceeding 120 metric number per single yarn) | 05% | 10% |

* vide SRO No.1055(1)/2015 dated 30-10-2015

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12.4. Domestic Like Product

The domestic like product is Fine Cotton Yarn produced by the domestic industry. The domestic like product is also used for the same purposes as of the investigated product. The domestic like product is also classified under the same PCT heading numbers as of the investigated product.

12.5 Like Products

12.5.1 The information provided in application and gathered from different interested parties shows that the fine cotton yarn produced by the domestic industry and imported from India are comparable in terms of physical characteristics, both are produced with same/similar raw materials and production process, both bear same customs classification and are interchangeable in uses.

12.5.2 On the basis of above information it is determined that both products (investigated product and domestic like product) are like products in terms of Section 2(o) of the Act.

13. Period of Investigation

13.1 In terms of Section 12(2)(a) of the Act, period of investigation (hereinafter referred to as the "POI") is defined as follows:

"For the purpose of, a representative finding, an investigation period shall be selected by the Commission which, in the case of subsidisation shall, normally, cover an investigation period provided for in section 7 and information relating to a period subsequent to the investigation period shall not, normally, be taken into account by the Commission."

And Section 7 of the Act provides the following:

"Calculation of amount of countervailable subsidy.– (1) The amount of countervailable subsidy, for the purposes of this Act, shall be calculated by the Commission in terms of any benefit conferred on a recipient which is found to exist during an investigation period for subsidization which period, shall normally be the most recent accounting year of the beneficiary but may

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be any other period of at least six months prior to initiation of an investigation for which reliable financial and other relevant data are available”

13.2 Section 12(2)(b) of the Act further provides as follows:

“For the purpose of, an investigation of injury, the investigation period shall the investigation period shall normally cover thirty-six months:

Provided that the Commission may at its sole discretion, select a shorter or longer period if it deems it appropriate in view of available information regarding domestic industry and an investigated product.”

13.3 Keeping in view above provisions of the Act, the POI for determination of subsidy and injury respectively are selected as follows:

For determination of subsidy: From July 01, 2014 to June 30, 2015

For determination of Injury From July 01, 2012 to June 30, 2015

14. **Public File**

In accordance with Section 36 of the Act the Commission has established and maintained a public file at its office. This file contains non-confidential versions of the application, response to the questionnaires, submissions, notices, reports, correspondence, and other documents for disclosure to the interested parties. The file is available to the interested parties for review and copying from Monday to Thursday between 1100 hours to 1300 hours throughout the investigation.

15. **Confidentiality**

15.1 In terms of Section 29 of the Act the Commission shall keep confidential any information submitted to it, which is either by nature confidential, or determined by the Commission to be of confidential nature for any other reason, or provided as confidential by parties to an investigation, upon good cause shown to be kept confidential.

15.2 The Applicant, the Government of India, exporters/foreign producers of the investigated product and certain other interested parties have requested to keep certain information confidential in accordance with Section 29 of the Act. This information includes sales, sale prices, cost to make and sell, inventories, production, profit/(loss), return on investment, cash flow, growth, investment,

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salaries & wages, number of employees and capacity, use of incentives provided by the Government etc., as its disclosure would cause adverse effect upon them.

15.3 Pursuant to requests made by the Applicant, Government of India, exporters/ foreign producers of the investigated product and other interested parties to treat certain information as confidential, the Commission has determined confidentiality in light of provisions of Section 29 of the Act. For the reasons that disclosure of such information may be of significant competitive advantage to a competitor, or because, its disclosure would have a significant adverse effect upon the interested parties providing such information, the Commission has kept confidential such information. However, in terms of Sub-Section (5) of Section 29 of the Act, non-confidential summaries of all confidential information, which provides reasonable understanding of the substance submitted in confidence, were obtained from the interested parties and have been placed in public file.

16. Exporters/Foreign Producers Involved in Alleged Subsidised Exports of the Fine Cotton Yarn

16.1 The Applicant identified sixty exporters/foreign producers involved in alleged subsidised exports of the investigated product from India to Pakistan. The Applicant has also stated there may be other producers and exporters but the Applicant have not names and addresses of these exporters/foreign producers. Therefore, the Applicant has requested for imposition of countervailing duty on all imports of Fine Cotton Yarn from India.

16.2 Upon initiation of the investigation, the exporters/foreign producers whose complete postal addresses were available with the Commission were informed directly on April 22, 2016 by sending copy of notice of initiation. However, for other exporters/foreign producers who were not known to the Commission, the High Commission of India in Islamabad was requested to forward notice of initiation to all exporters/foreign producers of Fine Cotton Yarn in India (paragraph 11 supra).

17. Information/Data Gathering

17.1 The Commission sent questionnaires to the Government of India and to 60 exporters/ foreign producers of the investigated product whose addresses were available with the Commission for acquisition of information/ data and evidences necessary for this investigation in accordance with Section 12(3) of the Act. Questionnaires were also provided to the High Commission of India in Islamabad with a request to forward it to all exporters/ foreign producers of the investigated

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product based in India in order to submit information. Questionnaires were also sent to domestic producers (other than the Applicant) of the like product and Pakistani importers of the investigated product. The parties receiving questionnaires were asked to respond within 37 days of the dispatch of the questionnaires.

17.2 The Commission has an access to the import statistics of Pakistan Revenue Automation Limited ("PRAL"), the data processing arm of the Federal Board of Revenue, Government of Pakistan. For the purpose of this investigation the Commission has also used import data obtained from PRAL's database in addition to the information provided by the Applicants, the Government of India and exporters/foreign producers from India.

17.3 Thus, the Commission has sought from all available sources, relevant data and information deemed necessary for the purposes of this investigation. During the course of this investigation the Commission also satisfied itself, to the extent possible, to the accuracy of information supplied by the interested parties.

17.4 The domestic producers other than the Applicants and importers did not respond to the Commission's request for information and have not provided information in response to the questionnaire. Questionnaires responses by the exporters/ foreign producers and the Government of India are explained in the following paragraph.

18. Questionnaires Response by the Exporters/Foreign Producers and Government of India

18.1 For acquisition of necessary information for the purposes of this investigation the Commission sent questionnaires to the Government of India and Indian exporters/producers of the investigated product on April 29, 2016. The Government as well as exporters/producers of India were requested to respond within 37 days of the dispatch of the questionnaires.

18.2 The Commission's request for supplying information on the prescribed Exporter's Questionnaire was responded by 12 exporters/foreign producers with the request for extension in time period (beyond 37 days) for submission of information. After taking into account the due cause shown by these exporters/foreign producers in their requests, the Commission acceded to the requests and granted extension in time period for submission of information on Exporter's Questionnaire till June 25, 2016.

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18.3 The Commission received filled-in Exporter's Questionnaires from the following 12 exporters/producers from India:

- i. Kikani Exports Private Limited
- ii. Nahar Spinning Mills Limited.
- iii. SJLT Spinning Mills Limited.
- iv. SJLT Textile Mills Limited.
- v. Vardhman Textiles Limited.
- vi. K.A.S Industries India Private Limited.
- vii. Prasuna Vamsikrishna Spinning Mills Private Limited.
- viii. Prime Urban Development India.
- ix. Nagreeka Spinning Limited.
- x. Trident Limited.
- xi. Nagreeka Trading Limited.
- xii. Veebee Yarnntex Private Limited

18.4 After expiry of the time period given for submission of information on questionnaires exporter/foreign producer of India who did not respond to the Commission's request for information on questionnaire were informed through a letter dated July 04, 2016 that in case of no response latest by July 11, 2016 the Commission would be constrained to make its determinations on the basis of 'best information available' in terms of Section 28 of the Act.

18.5 Limiting the Investigation to the Reasonable Number of Exporters

In view of the large number of exporters/producers from the Republic of India ("India") involved in this investigation and nature of the product, it is impracticable for the Commission to determine individual subsidy margin for each known exporter or producer concerned of the investigated product. Therefore, the Commission, in consultation with the Government of India and cooperating Indian exporters/ producers of the investigated product, has limited this investigation to the following Indian exporters/producers who represent the largest volume of exports of the investigated product during the POI in accordance with provisions of Section 27 of the Act:

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| <u>S. No</u> | <u>Exporter/Producer Name</u> |
|---------------------|---|
| i. | Nagreeka Spinning Ltd., 21-22, Kala Bhavan, 3 Mathew Road, Mumbai. |
| ii. | Nagreeka Trading Ltd, 21-22, Kala Bhavan, 3 Mathew Road, Mumbai |
| iii. | Trident Limited, Raikot Road, Sanghera Barnala, Punjab |
| iv. | Veebee Yarnntex Private Limited, 1109 E, Srivilliputtur Road, Rajapalayam - 626 117, Virudhungar District, Tamilnadu, |

18.6 Questionnaire Responses by the Government of India

18.6.1 Questionnaire to the Government of India ("GOI") was sent on April 29, 2016 with a request to respond within 37 days of the dispatch of the questionnaire i.e. latest by June 06, 2016.

18.6.2 The Directorate General of Anti-Dumping and Allied Duties, (hereinafter referred to as "DGAD") Ministry of Commerce and Industry, on behalf of Government of India applied to the Commission in its Note Verbale dated May 10, 2016 for extension of time period for submission of response to questionnaire for 30 days (beyond the given time period). The Commission granted the extension vide its letter dated June 08, 2016 after considering the reasons given in the request for extension upto June 25, 2016. However, the GOI submitted its preliminary response on June 06, 2016. Its final response was received in the Commission on June 25, 2016.

18.7 Questionnaire Response by Nagreeka Spinning and Nagreeka Trading

18.7.1. The Commission sent the Exporter's Questionnaire to Nagreeka Exports Limited (hereinafter referred to as "Nagreeka") on April 29, 2016. Nagreeka applied to the Commission in its letter dated May 7, 2016 for extension of time period for submission of response to questionnaire for 60 days. The Commission granted the extension vide its letter dated June 08, 2016 after considering the reasons given in the request for extension upto June 25, 2016. Its response was received in the Commission on June 25, 2016.

18.7.2. According to the information provided in response to the questionnaire, Nagreeka is a company limited by shares, duly incorporated under provisions of Indian companies law in force as on date. It has been engaged in the manufacture, sale and export of Cotton Yarn to Pakistan as well as to other countries and in domestic market during the POI.

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18.8 Questionnaire Response by Trident Limited

18.8.1. The Commission sent the Exporter's Questionnaire to Trident India Limited (hereinafter referred to as "Trident") on April 29, 2016. Trident applied to the Commission for extension regarding submission of response to questionnaire in its email dated May 27, 2016 for 21 days. The Commission granted the extension vide its letter dated June 08, 2016 after considering the reasons given in the request for extension upto June 25, 2016. Its response was received in the Commission on June 24, 2016.

18.8.2. According to the information provided in response to the questionnaire, Trident is a company limited by shares, duly incorporated under provisions of Indian companies Act, 1956. It has been engaged in the manufacture, sale and export of Cotton Yarn to Pakistan as well as to other countries and in domestic market during the POI.

18.9 Questionnaire Response by Veebee Yarnntex Private Limited

18.9.1 The Commission sent the Exporter's Questionnaire to Veebee Yarnntex Private Limited (hereinafter referred to as "Veebee") on April 29, 2016. Veebee applied to the Commission in its email dated June 02, 2016 for extension of time period for submission of response to questionnaire for three weeks. The Commission granted the extension vide its letter/email dated June 03, 2016 after considering the reasons given in the request for extension. Its response was received in the Commission on June 29, 2016.

18.9.2. According to the information provided in response to the questionnaire, Veebee is a private limited company incorporated under the provisions of Indian Companies Law in force on date of incorporation. It has been engaged in the manufacture, sale and export of Cotton Yarn to Pakistan as well as to other countries and in its domestic market during the POI.

19. Verification of the Information

19.1 In terms of Sections 12(7) and 26 of the Act and Rule 11 of the Rules, during the course of an investigation, the Commission shall satisfy itself as to the accuracy of the information supplied by the interested parties by conducting on-the-spot-investigations at premises of the interested parties.

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19.2 As stated earlier (paragraph 7 supra) the Commission is also conducting an anti-dumping investigation on alleged dumping of Fine Cotton Yarn from India. POI of that investigation is same as is of the POI for this investigation. Officers of the Commission conducted on-the-spot investigations from 28-3-16 to 5-4-16 at the premises of the following units, who are part of the applicants, to verify the information/data provided in application.

- i. Alhamd Corporation (Pvt) Ltd;
- ii. Acro Spinning & Weaving Mills Limited;
- iii. Colony Textile Mills Limited;
- iv. Hasan Limited;

19.3 On-the-spot investigations at premises of the selected exporters/ foreign producers to verify information submitted by them will be conducted after preliminary determination.

20. Written Submission by Interested Parties

All interested parties were invited to make their views/comments known to the Commission and to submit information and documents (if any) not later than 45 days from the date of publication of notice of initiation of this investigation in accordance with Section 11(15) of the Act. The Commission received no written submissions/comments from any interested party. Only Government of India submitted its Post-Consultation written submission.

B Determination of Subsidy and Calculation of Benefit to the Recipient

21. Subsidy

21.1 Section 3(2) of the Act states as follows:

" a product shall be considered to be subsidised if it benefits from a countervailable subsidy as provided for in section 4 and 5."

21.2 Section 4 of the Act define subsidy as follows:

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“4. Circumstances in which subsidy shall be deemed to exist.– A subsidy shall be deemed to exist if –

“(a) there shall be financial contribution by a government, where –

“(i) the government practice involves direct transfer of funds including grants, loans and equity infusion, or potential direct transfer of funds or liabilities, or both;

“(ii) government revenue that is otherwise due is foregone or not collected including fiscal incentives such as tax credits:

“Provided that exemption of an exported product from duties or taxes borne by a like product when destined for domestic consumption, or remission of such duties or taxes in amounts not in excess of those which have accrued, shall not be deemed to be a subsidy provided that such exemption is granted in accordance with the provisions of the First, Second and Third Schedules;

“(i) the government provides goods or services other than general infrastructure or purchases goods; or

“(ii) the government makes payments to a funding mechanism, or entrusts or directs a private body to carry out one or more of the type of functions specified in sub-clauses (i), (ii) and (iii) which would normally be vested in the government and the practice in, no real sense, differs from practices normally followed by governments;

“(b) there is any form of income or price support within the meaning of Article XVI of the General Agreement on Tariffs and Trade, 1994; and

“(c) a benefit is thereby conferred.”

22 **Specificity**

Section 5 of the Act provides that a subsidy shall only be countervailable if it is specific. Sub-sections (2), (3), (4) and (5) of Section 5 of the Act set out principles for specificity as follows:

“(2) In order to determine whether a subsidy is specific to an enterprise, industry or a group of enterprises or industries, hereinafter referred to as

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“certain enterprises”, within the jurisdiction of a granting authority, the Commission shall apply the following principles, namely:–

“(a) where the granting authority, or the legislation pursuant to which the granting authority operates, explicitly limits access to a subsidy to certain enterprises, such subsidy shall be specific;

“(b) where the granting authority, or the legislation pursuant to which the granting authority operates, establishes objective criteria or conditions governing the eligibility for, and the amount of, a subsidy, specificity shall not exist, provided that the eligibility is automatic and that such criteria and conditions are strictly adhered to;

*“**Explanation.**– For the purposes of clause (b), objective criteria or conditions mean criteria or conditions which are neutral, which do not favour certain enterprises over other, and which are economic in nature and horizontal in application, such as, number of employees or size of enterprise. Such criteria or conditions must be clearly set out by law, regulation, or other official document, so as to be capable of verification; and*

“(c) if, notwithstanding any appearance of non-specificity resulting from the application of the principles laid down in sub-clauses (a) and (b), there are reasons to believe that the subsidy may in fact be specific, the following other factors may be considered by the Commission, namely:–

“(i) use of a subsidy programme by a limited number of certain enterprises;

“(ii) predominant use by certain enterprises;

“(iii) granting of disproportionately large amounts of subsidy to certain enterprises; and

“(iv) manner in which discretion has been exercised by the granting authority in the decision to grant a subsidy;

*“**Explanation.**– For the purposes of clause (c), information on the frequency with which applications for a subsidy are refused or approved and the reasons for such decisions shall, in particular, be considered.*

“(3) In applying the provisions of sub-clause (c) of sub-section (2), the Commission shall take into account the extent of diversification of economic

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activities within the jurisdiction of a granting authority and the length of time during which subsidy programme has been in operation.

“(4) A subsidy which is limited to certain enterprises located within a designated geographical region within the jurisdiction of a granting authority shall be specific.

“(5) The setting or changing of generally applicable tax rates by all levels of the government entitled to do so shall not be deemed to be a specific subsidy.

“(6) Notwithstanding anything contained in sub-section (2), (3), (4) and (5), the following subsidies shall be deemed to be specific, namely:–

“(a) subsidies contingent, in law or in fact, whether solely or as one of several other conditions, upon export performance, including those illustrated in the First Schedule:

Provided that subsidies shall be considered by the Commission to be contingent in fact upon export performance when the facts demonstrate that granting of a subsidy, without having been made legally contingent upon export performance, is in fact tied to actual or anticipated exportation or export earnings:

Provided further that the mere fact that a subsidy is accorded to enterprises which export shall not for that reason alone be considered by the Commission to be an export subsidy for the purposes of this sub-clause; and

“(b) subsidies contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods.”

23. Calculation of Amount of Countervailable Subsidy

23.1 Section 7(1) of the Act provides that the amount of countervailable subsidy shall be calculated in terms of any benefit conferred on a recipient which is found to exist during an investigation period for subsidization. Section 7(2) of the Act sets out principles to calculate benefit conferred on the recipient as follows:

“(a) government provisions of equity capital shall not be considered to confer any benefit, unless an investment can be regarded as inconsistent with the usual investment practice including, for the

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provision of risk capital of private investors in the territory of an exporting country;

“(b) a loan by a government shall not be considered to confer any benefit, unless there is a difference between the amount that a firm receiving the government loan pays on it and the amount that the firm would pay for a comparable commercial loan which the firm could actually obtain on the market, in which event the benefit shall be the difference between these two amounts;

“(c) a loan guarantee by a government shall not be considered to confer any benefit, unless there is a difference between the amount that a firm receiving the guarantee pays on the loan guaranteed by the government and the amount that the firm would pay for a comparable commercial loan in the absence of the guarantee, in which case the benefit shall be the difference between these two amounts, adjusted for any difference in fees; and

“(d) a provision of goods or services or purchase of goods by a government shall not be considered to confer any benefit, unless the provision is made for less than adequate remuneration or the purchase is made for more than adequate remuneration, and the adequacy of remuneration shall be determined in relation to prevailing market conditions for the product or service in question in the country of provision or purchase including price, quality, availability, marketability, transportation and other conditions of purchase or sale.”

23.2 For calculation of subsidies Section 8 of the Act further provides as follows:

“8. General provisions on calculation of countervailable subsidies.– (1) *Subject to sub-section (2), the amount of countervailable subsidies shall be determined by the Commission in terms of subsidization per unit of an investigated product exported to Pakistan and in establishing such amount the following elements may be deducted from the total subsidy, namely:–*

“(a) any fee or other costs necessarily incurred in order to qualify for or, to obtain a subsidy; and

“(b) export taxes, duties or other charges levied on export of an investigated product to Pakistan specifically intended to offset a subsidy.

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“(2) Where an interested party claims a deduction under sub-section (1) such party shall prove to the Commission that the claim is justified.

“(3) Where a subsidy is not granted by reference to the quantities manufactured, produced, exported or transported, the amount of countervailable subsidy shall be determined by allocating the value of the total subsidy, as appropriate, over the level of production, sales or exports of the products concerned during an investigation period for subsidization.

“(4) Where a subsidy can be linked to acquisition or future acquisition of fixed assets, the amount of countervailable subsidy shall be calculated by spreading the subsidy across a period which reflects normal depreciation of such assets in the industry concerned, and the amount so calculated which is attributable to an investigation period, including that which derives from fixed asset acquired before such period, shall be allocated as provided for in sub-section (2):

“Provided that where assets are non-depreciating, a subsidy shall be valued as an interest-free loan, and be treated in accordance with the provisions of sub-clause (b) of sub-section (2) of section 7.

“(5) Where a subsidy cannot be linked to acquisition of fixed assets, the amount of any benefit received during an investigation period shall, in principle, be attributed to this period, and allocated as provided for in sub-section (2), unless special circumstances arise justifying attribution over a different period.”

24. Determination of Subsidies for the Investigated Product

The Commission requested information and evidences from Government of India (“GOI”) and Indian exporters/producers of the investigated product for alleged subsidy schemes provided at Annex-I. Subsidies are determined in the following paragraphs on the basis of the information available with the Commission at this point of time including the information provided by the GOI and the exporters/ foreign producers of the investigated product who are being investigated in this investigation (paragraph 18.5 supra).

25. Technology Up-gradation Fund Scheme (TUFS)

25.1 The GOI has provided as follows on TUFS:

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- i. TUFs was introduced in 1999 to upgrade technology in textile and jute industry. It was extended in 2004 and again in 2007 with modifications. The Scheme was restructured and the Restructured TUF Scheme (RTUFs) was launched w.e.f. 28.04.2011 to 31.03.2012. The Scheme was revised further as Revised Restructured Technology Up-gradation Fund Scheme (RR-TUFs) during 01.04.2012 to 12.01.2016 vide Resolution no. 6/19/2013-TUFs dated 4th October, 2013.
- ii. The standalone spinning unit (manufacturing yarn and exporting it) are eligible to get interest re-imbursalment @2 percent on term loan and composite units are eligible for interest re-imbursalment @ 6 percent plus 15 percent subsidy of capital expense availed for installation of machinery and other investments such as factory building including renovation of factory building, preliminary and pre-operative expenses, margin money required for working capital, specifically required for the technology upgradation etc. New as well as old machinery for textile industry is entitled to get benefit of this scheme.
- iii. Existing unit with or without expansion and new units are entitled to benefit from this scheme. A unit can undertake one or more activities under the scope of this Scheme. An entrepreneur may avail term loan for either installation of machinery identified in the scheme in its existing unit or for establishing a green field textile unit having benchmarked machinery identified in the scheme.
- iv. The entrepreneur is required to submit online application for pre-authorising assistance under the scheme through its bank which has sanctioned term loan. The lending agency/bank will establish quarter-wise eligibility of the interest reimbursement by working out the basic cost of the eligible machinery under the scheme established by the loanee and submit details through online system to the Office of Textile Commissioner (TxC office) for obtaining unique identification number ("UID") under the scheme.
- v. The bank will submit quarter-wise claim to the Government through online system, made for this purpose, supported with prescribed certificates. The Government will release eligible claimed assistance directly to the entrepreneur bank's account.

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- vi. The maximum permissible period is seven years under RRTUFS.
- vii. Unit-wise details of subsidy provided during 2014-15 under this scheme is as under:

**Table-IV
Details of Assistance Under RR-TUFS for July 2014 to June 2015**

| Sr. No | Name of the Company | Amount# |
|---------------|--|----------------|
| 1. | Gimatex Industries Pvt. Ltd. | 100.00 |
| 2. | NSL Textiles Ltd. | 71.52 |
| 3. | SEL Textiles Ltd | 41.84 |
| 4. | Trident Limited | 23.28 |
| 5. | SEL Manufacturing Company Ltd. | 18.28 |
| 6. | Vardhman Textiles Ltd. | 14.44 |
| 7. | Ahuja Cotspin Pvt. Ltd. | 11.71 |
| 8. | GHCL Ltd. | 10.04 |
| 9. | Bannari Amman Spinning Mills Pvt. Ltd | 8.37 |
| 10. | Nahar Spinning Mills Pvt. Ltd. | 7.43 |
| 11. | Mohan Spintex India Ltd. | 5.56 |
| 12. | Platinum Textiles Ltd. | 5.14 |
| 13. | Loyal Textile Mills Ltd. | 4.85 |
| 14. | Sundaram Textiles Ltd. | 2.18 |
| 15. | Sitaram Spinners Pvt. Ltd. | 1.02 |
| 16. | Sree Lalitha Parameswari Spinning Mills (Pvt) Ltd. | 0.91 |
| 17. | Rajashree Spintex Pvt. Ltd. | 0.88 |
| 18. | LS Mills Ltd. | 0.79 |
| 19. | Eurotexindustries & Exports Ltd. | 0.69 |
| 20. | Domodar Threats Ltd. | 0.62 |

Note: To keep confidentiality actual figures have been indexed with reference to the amount of Gimatex Industries Pvt. Ltd.

25.2 The sampled exporters (Nagreeka Spinning Ltd., Nagreeka Trading Ltd, Trident Limited, Veebee Yarnntex Pvt Ltd.) have stated as follows on Technology Up-gradation Fund Scheme (TUFS) in addition to the submissions of the GOI on this scheme:

- i. Investments under TUFS had gained notable momentum during its operational life span of over 14 years. The various revisions and modifications in the TUFS rolled out by the Government of India till 2016 are as under:

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- a. Technology Upgradation Fund Scheme 1999 ("TUFS")
 - b. Technology Upgradation Fund Scheme 2007-2012 ("M-TUFS")
 - c. Technology Upgradation Fund Scheme 2011-2012 ("R-TUFS")
 - d. Technology Upgradation Fund Scheme 2012-2017 ("RR-TUFS")
 - e. Amendments to Technology Upgradation Fund Scheme 2016-2017 ("A-TUFS")
- ii. The program lays down the list of eligible machineries, details of benefits available to eligible units and other administrative matters for which the benefit is available. The benefit under this program is not contingent on any specific factor. Also the benefit under this program is neither limited to any certain enterprise, nor grants disproportionately large amounts of benefits to certain enterprises nor any discretion is exercised by the government nor limits the access to certain enterprises. In other words, the benefit cannot be denied for any reason whatsoever if the investment is made in the listed machineries by the enterprise and hence the eligibility is automatic for the enterprise.
- iii. The TUFS has two conditions for the companies to be eligible for application under the program:
- a. Purchase of state of the art machineries or near state of the art machineries (generally new machineries are considered as upgradation) - To avoid any differences in understanding about the meaning of technology upgradation in the widespread textile processes, technology levels are benchmarked in terms of specified machinery for each sector of the textile industry.
 - b. Purchase of eligible machineries only (specified in Annexure of the TUFS notification)
 - c. The projects may be new units or expansions of existing capacities. There are no restrictions on the types of eligible machines that a company may undertake to modernize under the program.
- iv. The benefit under the program includes "spinning machines" that are used for manufacture of the investigated products. Therefore,

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any investment for upgradation of spinning machines by the company in India fulfilling the eligibility criteria laid down under the TUFs are covered under the program for availing benefits.

- v. The benefits available under TUFs are interest reimbursement on long term loan taken for eligible machines, capital subsidy and margin money.
- vi. A summary of the procedure to apply for TUFs is as follows:
 - a. Application for long term loan on eligible project is made to the Nodal Agency (in the prescribed format upon fulfillment of prescribed conditions). As an advent for digitization, the GOI has introduced online applications for RR-TUFs and eligibility is examined after grant of a Unique Identification Number (UID).
 - b. Project approval by the Nodal Agency (as specified in Annex - S in M-TUFs and Annex - V in R-TUFs). In the RR-TUFs, a digital Eligibility Certificate Number (ECN) is generated specifying the amount of loan approved under TUFs and other details as were contained in an approval certificate by nodal agencies.
 - c. The Nodal Agency will examine the eligibility of the project to determine fulfillment of eligibility criteria laid down under the TUFs. In case of any further explanations and clarifications on the eligible machineries, the Technical Advisory-cum-Monitoring Committee (TAMC) may provide guidance to the Nodal Agencies/co-opted nodal agencies.
 - d. The loans once approved by the Nodal Agency under the TUFs (strictly upon fulfillment of eligibility criteria) are then disbursed to the company implementing the upgradation project.
 - e. The interest payments and loan repayments are made by the companies to the bank as per the repayment schedule commercially negotiated between them. The interest is paid to the nodal agencies by the companies at commercial borrowing rates based on credit rating of borrowers.
 - f. Reimbursement of interest to the nodal agency is made by the Ministry of Textile and subsequent credit to the company. The reimbursement of interest on eligible loans is applied on quarterly basis by each nodal agency to the Ministry of Textiles. The

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reimbursement of interest is limited to the amount of interest specified in the TUFs ("Section III - LOANS UNDER THE SCHEME" under TUFs, M-TUFs, A-TUFs, R-TUFs and ("Section IV - LOANS UNDER THE SCHEME" under RR-TUFs).

- vii. The TUFs is administered by the Textile Commissioner of India under the Ministry of Textiles. The loans under the TUFs are sanctioned and disbursed by the Nodal Agencies and co-opted nodal banks.

25.3 Determination of Subsidy, Specificity and Amount of Benefit under TUFs

25.3.1 Subsidy:

Review of the information and evidence submitted by the GOI and Indian exporters/producers of the investigated product has shown that the TUFs is a subsidy in terms of Section 4(a) of the Act in the form of financial contribution by the GOI. Investigation of the Commission has revealed that the TUFs provides following types of subsidies to the spinning sector of India:

- i. Re-imburement of 5 percent interest rate on long-term loans for purchase of machinery;
- ii. Foreign exchange rate fluctuation/forward cover premium of 4 percent;
- iii. 15 percent subsidy of capital expense for installation of machinery and other investments such as factory building including renovation of factory building, preliminary and pre-operative expenses; and
- iv. margin money required for working capital, specifically required for the technology upgradation etc.

25.3.2 Specificity:

Review of the documents submitted by the GOI and Indian exporters/producers of the investigated product has revealed that the TUFs is a subsidy scheme for textile industry only. Thus, TUFs is a specific subsidy in terms of Section 5(2) of the Act.

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25.3.3 **Amount of Benefit Under TUFs:**

In accordance with Section 7(1) of the Act amount of countervailable subsidy shall be calculated in terms the benefit conferred on the recipient during the POI. Thus, the amount of benefit under TUFs is calculated for the investigated exporters/ foreign producers on the basis of the information provided by them as follows:

i. **Amount of Benefit to Nagreeka under TUFs**

According to the Nagreeka it has availed the benefit of interest reimbursement under TUFs during the POI. Amount of benefit to Nagreeka under TUFs is determined in accordance with Section 7(2)(b) of the Act in the following table:

Table-V
Calculation of amount of Subsidy/Benefit for Nagreeka under TUFs

| Description | Loan 1 | Loan 2 | Loan 3 | Total |
|---|--------|--------|--------|--------|
| Total amount of loan | 49.15 | 25.42 | 25.42 | 100.00 |
| Loan paid before POI | 40.36 | 22.10 | 20.08 | 82.54 |
| Outstanding loan during POI | 8.80 | 3.32 | 5.34 | 17.46 |
| Commercial interest rate | 13.45% | 12.75% | 13.75% | 13.35% |
| Subsidised Interest rate | 8.45% | 7.75% | 8.75% | 8.35% |
| Interest amount at commercial rate | 1.18 | 0.42 | 0.73 | 2.34 |
| Interest amount at subsidised rate | 0.74 | 0.26 | 0.47 | 1.47 |
| Benefit/Subsidy | 0.44 | 0.17 | 0.27 | 0.87 |
| Subsidy as percentage of C&F export price | | | | 0.24% |

Note: To keep confidentiality actual figures have been indexed with reference to the total amount of loan by taking it equal to 100

ii. **Amount of Benefit to Trident Limited under TUFs**

Trident Limited in its questionnaire response has stated that the “Company has not availed the TUFs / M-TUFs / R-TUFs / RRTUFs during its POI for the unit manufacturing the investigated product”. However, the information provided by the GOI shows that Trident Limited has availed this subsidy scheme (paragraph 25.1(vii), Table-IV supra) during the POI. Therefore, benefit to the Trident Limited under TUFs is determined on the basis of the information submitted by the

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GOI on its loan amount. However, the commercial interest rate provided by Nagreeka for the POI is used for calculation of the benefit. Amount of benefit to Trident Limited under TUFs is determined in accordance with Section 7(2)(b) of the Act in the following table:

**Table-VI
Amount of Subsidy/Benefit for Trident under TUFs**

| Description | Amount |
|---|---------------|
| Loan amount | 100.00 |
| Commercial interest rate | 13.75% |
| Subsidised Interest rate | 8.75% |
| Interest amount at commercial rate | 13.75 |
| Interest amount at subsidised rate | 8.75 |
| Benefit/Subsidy | 5.00 |
| Subsidy as percentage of C&F export price | 0.03% |

Note: To keep confidentiality actual figures have been indexed with reference to the loan amount by taking it equal to 100

iii. **Amount of Benefit to Veebee Yarnntex Pvt Ltd. Under TUFs**

Veebee Yarnntex Pvt. Limited (“Veebee”) in its questionnaire response has stated that the “*We have not availed credit facilities under the scheme during the POI*”. However, the information provided by the Veebee at Annex-XII (Table F-IV) of the questionnaire shows that it has availed loans under TUFs in the past portions of which were also outstanding during the POI. Therefore, amount of benefit to Veebee under TUFs is calculated on the basis of its loans outstanding during the POI on the basis of information provided in Annex-XII (Table F-IV). Amount of benefit to Veebee under TUFs is determined in accordance with Section 7(2)(b) of the Act in the following table:

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**Table-VII
Calculation of amount of Subsidy/Benefit for Veebee under TUFS**

| Description | Loan 1 | Loan 2 | Loan 3 | Loan 4 | Loan 5 | Total |
|---|--------|--------|--------|--------|--------|--------|
| Total amount of loan | 25.87 | 1.00 | 26.87 | 19.90 | 26.37 | 100.00 |
| Loan paid before POI | 20.24 | 1.00 | 21.23 | 11.69 | 17.70 | 71.86 |
| Outstanding loan during POI | 5.63 | --- | 5.63 | 8.21 | 8.67 | 28.14 |
| Commercial interest rate | 11.50% | 11.50% | 13.00% | 13.00% | 13.00% | 12.60% |
| Subsidised Interest rate | 6.50% | 6.50% | 8.00% | 8.00% | 8.00% | 7.60% |
| Interest amount at commercial rate | 0.65 | --- | 0.73 | 1.07 | 1.13 | 3.57 |
| Interest amount at subsidised rate | 0.37 | --- | 0.45 | 0.66 | 0.69 | 2.17 |
| Benefit/Subsidy | 0.28 | --- | 0.28 | 0.41 | 0.43 | 1.41 |
| Subsidy as percentage of C&F export price | | | | | | 1.08% |

Note: To keep confidentiality actual figures have been indexed with reference to the total amount of loan by taking it equal to 100

26. Duty Incentives Under the Export Promotion Capital Goods Program

26.1 Analysis of the information provided by the GOI and exporters/ foreign producers of the investigated product has revealed the following on Duty Incentives Under the Export Promotion Capital Goods (EPCG) Program:

- i. Under EPCG Program import of specified capital goods (including Spares for Machineries), required to manufacture products for export are permitted at concessional rate of Customs duty. This Scheme also enables upgradation of technology of the indigenous industry. For this purpose, DICGEP licences are issued by the GOI/State Governments.
- ii. Under EPCG Program a licence holder is permitted to import capital goods at zero (0) or 3 percent customs duty.
- iii. To avail zero (0) rate of customs duty the licence holder is required to export products worth of 6 times of the customs duty saved on capital goods imported under this scheme within a period of 6 years reckoned from authorization issue date.
- iv. To avail concessional rate of 3 percent customs duty the licence holder is required to export products worth of 8 times to the duty saved (i.e. difference between duty payable and 3

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percent concessional custom duty) on import of capital goods under this scheme within a period of 8 years reckoned from authorization issue date.

- v. If a company fails to meet the export obligation, the company is subject to payment of applicable duty plus penal interest of 24 percent.
- vi. Capital goods imported under EPCG Program are subject to actual user condition i.e. the same cannot be transferred/ sold till the fulfilment of export obligation specified in the licence. In order to ensure that the capital goods imported under this Scheme are utilized in manufacture of export products. After importation/clearance of capital goods from Customs, the licence holder is required to produce certificate from the jurisdictional Central Excise Authority(CEA) or Chartered Engineer(CE) confirming installation of such capital goods in the declared premises.
- vii. EPCG Program is implemented by 37 Regional Authorities of the Directorate General of Foreign Trade located in various states.

26.2.1 Subsidy:

Review of the information and evidence submitted by the GOI and exporters/ foreign producers of the investigated product has shown that the EPCG Program is a subsidy in terms of Section 4(a)(ii) of the Act in the form of government revenue foregone that was otherwise due.

26.2.2 Specificity:

As the EPCG Program is contingent on export performance, therefore, it is a specific subsidy in terms of Section 5(6)(a) of the Act.

26.2.3 Amount of Benefit Under EPCG Program

In accordance with Section 7(1) of the Act amount of countervailable subsidy shall be calculated in terms the benefit conferred on the recipient during the POI. Thus, the amount of benefit under EPCG Program is calculated for the

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investigated exporters/ foreign producers on the basis of the information provided by them as follows:

i. **Amount of Benefit to Nagreeka under EPCG Program**

According to the Nagreeka it has availed benefit of duty free/concessional rate of duty on import of capital goods for production of goods for exports under EPCG Program during the POI. Amount of benefit to Nagreeka under this program is determined in accordance with Section 8(4) and 8(5) of the Act in the following table:

Table – VIII
Amount of Subsidy/Benefit for Nagreeka under EPCG

| S.No | Description | Value/volume |
|------|--|--------------|
| i. | Duty Saved on 25 years depreciable goods | 2,500.00 |
| ii. | Depreciation period for Sr. i. above | 25 Years |
| iii. | Duty saved for the POI on 25 years depreciable goods | 100.00 |
| iv. | Duty Saved on 1 year depreciable goods | 44.63 |
| v. | Total duty saved for the POI | 144.63 |
| vi. | Subsidy as percentage of C&F export price | 0.73% |

Note: To keep confidentiality actual figures have been indexed with reference to the duty saved during POI on 25 years depreciation by taking it equal to 100

ii. **Amount of Benefit to Trident Ltd. under EPCG Program**

According to the Trident Ltd. it has availed benefit of duty free/concessional rate of duty on import of capital goods for production of goods for exports under EPCG Program during the POI. Amount of benefit to the Trident Ltd. under this program is determined in accordance with Section 8(4) and 8(5) of the Act in the following table:

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**Table – IX
Amount of Subsidy/Benefit for Trident Ltd. under EPGC**

| S.No | Description | Value/volume |
|------|--|--------------|
| i. | Duty Saved on 10 years depreciable goods | 1,000.00 |
| ii. | Depreciation period for Sr. i. above | 10 Years |
| iii. | Duty saved for the POI on 10 years depreciable goods | 100.00 |
| iv. | Duty Saved on 1 year depreciable goods | 8.48 |
| v. | Total duty saved for the POI | 108.48 |
| vi. | Subsidy as percentage of C&F export price | 0.37% |

Note: To keep confidentiality actual figures have been indexed with reference to the duty saved during POI on 10 years depreciation by taking it equal to 100

iii. **Amount of Benefit to Veebee under EPCG Program**

According to the Veebee it has availed benefit of duty free/ concessional rate of duty on import of capital goods for production of goods for exports under EPCG Program during the POI. Amount of benefit to the Veebee under this program is determined in accordance with Section 8(4) and 8(5) of the Act in the following table:

**Table – X
Amount of Subsidy/Benefit for Veebee under EPGC**

| S.No | Description | Value/volum |
|------|---|-------------|
| i. | Duty Saved | 100.00 |
| ii. | Depreciation period | 1 Year |
| iii. | Benefit/subsidy for the POI | 100.00 |
| iv. | Subsidy as percentage of C&F export price | 4.71.% |

Note: To keep confidentiality actual figures have been indexed with reference to the duty saved by taking it equal to 100

27. Duty Drawback Scheme

27.1 Information provided by the GOI and exporters/ foreign producers of the investigated product has revealed the following on Duty Drawback Scheme:

- i. The Duty Drawback scheme provides rebates for duty or tax chargeable on (a) imported or domestic excisable inputs/materials;

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and (b) input services, used in the manufacture of export goods. The duties and tax neutralized under the program are:

- a. Customs and Union Excise Duties in respect of inputs; and
 - b. Service Tax in respect of input services.
- ii. Any exporter or the producing exporter is eligible for rebate under Duty Drawback Scheme. The shipping bill for export itself is treated as a claim for drawback and no separate application need to be filed.
 - iii. Rebates under duty drawback scheme are fixed as a percentage of FOB prices of the export product by the GOI. The applicable rates are notified in the Duty Drawback schedule. Two types of rebates are fixed under duty drawback scheme, which are as follows:
 - a. All Industry Rates scheme; and
 - b. Brand Rates scheme.
 - iv. **All Industry Rates Scheme (AIR):** AIR are fixed for a large number of export products, which are notified every year by the GOI after an assessment of average incidence of customs, central excise duties and service tax on inputs utilized in the manufacture of export products. To avail AIR facility, no proof of actual duties and taxes paid on inputs is required to be produced.
 - iv. **Brand Rates Scheme:** Where AIR is not notified or where the exporter considered AIR insufficient to fully neutralize incidence of duties and taxes paid on inputs used in the production/manufacture of the export product, the exporters can opt for Brand Rate Drawback Scheme. Under this Scheme, the exporters are refunded actual amount of customs, central excise duty and service tax paid on inputs used in the production of export products. For this purpose, the exporter has to produce documents/proof about the actual quantity of inputs utilized in the manufacture of export product along with evidence of payment of duties and tax thereon.
 - v. Rebate/ duty drawback on exported goods is claimed at the time of export and with details filled in the required format in the shipping bill/bill of export under drawback. In case of exports

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under electronic shipping bill, the shipping bill itself is treated as the claim for drawback.

- vi. Once the Export General Manifest (EGM) has been filed by respective airlines/shipping lines and the export is confirmed, the drawback claim is automatically processed through EDI system.
- vii. The drawback amount is calculated based on the ad-valorem rates specified in the schedule for the respective custom tariff heading in the Duty Drawback Rules. This amount is automatically registered with the DGFT, for disbursement to the exporter, upon filing of the shipping bill electronically.
- viii. Following are the relevant provisions of Indian laws to deal with refunds of duties and taxes under Duty Drawback Scheme:
 - a. Section 75 of the Indian Customs Act, 1962 (for customs duties paid on the imported)
 - b. Section 37(2) of the Central Excise Act, 1944 (for the central excise duties paid on the indigenously procured)
 - c. Section 93A and Section 94(2) of the Finance Act, 1994 (for the service tax paid on the services consumed in the manufacture, processing, removal or export of the exported product). And
 - d. The Customs, Central Excise and Service Tax Drawback Rules, 1995 (provides the regulatory framework).

27.2 As per the information provided by the GOI, 47 exporters were provided rebate/ duty drawback of an amount of IRs. 138.800 million on their exports of the investigated product to Pakistan during the POI.

27.3.1 **Subsidy:**

Review of the information and evidence submitted by the GOI and exporters/ foreign producers of the investigated product has shown that the rebate/ duty drawback scheme is a subsidy in terms of Section 4(a)(i) and 4(a)(ii) of the Act in the form of direct transfer of funds and government revenue foregone that

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was otherwise due. Sub-sections (h) and (i) of Section 2 of the First Schedule to the Act define exemption, remission or deferral of prior-stage taxes/duties as subsidies only if:

- a. exemption, remission or deferral of prior-stage cumulative indirect taxes on goods or services used in the production of exported products in excess of any exemption, remission or deferral of like prior-stage cumulative indirect taxes on goods or services used in the production of like products when sold for domestic consumption; provided, however, that prior-stage cumulative indirect taxes may be exempted, remitted or deferred on exported products even when not exempted, remitted or deferred on like products when sold for domestic consumption, if any prior-stage cumulative indirect taxes are levied on inputs that are consumed in the production of an exported product making normal allowance for waste. This clause shall be interpreted in accordance with the guidelines on consumption of inputs in a production process contained in the Second Schedule. For the avoidance of doubt, the provisions of this clause shall not apply to value-added tax systems and border-tax adjustment in lieu thereof and the provisions of clause (g) shall exclusively cover issues relating to excessive remission of value-added taxes;
- b. any remission or drawback of import charges in excess of those levied on imported inputs that are consumed in the production of an exported product, making normal allowance for waste; provided, however, that in particular cases a firm may use a quantity of home market inputs equal to, and having the same quality and characteristics as, the imported inputs as a substitute for them in order to benefit from this provision if the import and the corresponding export operations both occur within a reasonable time period, not to exceed two years. This clause shall be interpreted in accordance with the guidelines on consumption of inputs in the production process contained in the Second Schedule and the guidelines in the determination of substitution drawback systems as export subsidies contained in the Third Schedule.

27.3.2 Specificity:

As the duty drawback scheme is contingent on exports, therefore, any excess remission under this scheme is a specific subsidy in terms of Section 5(6)(a) of the Act.

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27.3.3 Amount of Benefit Under Duty Drawback Scheme

In accordance with Section 7(1) of the Act amount of countervailable subsidy shall be calculated in terms the benefit conferred on the recipient during the POI. Thus, the amount of benefit under duty drawback scheme is calculated for the investigated exporters/ foreign producers on the basis of the information provided by them as follows:

i. Amount of Benefit to Nagreeka under Duty Drawback Scheme

- i.i. Nagreeka was asked to provide information on eligibility criteria for the duty drawback scheme and benefits availed (volume and value of imported and locally procured inputs/raw materials, input output ratios, applicable duties/ taxes, duties and taxes paid, duties and taxes refunded, procedure for refund of duties and taxes paid and verification system etc.).
- i.ii. As per the information provided by Nagreeka it imported *** MT of the inputs/raw materials of a worth of IRs. ** million, which were used in the production of the Fine Cotton Yarn during the POI. However, Nagreeka did not pay any customs duty on import of these inputs/raw materials. Similarly, it procured **** MT of the inputs/raw materials of an amount of IRs. 844.10 million from local market, which were used in the production of the Fine Cotton Yarn during the POI. According to the Nagreeka it paid IRs. ** million on local procurement of inputs/raw materials in the form of value added and other taxes. However, breakup of value added tax and other taxes is not provided. Further, input-output ratios are also not provided.
- i.iii. In view of the above facts it is not possible to determine exact amount of taxes and duties (liable to refund excluding VAT) paid on locally procured inputs/ raw materials for the purposes of substitution draw back. Further, no verification system is prevailing in India to determine exact amount of duties paid on inputs/raw materials for correspondence refund to the exporter. Rather, exporters are provided rebate at a fixed rate on exports of the investigated product. Therefore, entire amount of the rebate provided to the Nagreeka during the POI on exports of the investigated product is considered as financial contribution by the GOI in terms of Section 4(a)(1) of the Act.

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- i.iv. According to the Nagreeka it has availed rebates under duty drawback scheme during the POI. Amount of benefit to Nagreeka under this scheme is determined in accordance with Section 8(5) of the Act in the following table:

Table – XI
Amount of Benefit to Nagreeka under Duty Drawback Scheme

| S.No | Description | Volume/Value |
|------|---|--------------|
| i. | Quantity of the investigated product exported to Pakistan during POI (MT) | **** |
| ii. | Rebate received from the GOI on exports of the investigated product to Pakistan (IRs) | ***** |
| iii. | Subsidy as percentage of C&F export price | 3.18% |

Note: To keep confidentiality actual figures have been omitted.

ii. **Amount of Benefit to Trident Ltd. under Duty Drawback Scheme**

- ii.i. Trident Ltd. was asked to provide information on eligibility criteria for the duty drawback scheme and benefits availed (volume and value of imported and locally procured inputs/raw materials, input output ratios, applicable duties/ taxes, duties and taxes paid, duties and taxes refunded, procedure for refund of duties and taxes paid and verification system etc.).
- ii.ii. Trident Ltd. has not provided requisite information on imports, locally procured inputs/raw materials, duties and taxes paid on inputs/raw materials and input-output ratios. Therefore, it is not possible to determine exact amount of taxes and duties paid on inputs/ raw materials for the purposes of draw back. Further, no verification system is prevailing in India to determine exact amount of duties paid on inputs/ raw materials for correspondence refund to the exporter. Rather, exporters are provided rebate at a fixed rate on exports of the investigated product. Therefore, entire amount of the rebate provided to the Trident Ltd. during the POI on exports of the investigated product is considered as financial contribution by the GOI in terms of Section 4(a)(1) of the Act.
- ii.iii. According to the Trident Ltd. it has availed rebates under duty drawback scheme during the POI. Amount of benefit to Trident Ltd. under this scheme is determined in accordance with Section 8(5) of the Act in the following table:

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Table – XII
Amount of Benefit to Trident Ltd under Duty Drawback Scheme

| S.No | Description | Volume/Value |
|------|---|--------------|
| i. | Quantity of the investigated product exported to Pakistan during POI (MT) | *** |
| ii. | Rebate received from the GOI on exports of the investigated product to Pakistan (IRs) | ***** |
| iii. | Subsidy as percentage of C&F export price | 3.00% |

Note: To keep confidentiality actual figures have been omitted.

iii. Amount of Benefit to Veebee under Duty Drawback Scheme

- iii.i. Veebee Ltd. was asked to provide information on eligibility criteria for the duty drawback scheme and benefits availed (volume and value of imported and locally procured inputs/raw materials, input output ratios, applicable duties/ taxes, duties and taxes paid, duties and taxes refunded, procedure for refund of duties and taxes paid and verification system etc.).
- iii.ii As per the information submitted by Veebee it did not imported any input/ raw material during the POI. It procured **** MT of the inputs/ raw materials amounting to IRs. *** million from local market, which were used in the production of the Fine Cotton Yarn during the POI. According to the Veebee it paid IRs. ** million on local procurement of inputs/raw materials in the form of value added and other taxes. However, breakup of value added tax and other taxes is not provided.
- iii.iii. In view of the above facts it is not possible to determine exact amount of taxes and duties (liable to refund excluding VAT) paid on locally procured inputs/ raw materials for the purposes of substitution draw back. Further, no verification system is prevailing in India to determine exact amount of duties paid on inputs/raw materials for correspondence refund to the exporter. Rather, exporters are provided rebate at a fixed rate on exports of the investigated product. Therefore, entire amount of the rebate provided to the Veebee during the POI on exports of the investigated product is considered as financial contribution by the GOI in terms of Section 4(a)(1) of the Act.
- iii.iv. According to the Veebee it has availed rebates under duty drawback scheme during the POI. Amount of benefit to Veebee under this

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scheme is determined in accordance with Section 8(5) of the Act in the following table:

**Table – XIII
Amount of Benefit to Veebee under Duty Drawback Scheme**

| S.No | Description | Volume/Value |
|-------------|---|---------------------|
| i. | Total quantity exported during POI (MT) | **** |
| ii. | Rebate received from the GOI on all exports of the Fine Cotton Yarn (IRs) | ***** |
| iii. | Subsidy as percentage of C&F export price | 4.39% |

Note: To keep confidentiality actual figures have been omitted.

28. Pre-shipment and Post-shipment Export Financing Scheme

28.1 As per Reserve Bank of India's (RBI) circular No.DIR.BC.14/04.02.002/2015-16 and Master Circular DBOD No.DIR.(Exp).BC19/04.02.002/2014-15 dated July 1,2014 pre-shipment and post shipment financing scheme is narrated as follows:

- i. The scheme is intended to make short term working capital finance available to exporters at internationally comparable interest rates. Export credit is available both in rupee as well as in foreign currency.
- ii. 'Pre-shipment/Packing Credit' means any loan or advance granted or any other credit provided by a bank to an exporter for financing the purchase, processing, manufacturing or packing of goods prior to shipment/working capital expenses towards rendering of services on the basis of letter of credit opened in his favour or in favour of some other person, by an overseas buyer or a confirmed and irrevocable order for the export of goods / services from India or any other evidence of an order for export from India having been placed on the exporter or some other person, unless lodgement of export orders or letter of credit with the bank has been waived.
- iii. Post-shipment Credit' means any loan or advance granted or any other credit provided by a bank to an exporter of goods/services from India from the date of extending credit after shipment of goods/ rendering of services to the date of realization of export proceeds, and includes any loan or advance granted to an exporter, in

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consideration of, or on the security of any duty drawback allowed by the Government from time to time.

- iv. Earlier under this scheme RBI fixed the ceiling rate of interest for export credit while banks were free to decide the rates of interest within the ceiling rates keeping in view the Benchmark Prime Lending Rate (BPLR).
- v. Banks fix their BPLR after taking into account (a) actual cost of funds, (b) operating expenses and (c) a minimum margin to cover regulatory requirement of provisioning/capital charge and profit margin.
- vi. With effect from July 1, 2010 banks have switch over to the system of Base Rate. Under the Base Rate System interest rates applicable for all tenors of rupee export credit advances are at or above Base Rate.
- vii. The following types of credit can be allowed to exporters under the RBI Master Circular dated July 1, 2014.
 - a. Pre-shipment Rupee Export Credit
 - b. Post-shipment Rupee Export Credit
 - c. Deemed Exports –Prescribed Rate for Rupee Export Credit
 - d. Interest on Rupee Export Credit
 - e. Pre-shipment Export Credit in Foreign Currency
 - f. Post-shipment Export Credit in Foreign Currency
 - g. Interest on Export Credit in Foreign Currency
- viii. The interest rate subvention is 3 percent under this scheme However, the total subvention is subject to the condition that the interest rate, after subvention will not fall below 7 per cent. The RBI reimbursed subvention on quarterly basis to the banks.

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28.2 Determination of Subsidy, Specificity and Amount of Benefit under Pre-Shipment and Post-Shipment Export Financing Scheme

28.2.1 Subsidy:

Review of the information and evidence submitted by the exporters/ foreign producers of the investigated product has shown that the Pre-Shipment and Post-Shipment Export Financing Scheme is a subsidy in terms of Section 4(a) of the Act in the form of financial contribution by the GOI because, on direction of the GOI, banks/financial institutions charged lower interest rate on loans under this scheme than the commercial interest and the RBI reimbursed subvention.

28.2.2 Specificity:

As this scheme is contingent on exports, therefore, it is a specific subsidy in terms of Section 5(6)(a) of the Act.

28.2.3 Amount of Benefit Under Pre-Shipment and Post-Shipment Export Financing Scheme (“EFS”):

i. Amount of Benefit to Nagreeka under EFS

According to the Nagreeka it has availed credit facility under EFS, however, it has stated, *“it is not a scheme but only a credit/loan facility provided to the exporters of India”*. Information provided by it at Annex E-III shows the amount of credit/loan obtained under this scheme. However, it has not provided amount of interest paid on these loans/ credit. Therefore, the amount of benefit to the Nagreeka under this scheme is determined in accordance with Section 7(2)(b) of the Act in the following table on the basis of interest subvention rate of 3 percent provided in the Reserve Bank of India’s EFS (Master Circular dated July 1, 2014):

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**Table – XIV
Amount of Subsidy/Benefit for Nagreeka under EFS**

| S.No | Description | Value |
|------|---|----------|
| i. | Amount of credit/loan for total exports | 1,691.89 |
| ii. | Amount of interest payable at commercial rate | 100.00 |
| iii. | Interest subvention rate | 3.00% |
| iv. | Subsidy amount | 3.00 |
| v. | Subsidy as percentage of C&F export price | 0.61% |

Note: To keep confidentiality actual figures have been indexed with reference to the interest at commercial rate by taking it equal to 100

ii. Amount of Benefit to Trident Ltd. under EFS

According to the Trident Ltd. it has availed credit facility under EFS, however, it has stated, *“it is not a scheme but only a credit/loan facility provided to the exporters of India”*. But, the information provided by it at Annex E-II.2 ECS shows a difference between interest paid and interest payable at commercial rate. Therefore, the amount of benefit to the Trident under this scheme is determined in accordance with Section 7(2)(b) of the Act in the following table:

**Table – XV
Amount of Subsidy/Benefit for Trident Ltd. under EFS**

| S.No | Description | Value |
|------|---|-----------|
| i. | Amount of credit/loan for exports to Pakistan | 11,048.49 |
| ii. | Amount of interest payable at commercial rate | 100.00 |
| iii. | Amount of interest paid | 95.45 |
| iv. | Subsidy amount | 4.55 |
| v. | Subsidy as percentage of C&F export price | 0.04% |

Note: To keep confidentiality actual figures have been indexed with reference to the interest at commercial rate by taking it equal to 100

iii. Benefit to Veebee under EFS

Veebee has stated in its response to the questionnaire as follows with respect to EFS:

“Our company falls under mid corporate category and our unit is engaged in manufacture of Cotton Yarn, hence the scheme is not eligible to us. We have not availed the interest subvention during POI.”

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29. Focused Product Scheme (“FPS”)

29.1 According to the information provided by the GOI main features of the FPS are as follows:

- i. The objective of FPS is to promote export of products which have high export intensity/employment potential.
- ii. Exports of notified products are entitled for duty credit scrip equivalent to 2 % or 5% of FOB value of exports (in free foreign exchange). Bonus benefits are also provided to some products @2%. More than 1000 products are covered under the scheme.
- iii. The eligibility is limited for export of notified products as listed in Table I of Appendix 37D of HBPv1.

29.2.1 Subsidy:

FPS is a subsidy in terms of Section 4(a) of the Act in the form of financial contribution by the GOI because Ministry of Commerce, Government of India administers this scheme.

29.2.2 Specificity:

As this scheme is contingent on exports, therefore, it is a specific subsidy in terms of Section 5(6)(a) of the Act.

29.2.3 Amount of Benefit Under FPS

All the three investigated exporters (Nagreeka, Trident and Veebee) have stated that they did not avail FPS scheme during the POI. Therefore, it is preliminarily determined that FPS is not a subsidy in accordance with Section 4(c) of the Act. However, this scheme will be further investigated in due course of time and during on-the-spot investigations.

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30. Government of Madhya Pradesh's Industrial Promotion Policy Programs

30.1 Trident Ltd. has reported, it has benefited from Industrial Promotion Policy ("IPP") programs of the Government of Madhya Pradesh ("GOMP"). IPP is briefly narrated as follows:

- i. The GOMP introduced IPP in 2004. The IPP was further improved in 2010. A special package for textile industry of Madhya Pradesh was introduced in 2012 under IPP. The IPP provides various incentive schemes for small, medium and large enterprises/industries, which *inter alia* includes the following:
 - a. Reduced interest rate on loans
 - b. Interest subvention – loans at 5 percent lower than interest payable on a secured loan
 - c. Investment subsidy on fixed capital
 - d. Provision of land at 25 percent of the prescribed premium rate
 - e. Exemption of electricity duty for captive power plants
 - f. Exemption of stamp duty
 - g. Reduced rates of Central Sales Tax/VAT and Commercial Tax
 - h. Exemption of entry tax
- i. Trade and Investment Facilitation Corporation Limited ("TRIFAC"), and undertaking of Government of Madhya Pradesh is responsible to implement IPP program
- ii. As per the information provided by Trident Ltd., it has availed the following benefits under IPP program:
 - a. Concessional long-term loan for purchase of machinery;
 - b. Interest subvention – loans at 5 percent of interest payable on a secured loan for purchase of plant and machineries
 - c. Value Added Tax (VAT)/ Central Sales Tax (CST) Refund for specified years; and
 - d. Exemption of Entry Tax.

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30.2 Concessional long-term loan for purchase of machinery under IPP

30.2.1 Subsidy:

Review of the information provided by the Trident Ltd. has shown that the long term loan under IPP program of the GOMP is a subsidy in terms of Section 4(a)(i) of the Act in the form of financial contribution by the GOMP as the interest rate charged under IPP was less than the commercial interest rate.

30.2.2 Specificity:

Review of the documents submitted by the Trident Ltd. has revealed that the IPP program is limited for certain enterprises in designated areas of the state of Madhya Pradesh. Thus, IPP program is a specific subsidy in terms of Section 5(4) of the Act.

30.2.3 Benefit on Concessional long-term loans under IPP Program

Trident Ltd. in its questionnaire response has stated that, “*There was no loan or credit provided under this program*”. However, the information provided by the Trident at Annex-XII (Table F-IV) of the questionnaire shows that it has availed loans under IPP program which were also outstanding during the POI. Therefore, amount of benefit to Trident under IPP program is calculated on the basis of its loans outstanding during the POI on the basis of information provided in Annex-XII (Table F-IV). Amount of benefit to the Trident under IPP is determined in accordance with Section 7(2)(b) of the Act in the following table:

**Table – XVI
Benefit on Concessional long-term loan to Trident under IPP**

| Description | Loan 1 | Loan 2 | Loan 3 | Loan 4 | Loan 5 | Total |
|---|---------------|---------------|---------------|---------------|---------------|--------------|
| Total amount of loan | 25.00 | 25.00 | 25.00 | 15.00 | 10.00 | 100.00 |
| Loan paid before POI | 5.28 | 12.49 | 11.13 | 6.70 | 4.38 | 39.97 |
| Outstanding loan during POI | 19.72 | 12.51 | 13.87 | 8.31 | 5.63 | 60.03 |
| Commercial interest rate | 10.75% | 10.95% | 10.95% | 11.45% | 11.10% | 10.99% |
| Subsidised Interest rate | 6.44% | 6.49% | 6.49% | 6.61% | 6.53% | 6.50% |
| Interest amount at commercial rate | 2.12 | 1.37 | 1.52 | 0.95 | 0.62 | 6.58 |
| Interest amount at subsidised rate | 1.27 | 0.81 | 0.90 | 0.55 | 0.37 | 3.90 |
| Benefit/Subsidy | 0.85 | 0.56 | 0.62 | 0.40 | 0.26 | 2.69 |
| Subsidy as percentage of C&F export price | | | | | | 2.27% |

Note: To keep confidentiality actual figures have been indexed with reference to the total amount of loan by taking it equal to 100

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30.3 Interest Subvention of Interest on Short-term loans under IPP

30.3.1 Subsidy:

Review of the information provided by the Trident Ltd. has shown that the short-term loan under IPP program of the GOMP is a subsidy in terms of Section 4(a)(i) of the Act in the form of financial contribution by the GOMP as the interest rate charged under IPP was less than the commercial interest rate

30.3.2 Specificity:

Interest subvention scheme under IPP program imposes certain conditions and is limited for certain enterprises in designated areas of the state of Madhya Pradesh. Thus, IPP program is a specific subsidy in terms of Section 5(4) of the Act.

30.3.3 Benefit on Subvention of Interest on Short-term loans under IPP

The information provided by Trident Ltd. in its questionnaire response at Annex-1 shows that it has availed loans under this scheme during the POI. Therefore, amount of benefit is calculated on the basis of its loans obtained during the POI at concessional interest rate on the basis of information provided in Annex-1. Amount of benefit to the Trident under this scheme is determined in accordance with Section 7(2)(b) of the Act in the following table:

**Table – XVII
Benefit on Interest Subvention to Trident under IPP**

| Bank Name | Loan amount (IRs) | Subsidy amount (IRs) |
|---|--------------------------|-----------------------------|
| Allahabad Bank | 16.85 | 0.06 |
| Canara Bank | 10.43 | 0.03 |
| Indian Bank | 31.50 | 0.09 |
| OBC | 31.41 | 0.09 |
| PNB | 9.81 | 0.04 |
| Total | 100.00 | 0.30 |
| Subsidy as percentage of C&F export price | | 2.59% |

Note: To keep confidentiality actual figures have been indexed with reference to the total amount of loan by taking it equal to 100

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30.4 Refund of Value Added Tax (VAT)/ Central Sales Tax (CST) under IPP

30.4.1 Subsidy:

According to the Trident Ltd. 75 percent refund of VAT or CST is allowed for a period of 10 years on domestic sales under IPP program if an investment of IRs. 100 million or above is made in category "C" area of Madhya Pradesh. Trident has made investments in Mandideep, which is listed as backward area "C" in the IPP of GOMP. Thus, refund of VAT/CST is a subsidy in terms of Section 4(a)(ii) of the Act in the form of government revenue foregone that was otherwise due.

30.4.2 Specificity:

As this program is limited for certain enterprises in designated area of the state of Madhya Pradesh. Thus, it is a specific subsidy in terms of Section 5(4) of the Act.

30.4.3 Benefit on Refund of VAT/CST under IPP Program

The information provided by Trident Ltd. in its questionnaire response shows that it has availed refund of 75 percent of VAT/CST, excluding the CST paid on purchase of inputs/raw materials. Rate of VAT on sales of cotton yarn during the POI was 5 percent. Amount of benefit to the Trident under this scheme is determined in accordance with Section 8(3) of the Act in the following table:

**Table – XVIII
Benefit on Refund of VAT to Trident under IPP**

| S.No | Description | Value |
|-------------|---|--------------|
| i. | Value of domestic sales | 100.00 |
| ii. | VAT/CST rate | 5.00% |
| iii. | Amount of VAT/CST | 5.00 |
| iv. | Amount of VAT paid on inputs | 0.47 |
| v. | Amount of VAT excluding input's VAT | 4.53 |
| vi. | Subsidy rate | 75% |
| vii. | Subsidy amount | 3.40 |
| viii. | Subsidy as percentage of C&F export price | 2.65% |

Note: To keep confidentiality actual figures have been indexed with reference to the value of domestic sales by taking it equal to 100

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30.5 Exemption of Entry Tax under IPP

30.5.1 Subsidy:

According to the Trident Ltd. entry tax is exempted tax for five years on the incremental/new/upgraded capacity installed by making an investment of more than 50 Crores or for seven years on fixed capital investment of more than 500 Crores made in designated areas of the state of Madhya Pradesh under IPP of GOMP. Thus, exemption of entry tax is a subsidy in terms of Section 4(a)(ii) of the Act in the form of government revenue foregone that was otherwise due.

30.5.2 Specificity:

As this program is limited for certain enterprises in designated area of the state of Madhya Pradesh. Thus, it is a specific subsidy in terms of Section 5(4) of the Act.

30.5.3 Benefit on Exemption of Entry Tax under IPP Program

The information provided by Trident Ltd. in its questionnaire response shows that it has availed facility of exemption of entry tax under IPP program. Amount of benefit to the Trident under this scheme is determined in accordance with Section 8(3) of the Act in the following table as per the information provided by it:

Table – XIX
Benefit on Exemption of Entry Tax to Trident under IPP

| S.No | Description | Value/volume |
|------|----------------------------------|--------------|
| i. | Quantity produced (MT) | **** |
| ii. | Entry tax exempted (IRs) | ***** |
| iii. | Subsidy as % of C&F export price | 0.03% |

Note: Actual figures have been omitted to keep confidentiality

31 Other Alleged Subsidy Schemes Identified in the Application

31.1 As regards the other alleged subsidy schemes in application (Annex-I) the GOI and the investigated exporters/foreign producers have stated either they have not availed those schemes or no such scheme is existed.

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31.2 As on-the-spot investigations have yet to be conducted, therefore, for the purposes of this preliminary determination, the claim of the GOI and investigated exporters/foreign producers is accepted. However, further investigation for these schemes will also be conducted during on-the-spot investigations to be conducted on premises of the exporters/foreign producers and the GOI in this investigation.

32. Total Amount of Subsidization or Subsidy Margin

In terms of Section 13(2) of the Act provisional countervailing duty shall be in an amount equal to total amount of countervailable subsidies as provisionally established. In view of the countervailable subsidies provisionally established and amount of subsidies/subsidy margins determined for different schemes in paragraph 30 supra, total amount of subsidization/subsidy margins for the investigated exporters/foreign producers are calculated in the following table:

**Table – XX
Calculation of Total Amount/Subsidy Margin**

| S. No | Subsidy scheme/ program | Nagreeka | | Trident | | Veebee | |
|-------|---|----------|----------------|---------|----------------|--------|----------------|
| | | Per MT | % of C&F price | Per MT | % of C&F price | Per MT | % of C&F price |
| i. | Technology Up-gradation Fund | 4.98 | 0.24% | 0.28 | 0.03% | 10.57 | 1.08% |
| ii. | Duty Incentives Under EPCG | 15.32 | 0.73% | 3.37 | 0.37% | 46.26 | 4.71% |
| iii. | Duty Drawback scheme | 66.87 | 3.18% | 27.27 | 3.00% | 43.17 | 4.39% |
| iv. | Export Finance Scheme | 12.83 | 0.61% | 0.36 | 0.04% | | |
| v. | Industrial Promotion Policy programs of GOMP | | | | | | |
| a. | Concessional long-term loan for purchase of machinery | -- | -- | 20.69 | 2.27% | -- | -- |
| b. | short-term loan under IPP | -- | -- | 23.60 | 2.59% | -- | -- |
| c. | Refund of VAT/CST | -- | -- | 24.16 | 2.65% | -- | -- |
| d. | Exemption of Entry Tax | -- | -- | 0.27 | 0.03% | -- | -- |
| vi. | Total subsidy amount/margin | 100.00 | 4.76% | 100.00 | 10.99% | 100.00 | 10.17% |

Note: To keep confidentiality, actual figures for per MT have been indexed with reference to total subsidy amount by taking it equal to 100

33. Negligible Amount of Countervailable Subsidies, Negligible Volume of Subsidised Imports and Negligible Injury

33.1 In terms of Section 15(2) of the Act “Where, the Commission determines in accordance with the provisions of sub-sections (3), (4), (5), and (6) that the amount of countervailable subsidies is negligible or, where the volume of subsidised imports, whether actual or potential, or injury is negligible then it shall immediately terminate an

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investigation.” Sub-sections (3), (4), (5), and (6) of Section 15 of the Act defines negligible amount of subsidy, volume of subsidised imports and injury to the domestic industry as follows:

“(3) The amount of countervailable subsidies shall be considered to be negligible if such amount is less than one per cent ad valorem, except that in the case of investigations concerning imports from developing countries the negligible subsidy threshold shall be two per cent ad valorem.”

“(4) Injury shall normally be regarded as negligible where the market share of any imports is less than the amounts set out in the proviso to sub-section (11) of section 11.” Proviso to Section 11(11) states as follows:

“Provided that an investigation shall not be initiated against countries whose imports represent a market share of below one per cent unless such countries collectively account for three per cent or more of domestic consumption.

“(5) In the case of an investigation concerning imports from developing countries, the volume of subsidised imports shall be considered negligible if it represents less than four per cent of the total imports of a like product in Pakistan, unless imports from developing countries whose individual shares of total imports represent less than four per cent collectively account for more than nine per cent of the total imports of a like product in Pakistan.”

“(6) In the case of an investigation concerning imports from countries other than developing countries, the volume of subsidised imports shall be considered negligible if it represents less than three per cent of the total imports of a like product in Pakistan, unless imports from such countries under investigation which individually account for less than three per cent of the total imports of a like product in Pakistan collectively account for more than seven per cent of imports of the like product in Pakistan.”

33.2 Total amount of countervailable subsidies/ subsidy margin established at paragraph 31 supra (4.76 percent to 10.99 percent of C&F price) is well above negligible level of less than one percent.

33.3 To assess negligible threshold of injury and volume of subsidised imports, the information on imports of the investigated product from India, imports of Fine Cotton Yarn from other sources is obtained from PRAL. Information on sales of the domestic like product is submitted by the Applicant. Following table shows market share of each source of supply for the POI (July 1, 2014 to June 30, 2015):

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**Table - XXI
Market Share during the POI**

| Supply Source | share |
|---------------------------|--------------|
| Subsidised imports | 22.82% |
| Other imports | 3.82% |
| Domestic industry's sales | 73.36% |
| Total | 100.00% |

Sources: PRAL and the Applicant

33.4 The above table shows that the share of subsidised imports of the investigated product during the POI in the domestic market was 22.82 percent, much above than the negligible threshold of less than one percent. Therefore, injury to the domestic industry and volume of subsidised imports of the investigated product cannot be considered negligible.

C DETERMINATION OF INJURY TO THE DOMESTIC INDUSTRY

34. Section 2(k) of the Act defines injury as follows:

“injury” means, unless otherwise specified, material injury to a domestic industry, threat of material injury to a domestic industry or material retardation of the establishment of a domestic industry, when subsidised imports are causing such injury”

35. Part V of the Act provides for the determination of injury to the domestic industry. Sub-sections (1) and (3) of Section 9 of the Act sets out the principles for determination of injury to the domestic industry in the following words:

“(1) A determination of injury by the Commission shall be based on positive evidence and shall involve an objective examination of—

“(a) volume of any subsidised imports and their effect on prices in domestic market for like products; and

“(b) consequent impact of subsidised imports on domestic industry:

“Explanation.— *With regard to volume of any subsidised imports, consideration shall be given by the Commission to whether there has been a significant increase in subsidised imports, either in absolute terms or relative to production or consumption in Pakistan. With regard to effect of any subsidised imports on prices, consideration shall be given*

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by the Commission to whether there has been significant price undercutting by the subsidised imports as compared with the price of a like product of domestic industry, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases which would otherwise have occurred, to a significant degree, provided that no one or more of these factors shall be deemed to necessarily give decisive guidance.”

“(3) An examination by the Commission of an impact of subsidized imports on a domestic industry concerned may include an evaluation of all relevant economic factors and indices having a bearing on the state of the domestic industry including the fact that the domestic industry is still in the process of recovering from the effects of past subsidisation or dumping, the magnitude of the amount of countervailable subsidies, actual and potential decline in sales, profits, output, market share, productivity, return on investments, utilization of capacity, factors affecting domestic prices, actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital or investments and, in the case of agriculture, whether there has been an increased burden on Government support programmes.”

36. The Commission has taken into account all factors in order to determine injury to the domestic industry during the POI. Injury to the domestic industry is determined/analyzed in the following paragraphs in accordance with Part V of the Act.

37. As stated earlier (paragraph 8 supra) the domestic industry of Fine Cotton Yarn manufacturing industry comprises of 35 units. However, seven units were themselves importers of the subsidised imports of the investigated product during the POI. Therefore, for the purposes of this investigation domestic industry is defined the rest 28 units.

38. The application is filed on behalf of seven units (the “Applicants”). The Applicants account for 42.70 percent of domestic production of the domestic like product during the POI for subsidy (July 1, 2014 to June 30, 2015) (paragraph 9.2 supra). The other producers representing 57.30 percent of the production are indifferent in this investigation (paragraph 9.2 supra). The application contains information on injury factors of the Applicants only. The indifferent units have not provided requisite information (paragraph 17.4 supra). Therefore, analysis of the injury factors carried out in this preliminary determination in the following

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paragraphs is based on the information submitted by Applicants and any inference derived in this regard from the data of the Applicants would apply to the entire industry as the Applicants account for major proportion of the total domestic production of the domestic like product and are determined as domestic industry for the purposes of this investigation.

39. Volume of Imports

Facts

39.1 With regard to the volume of subsidised imports of the investigated product, the Commission has considered whether there has been a significant increase in subsidised imports in absolute terms or relative to the consumption of the domestic like product in the domestic market in accordance with Section 9(1)(a) of the Act. The following table shows domestic consumption of Fine Cotton Yarn, subsidised imports of the investigated product and imports of Fine Cotton Yarn from other sources during the POI:

Table – XXII
Imports and Domestic Consumption

| Year | Domestic consumption | Subsidized imports | |
|---------|----------------------|--------------------|---------------------------|
| | | Volume | % of domestic consumption |
| 2012-13 | 100.00 | 13.85 | 13.85 |
| 2013-14 | 119.91 | 24.17 | 20.15 |
| 2014-15 | 87.93 | 20.06 | 22.82 |

Note: Actual figures have been indexed with reference to domestic consumption in the year 2012-13 by taking it equal to 100 to keep confidentiality

Analysis

39.2 Imports of the investigated product increased from 75 percent in the year 2013-14. However, subsidised imports of the investigated product declined by 17 percent in the year 2014-5.

39.3 Domestic consumption of the Fine Cotton Yarn increased by 20 percent. However, domestic consumption of the Fine Cotton Yarn declined by 27 percent in the year 2014-15.

39.4 Subsidised imports of the investigated product which were 13.85 percent of domestic consumption during the year 2012-13 increased to 20.15 percent of the domestic consumption during the year 2013-14. Subsidised imports of the

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investigated product further increased to 22.82 percent of the domestic consumption in the year 2014-15.

Conclusion

39.5 On the basis of above facts and analysis the Commission has reached the conclusion that the volume of the subsidised imports of the investigated product increased relative to consumption in the domestic market during POI.

40. **Price Effects**

40.1 The effect of subsidised imports on the prices of domestic like product has been examined in accordance with Section 9(1) of the Act in the following paragraphs to assess whether there has been significant price undercutting by the subsidised imports, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases which would otherwise have occurred.

40.2 **Price Undercutting**

Facts

40.2.1 Price undercutting (the extent to which the price of the investigated product was lower than the price of domestic like product) is worked out by comparing prices of the domestic like product and landed cost of the investigated product. Weighted average ex-factory price of the domestic like product and weighted average landed cost of the investigated product during the POI is given in the following table:

**Table – XXIII
Calculation of Price Undercutting**

| Period | Ex-factory price of domestic like product | Landed cost of investigated product | Price under-cutting | |
|---------|---|-------------------------------------|---------------------|-------|
| | | | Absolute | %age |
| 2012-13 | 100.00 | 91.54 | 8.46 | 9.24% |
| 2013-14 | 114.01 | 103.66 | 10.36 | 9.99% |
| 2014-15 | 96.66 | 103.29 | --- | --- |

Note: Actual figures have been indexed with reference to ex-factory price in the year 2012-13 by taking it equal to 100 to keep confidentiality

Analysis

40.2.2 It appears from the above table that the landed cost of the investigated product was lower than the ex-factory price of the domestic like product in the years 2012-13 and 2013-14. Resultantly, the investigated product undercut prices

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of the domestic like product at 9.24 percent and 9.99 percent respectively in these years. However, in the year 2014-15 the domestic industry reduced its price significantly (by 15 percent) to compete with subsidised imports of the investigated product, therefore, there was no price undercutting in this year.

Conclusion

40.2.3 On the basis of the above information and analysis the Commission has preliminarily concluded that the domestic industry suffered injury on account of price undercutting.

40.3 Price Suppression

Facts

40.3.1 Price suppression is measured by assessing whether the domestic industry recovered increased costs by way of an increase in price. Weighted average cost to make and sell and ex-factory prices of the domestic like product for the POI, calculated on the basis of information provided by the Applicants, are provided in the following table:

**Table – XXIV
Calculation of Price Suppression**

| Year | Cost to make & sell | Ex-factory price | Price Suppression | | |
|---------|---------------------|------------------|------------------------------|-------------------------------|-------------------|
| | | | Increase/ (decrease) in cost | Increase/ (decrease) in price | Price suppression |
| 2012-13 | 100.00 | 106.98 | -- | -- | ---- |
| 2013-14 | 115.67 | 121.97 | 15.67 | 14.99 | 0.68 |
| 2014-15 | 104.39 | 103.41 | (11.28) | (18.57) | ---- |

Note: Actual figures have been indexed with reference to cost to make & sell in the year 2012-13 by taking it equal to 100 to keep confidentiality

Analysis

40.3.2 The above table shows that cost to make and sell of the domestic like product increased by 16 percent during the year 2013-14, whereas, its price increased by 14 percent in this year. In the year 2014-15 cost to make and sell of the domestic like product declined by 10 percent, however, its price declined by 15 percent, more than the decline in cost to make and sell in this year.

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Conclusion

40.3.3 On the basis of above facts and analysis the Commission has concluded that the domestic industry suffered injury on account of price suppression during POI.

40.4 **Price Depression**

Facts

40.4.1 The weighted average ex-factory prices of the domestic like product during the POI is given in the table below:

**Table – XXV
Calculation of Price Depression**

| Year | Ex-factory price |
|---------|------------------|
| 2012-13 | 100.00 |
| 2013-14 | 114.01 |
| 2014-15 | 96.66 |

Note: Actual figures have been indexed with reference to the price in the year 2012-13 by taking it equal to 100 to keep confidentiality

Analysis

40.4.2 The above table shows price of the domestic like product increased by 14 percent in the year 2013-14. However, price of the domestic like product declined by 15 percent in the year 2014-15.

Conclusion

40.4.3 Analysis of the above facts shows that the domestic industry suffered material injury on account of price depression during the year 2014-15.

41. **Effects on Market Share**

Facts

41.1 The total domestic demand of Fine Cotton Yarn in Pakistan is met through local production and imports. Following table shows the market share of domestic industry, subsidised imports and imports from other sources during the POI:

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**Table – XXVI
Market Share**

| Year | Total Domestic Producers | | Subsidised imports | | Other imports | | Total Domestic market |
|---------|--------------------------|-------|--------------------|-------|---------------|------|-----------------------|
| | volume | % | volume | % | volume | % | Volume |
| 2012-13 | 82.00 | 82 | 13.85 | 13.85 | 4.15 | 4.15 | 100.00 |
| 2013-14 | 92.72 | 77.33 | 24.17 | 20.15 | 3.02 | 2.52 | 119.91 |
| 2014-15 | 64.51 | 73.36 | 20.06 | 22.82 | 3.36 | 3.82 | 87.93 |

Note: Actual figures have been indexed with reference to the total domestic market in the year 2012-13 by taking it equal to 100 to keep confidentiality

Analysis

41.2 The above table shows that the domestic market of Fine Cotton Yarn increased by 20 percent in the year 2013-14 and declined by 27 percent in the year 2014-15.

41.3 Market share of all domestic producers declined from 82 percent in the year 2012-13 to 77 percent in the year 2013-14 and further declined to 73 percent in the year 2014-15.

41.4 Market share of subsidised imports increased from 14 percent in the year 2012-13 to 20 percent in the year 2013-14 and 23 percent in the year 2014-15. Market share of other imports remained at the same level of 4 percent during the POI.

Conclusion

41.5 On the basis of above facts and analysis the Commission has concluded that the domestic industry suffered material injury on account of market share during the POI.

42. Effects on Sales of the Domestic Like Product

Facts

42.1 The information submitted by the Applicant on sales of the domestic like product in domestic market during POI was as follows.

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**Table – XXVII
Sales of the Domestic Like Product**

| Year | Sales by all Producers |
|-------------|-------------------------------|
| 2012-13 | 100.00 |
| 2013-14 | 113.07 |
| 2014-15 | 78.67 |

Note: Actual figures have been indexed with reference to the sales in the year 2012-13 by taking it equal to 100 to keep confidentiality

Analysis

42.2 The above table shows that the total sales of the domestic like product increased 13 percent in the year 2013-14, However, total sales of the domestic like product decreased by 30 percent in the year 2014-15. Investigation has shown that decline in total sales of the domestic like product was partially due to decline in domestic demand/market and partially due to subsidized imports of the investigated product. The domestic demand/market of Fine Cotton Yarn declined by 27 percent (paragraph 41.2 supra) in the year 2014-15 as compared to 30 percent decline in total sales of the domestic like product while imports of subsidised imports declined by 17 percent (paragraph 39.3 supra) in this year.

Conclusion

42.3 On the basis of above facts and analysis the Commission has concluded that the domestic industry suffered injury on account of sales of the domestic like product during the POI.

43. Effects on Capacity, Production and Capacity Utilization

Facts

43.1 According to the Applicant capacity of the textile spinning unit is determined in terms of 20 counts equivalent. Further, same production line can be used to produce Fine Cotton Yarn (55.5 and above counts) as well as coarse counts (below 55.5 counts). Thus, installed capacity cannot be determined for the domestic like product (Fine Cotton Yarn) only.

43.2 Section 9(6) of the Act provides as follows:

“The effect of subsidised imports shall be assessed by the Commission in relation to the production by domestic industry of a like product when available

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data permits separate identification of that production on the basis of such criteria as the production process, producers' sales and profits: Provided that where such separate identification of that production is not possible, the effects of subsidised imports shall be assessed by the Commission by examination of the production of the narrowest group or range of products including a like product, for which the necessary information can be provided."

43.3 Keeping in view above provision of the Act, effects of subsidised imports of the investigated product on production and capacity utilization is assessed on total capacity and production of cotton yarn (all counts) of the Applicants. Therefore, total installed capacity of the Applicants for production of cotton yarn (all counts) and production of all counts of cotton yarn during the POI are given in the following table:

Table – XXVIII
Applicants' Capacity, Production and Capacity Utilization

| Year | Installed Capacity # | Production# | Capacity Utilization |
|---------|----------------------|-------------|----------------------|
| 2012-13 | 100.00 | 66.97 | 66.97% |
| 2013-14 | 109.96 | 79.15 | 71.98% |
| 2014-15 | 119.07 | 88.50 | 74.33% |

Based on 20/s count of cotton yarn

Note: Actual figures have been indexed with reference to installed capacity in the year 2012-13 by taking it equal to 100 to keep confidentiality

Analysis

43.4 The above table shows that there was an increase in installed capacity, production and capacity utilization of the domestic industry during the POI.

Conclusion

43.5 Based on above facts and analysis the Commission has concluded that the domestic industry did not suffer material injury on account of capacity, production and capacity utilization during POI.

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44. Effects on Profit and Loss

Facts

44.1 Information submitted by the Applicants on their profit/loss and profitability on production and sales of the domestic like product during the POI is given in the following table:

**Table – XXIX
Profit/(Loss) of the Applicants**

| Year | Net Profit/(Loss) | Profitability |
|---------|-------------------|---------------|
| 2012-13 | 679,801.31 | 100.00 |
| 2013-14 | 824,970.89 | 90.45 |
| 2014-15 | (51,941.39) | (14.14) |

Note: Actual figures have been indexed with reference to profitability in the year 2012-13 by taking it equal to 100 to keep confidentiality

Analysis

44.2 The above table shows that the net profits of the Applicants on production and sales of the domestic like product increased by 21 percent in the year 2013-14. However, profitability of the Applicants decreased by 10 percent in the year 2013-14. The Applicants incurred losses in the year 2014-15.

Conclusion

44.3 On the basis of the above facts and analysis, the Commission has concluded that the domestic industry suffered material injury on account of profits and profitability.

45. Effects on Inventories

Facts

45.1 The information provided by the Applicants on the position of inventories of the domestic like product is as follows:

**Table – XXX
Inventories of Domestic Like Product of Applicants**

| Period | Opening Inventory | Production | Sales | Closing Inventory |
|---------|-------------------|------------|---------|-------------------|
| 2012-13 | 100.00 | 5577.17 | 5352.76 | 324.41 |
| 2013-14 | 324.41 | 7825.98 | 7196.85 | 953.54 |
| 2014-15 | 953.54 | 9156.69 | 8460.63 | 1649.61 |

Note: Actual figures have been indexed with reference to opening inventory in the year 2012-13 by taking it equal to 100 to keep confidentiality

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Analysis

45.2 The above table shows that inventories of the domestic like product increased significantly from 324 in the year 2012-13 to 954 in 2013-14 and 1650 in 2014-15.

Conclusion

45.3 Based on above facts the Commission has concluded that the domestic industry suffered material injury on account of inventories of the domestic like product during POI.

46 Effects on Employment, Productivity and Salaries & Wages

Facts

46.1 As stated earlier (paragraph 43 supra) the installed capacity of the Applicants cannot be segregated for different counts of cotton yarn. Thus, number of employees also could not be segregated for production of yarns of different counts. Therefore, effects of subsidised imports of the investigated product on employment, productivity and salaries & wages are assessed in accordance with Section 9(6) of the Act (paragraph 43.2 supra) on the basis of total number of employees, total production and total salaries & wages of the Applicants.

46.2 Information submitted by the Applicants on their total number of employees, production and the salaries & wages paid during the POI for production and sale of all counts of yarn is given in following table:

**Table – XXXI
Applicants Employment, Productivity and Salaries/Wages**

| Year | No. of employees | Productivity (MT/Worker) | Salaries & wages per MT |
|---------|------------------|--------------------------|-------------------------|
| 2012-13 | 100.00 | 13.1 | 100.00 |
| 2013-14 | 128.81 | 12.02 | 107.44 |
| 2014-15 | 125.60 | 13.78 | 98.55 |

Note: Actual figures have been indexed with reference to figures of the year 2012-13 by taking it equal to 100 to keep confidentiality

Analysis

46.3 The above table shows that employment increased during 2013-14 and decreased in the year 2014-15. Production and salaries and wages of the Applicants increased during the POI. Productivity per employee increased during the year 2014-15, however, salaries and wages per MT decreased in this year.

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Conclusion

46.4 On the basis of fore-going facts the Commission has concluded that the domestic industry suffered material injury on account of employment during the POI.

47. **Effects on Cash Flow**

Facts

47.1 The Applicants are producers of different counts of cotton yarn (fine as well as coarse) and the cash flows of their operations cannot be segregated for different counts of yarn as number of factors are combine for all products. Therefore, effects of subsidised imports of the investigated product on cash flows are assessed in accordance with Section 9(6) of the Act (paragraph 43.2 supra) on the basis of total cash flows of the Applicants.

47.2 Information provided by the Applicants on their cash flows during the POI is provided in the following table:

Table – XXXII
Applicants Net Cash Flow

| Year | Net cash flow |
|---------|---------------|
| 2012-13 | 100.00 |
| 2013-14 | 138.35 |
| 2014-15 | 78.99 |

Note: Actual figures have been indexed with reference to cash flow in the year 2012-13 by taking it equal to 100 to keep confidentiality

Analysis and Conclusion

47.3 The above table shows that the cash flows of the Applicants increased in the year 2013-14 and decreased significantly in the year 2014-15. Therefore, it is concluded that the domestic industry suffered material injury on account of cash flows during the POI.

48. **Effects on Return on Investment (ROI)**

Facts

48.1 As stated earlier the Applicants are producers of different types of cotton yarn (fine as well as coarse) and the investment and return on investment cannot

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be segregated for different products, as the investment (equity/loans) is made for entire company. Therefore, effects of subsidised imports of the investigated product on investment and return on investment are assessed in accordance with Section 9(6) of the Act (paragraph 43.2 supra) on the basis of total investment and total return on investment of the Applicants in the following table:

Table – XXXIII
Applicants Return on Investment

| Year | ROI |
|---------|--------|
| 2012-13 | 6.99% |
| 2013-14 | 3.55% |
| 2014-15 | -2.60% |

Analysis/Conclusion

48.2 The above table shows that the return on investment of the Applicants declined during the POI. Therefore, it is concluded that the domestic industry suffered material injury on account of return on investment during the POI.

49. Effects on Growth and Investment

Facts/Analysis

49.1 The information obtained from Economic Survey of Pakistan showed that there was an increase in installed capacity of the domestic industry during the POI, however, working spindles declined during the POI. Following table shows installed and working capacity during the POI:

Table – XXXIV
Installed and Working Capacity

| Year | No. of spindles | |
|---------|-----------------|------------|
| | Installed | Working |
| 2012-13 | 11,946,000 | 10,872,000 |
| 2013-14 | 12,310,000 | 11,000,000 |
| 2014-15 | 13,268,000 | 10,231,000 |

Source: Economic Survey of Pakistan

49.2 The above table shows an increase in installed production capacity of the domestic industry, which leads an increase in investment and growth of the domestic industry. However, working capacity of the domestic industry declined during the year 2014-15.

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Conclusion

49.3 On the basis of the above, the Commission has concluded that the domestic industry suffered material injury on account of growth and investment during the POI.

50. **Ability to Raise Capital**

Facts/Analysis

50.1 The Applicants are facing deterioration in their profitability, decline in cash flows and negative return of investment which can affect the confidence of investors and financial institutions (paragraphs 44, 47 and 48 supra).

Conclusion

50.2 On the basis of the above, the Commission has concluded that the domestic industry has suffered material injury on account of ability to raise capital during the POI.

51. **Other Factors**

51.1 In order to ensure that possible injury caused by other factors is not attributed to the subsidised imports, the Commission has also examined factors, other than subsidised imports of the investigated product, which could at the same time causing injury to the domestic industry. In this regard Section 9(5) of the Act states as follows:

“(5) The Commission shall examine known factors other than subsidised imports which are injuring domestic industry to ensure that injury caused by such other factors is not attributed to subsidised imports. Such other factors may include factors such as the volume and prices of non-subsidised imports, contraction in demand or changes in patterns of consumption, restrictive trade practices of and competition between a third country and domestic producers, developments in technology and export performance and productivity of domestic industry.

51.2 Investigation of the Commission revealed that the domestic industry did not suffer injury due to imports of the like product from sources other than India during the POI. Volume of imports from sources other than India was in lesser quantities. The landed cost of such imports was also higher than ex-factory price of the domestic like product and landed cost of investigated product. Following table shows volume and landed cost of the Fine Cotton Yarn imported from other

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sources, the investigated product and ex-factory price of the domestic like product during the POI:

**Table – XXXV
Imports from Other Sources**

| Year | Volume of imports from: | | Landed cost of | | Domestic Industry's ex-factory price |
|---------|-------------------------|--------|----------------|-------|--------------------------------------|
| | Other Sources | India | other sources | India | |
| 2012-13 | 100.00 | 333.47 | 100.00 | 73.10 | 79.86 |
| 2013-14 | 72.74 | 581.93 | 107.97 | 82.78 | 91.05 |
| 2014-15 | 80.93 | 483.15 | 102.65 | 82.49 | 77.19 |

Note: Actual figures have been indexed with reference to the volume and value in the year 2012-13 by taking it equal to 100 to keep confidentiality

51.3 The above table shows that the landed cost of the imports of Fine Cotton Yarn imported from sources other than India was not only much above than the ex-factory price of the domestic like product throughout the POI, rather it was also significantly higher than the landed cost of the subsidised imports of the investigated product. Therefore, it is concluded that the imports of Fine Cotton Yarn from other sources did not cause injury to the domestic industry during the POI.

51.4 Other factors mentioned in Section 9(5) of the Act were also examined and it was determined that:

- i. There was no considerable change in technology to produce Fine Cotton Yarn during the POI;
- ii. The Applicants did not export Cotton Yarn during the POI meaning thereby that injury to domestic industry is not because of export performance;
- iii. There were no change trade restrictive practices during the POI.

51.5. Investigation of the Commission has revealed that there was contraction in demand of Fine Cotton Yarn in domestic market during the year 2014-15. However, this contraction of demand did not affect adversely to the Applicants and the indifferent producers. Following table shows sales of the Applicants and indifferent producers and total size of the domestic market during the POI:

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**Table – XXXVI
Sales of the Applicants, Indifferent Producers and Total Market**

| Year | Applicants | Indifferent Producers | Total Domestic market |
|-------------|-------------------|------------------------------|------------------------------|
| 2012-13 | 12.79 | 17.86 | 100.00 |
| 2013-14 | 17.19 | 22.17 | 119.91 |
| 2014-15 | 20.21 | 29.35 | 87.93 |

Note: Actual figures have been indexed with reference to total domestic market in the year 2012-13 by taking it equal to 100 to keep confidentiality

52. Magnitude of Subsidy Amount/ Subsidy Margin

Subsidy amounts/ subsidy margins determined for imports of the investigated product are ranging between 4.76 percent to 10.99 percent (paragraph 32 supra), which are considered enough to cause material injury to the domestic industry.

53. Summing up of Material Injury

Facts and analysis in the preceding paragraphs shows that the domestic industry has suffered material injury during POI on following accounts:

- i. Increase in volume of subsidised imports of the investigated product relative to domestic consumption of Fine Cotton Yarn;
- ii. Price undercutting by the subsidised imports;
- iii. Price suppression;
- iv. Significant price depression;
- v. Increase in inventories;
- vi. Decline in sales;
- vii. Decline in profits and profitability;
- viii. Decline in cash flows,
- ix. Decline in return on investment;
- x. Decline in employment
- xi. Negative effect on ability to raise capital; and
- xii. Significant magnitude of the amount of subsidy/ subsidy margin.

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54. Causal Relationship between Subsidised Imports of the Investigated Product and Material Injury to the Domestic Industry

Examination of the volume of imports of the investigated product and its prices show a causal relationship between subsidised imports and material injury to the domestic industry during the POI within the meaning of Part V of the Act. Volume of imports of the investigated product increased at subsidised prices which simultaneously undercut, and depressed prices of the domestic like product and adversely affected, market share, sales, profits and profitability, cash flows, inventories return on investment and ability to raise capital of the domestic industry during the POI.

D. CONCLUSIONS

55. After taking into account all considerations, evidence, information and analysis, the Commission has reached the following conclusions for the purposes of this preliminary determination:

- i. The application was filed on behalf of the domestic industry of Fine Cotton Yarn;
- ii. The investigated product and the domestic like product are like products in terms of the provisions of the Act;
- iii. During POI, the investigated product was exported to Pakistan by the exporters/ foreign producers from India at subsidised prices;
- iv. The volume of subsidised imports of the investigated product and the amount of subsidy/ subsidy margins established for the exporters/ foreign producers of the investigated product are above the negligible levels;
- v. The subsidy margins expressed as a percentage of weighted average CIF export price are ranging from 4.76 percent to 10.99 percent;

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- vi. Domestic industry suffered material injury on account of volume of subsidised imports, price undercutting, price suppression, price depression, decline in market share, decline in sales, decline in profits and profitability, negative effects on cash flows, inventories, return on investment and ability to raise capital in terms of Section 9(3) of the Act; and
- vii. There is a causal relationship between subsidised imports of the investigated product and the material injury suffered by the domestic industry.

E. IMPOSITION OF PROVISIONAL COUNTERVAILING DUTY

56. Section 13 of the Act empowers the Commission to impose provisional countervailing duty and states as follows:

“Provisional countervailing duties.– (1) Provisional countervailing duty shall be imposed by the Commission if –

“(a) an investigation has been initiated by the Commission in accordance with section 11;

“(b) a public notice of initiation of an investigation has been given and interested parties have been given adequate opportunities to submit information and make comments in accordance with sub-section (16) of section 11; and

“(c) a provisional affirmative determination has been made by the Commission that a subsidy exists and that there is consequent injury to domestic industry.

“(2) A provisional countervailing duty shall not be imposed earlier than sixty days from initiation of an investigation but no later than nine months from initiation of the investigation and shall be in an amount equal to the total amount of countervailable subsidies as provisionally established by the Commission :

“Provided that the amount of the provisional countervailing duty shall not exceed the total amount of subsidisation as provisionally established, but it may be less than the margin if such lesser duty would be adequate to remove the injury to the Domestic Industry.

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“(3) A provisional countervailing duty shall be in the form of cash deposit equal to or less than, the amount of the provisionally calculated amount of subsidisation, if such lesser duty would be adequate to remove the injury:

“Provided that the release of a product concerned for free circulation in Pakistan shall be subject to provisions of such cash deposit.

“(4) A provisional countervailing duty shall be imposed for a period not exceeding four months.”

57. In view of the analysis and conclusions with regard to the subsidised imports, material injury to the domestic industry, and causation, imposition of provisional countervailing duty on subsidised imports of the investigated product is needed in accordance with Section 13 of the Act.

58. Section 16(6) of the Act provides that the *“Individual duties shall be applied to imports from any exporter or producer for which an individual amount of subsidisation has been calculated as provided for in section 27.”* Keeping in view this provision of the Act individual amounts of subsidy/ subsidy margins have been determined for the investigated exporters/ foreign producers. Provisional amount/rate of countervailing duty for investigated exporter/producer is determined according to their individual subsidy amount/ subsidy margin.

59. In terms of Section 16(4) *“When the Commission has limited its examination in accordance with section 27, any definitive countervailing duty applied to imports from exporters or producers which have made themselves known in accordance with section 27 but were not included in an examination shall not exceed the weighted average amount of countervailable subsidies established for parties in a sample.*

“(5) For the purposes of sub-section (4), the Commission shall disregard any negligible amounts of countervailable subsidies and amounts of countervailable subsidies established in the circumstances referred to in section 28.”

60. Provisional subsidy amount/ provisional countervailing duty for the cooperating exporters/foreign producers who have not selected for investigation is determined in accordance with Section 16(4) of the Act. A residual countervailing duty amount/rate for all other exporters/foreign producers who have not cooperated in providing information in this investigation has been determined on the basis of best information available. Amount of subsidization/ subsidy margins

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for all the three categories of the exporters/ foreign producers are provided in the following table:

**Table – XXXVII
Amount of Subsidization/ Subsidy Margin**

| S.No | Exporter Name | Subsidy amount/margin | | Status |
|-------|--|-----------------------|----------|--|
| | | Rs./MT# | % of C&F | |
| i. | Nagreeka Exports Ltd., Mumbai. | 26890.31 | 4.76% | Investigated exporters |
| ii. | Trident Ltd, Sanghera Barnala. | 50808.06 | 10.99% | |
| iii. | Veebee Yarnntex Ltd., | 48095.09 | 10.17% | |
| iv. | Kikani Exports Private Limited | 46764.06 | 9.08% | Cooperating Exporters but not investigated |
| v. | Nahar Spinning Mills Limited. | | | |
| vi. | SJLT Spinning Mills Limited. | | | |
| vii. | SJLT Textile Mills Limited. | | | |
| viii. | Vardhman Textiles Limited. | | | |
| ix. | K.A.S Industries India Pvt. Ltd. | | | |
| x. | Prasuna Vamsikrishna Spinning Mills Private Limited. | | | |
| xi. | Prime Urban Development India. | | | |
| xii. | All others | 55798.33 | 10.99% | |

Amount of subsidy is determined on the basis of C&F prices of the year 2014-15

61. Keeping in view the provisions of Section 13 of the Act, following provisional countervailing duty rates are hereby imposed on the subsidised imports of the investigated product imported from India for a period of four months effective from January 18, 2017. The provisional countervailing duty amount and rates are determined on C&F price of the year 2014-15. The investigated product is classified under PCT Nos. 5205.1500, 5205.2700, 5205.2800, 5205.3500, 5205.4700 and 5205.4800.

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**Table – XXXVIII
Provisional Countervailing Duty Rates**

| Exporter Name | Provisional duty rate | |
|--|-----------------------|-----------|
| | Percentage | (Rs./MT)# |
| Nagreeka Exports. Ltd., Mumbai | 4.76% | 26890.31 |
| Trident Limited | 10.99% | 50808.06 |
| Veebee Limited | 10.17% | 48095.09 |
| Other cooperating exporter | | |
| Kikani Exports Private Limited | | |
| Nahar Spinning Mills Limited. | | |
| SJLT Spinning Mills Limited. | 9.08% | 46764.06 |
| SJLT Textile Mills Limited. | | |
| Vardhman Textiles Limited. | | |
| K.A.S Industries India Pvt. Ltd. | | |
| Prasuna Vamsikrishna Spinning Mills Ltd. | | |
| All other exporters from India | 10.99% | 55798.33 |

62. Fine Cotton Yarn imported from other sources (other than India) and coarse counts of cotton yarn (less than 55.5 counts) imported from all sources shall not be subject to the provisional countervailing duty. Further, in accordance with Section 25(1)(d) of the Act, provisional duty will not be levied on imports of the investigated product that are used as inputs in products destined solely for exports and are covered under any scheme exempting customs duty for exports under the Customs Act, 1969.

63. Provisional countervailing duty levied on import of the investigated product would be in addition to other taxes and duties leviable on its imports under any other law.

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64. The provisional countervailing duty would be collected in the same manner as customs duty is collected under the Customs Act, 1969 (IV of 1969) and would be deposited in Commission's Non-lapsable PLD account No. 187 with Federal Treasury Office, Islamabad.

(Tipu Sultan)
Member
January 17, 2017

(Abdul Khaliq)
Member
January 17, 2017

(Robina Ather)
Member
January 17, 2017

(Qasim M. Niaz)
Chairman,
January 17, 2017

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Annex-I

ALLEGED SUBSIDY SCHEMES/PROGRAMS

The Applicant has alleged following subsidy schemes/programs:

- A. Central subsidies (provided by the Central Government); and
- B. State-wise Subsidies (provided by State Governments)

A. CENTRAL SUBSIDIES

1. Technology Up gradation Fund Scheme
2. Creating Textile Specific Infrastructure
3. Integrated Processing Development Scheme
4. Integrated Skill Development Scheme
5. Green Development Fund
6. Raw Material Security Scheme
7. Increasing Availability of Textile Machinery Scheme
8. Capital Assistance for Development of Machinery
9. Support for Research & Development
10. Vishesh Krishi and Gram Udyog Yojana (VKGIIY)
11. Pre-Shipment and Post-Shipment Export Financing Scheme
12. Duty Drawback (DDB) Scheme
13. Focus Product Scheme
14. Status Holder Incentive Scrip (SHIS) Scheme

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15. Duty Incentives Under the Export Promotion Capital Goods (EPCG) Program
16. Duty Free Import Authorization Scheme
17. Exemption from Income tax under Section 10a and 10b of the Income Tax Act
18. Exemption from Payment of Central Excise Duty on Goods Manufactured in India and Produced from a Domestic Tariff Area
19. Advance License Program
20. Market Development Assistance
21. Market Access Initiatives
22. Government of India Loan Guarantees
23. Status Certificate Program
24. Export Market Support Scheme
25. Export Promotion Studies

B. STATE-WISE SUBSIDIES

i. RAJASTHAN STATE

26. Special Customized Package for Textile Sector Enterprise-2013
27. Stamp Duty Reimbursement
28. VAT/Entry Tax reimbursement
29. Incentives under Textile Parks

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ii. **TAMIL NADU STATE**

- 30. Capital Subsidy
- 31. Electricity Tax Exemption
- 32. Stamp duty Concession
- 33. Employment intensive Subsidy
- 34. 3% Interest Subsidy Scheme
- 35. Back-ended Interest Subsidy
- 36. Generator Subsidy
- 37. Environmental Protection Infrastructure Subsidy

iii. **MAHARASHTRA STATE**

- 38. Equity Support to Cooperative Spinning Mills
- 39. 10% Capital Subsidy to Units in Vidrabha, Marathwada and North Maharashtra
- 40. Scheme of Interest Subsidy on long term Loans Linked to Centrally Sponsored TUF Scheme

iv. **GUJRAT STATE**

- 41. Interest Subsidy
- 42. Support to Spinning Units by way of Special Concession in Power Tariff and Assured Supply of Lignite
- 43. VAT Concession
- 44. Assistance for Energy Conservation, Water Conservation and Environmental Compliance to Existing units (More than 3 Years old)

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45. Assistance for Technology Acquisition and Up gradation

46. Support for Establishing Textile and Apparel Park

47. Stamp Duty Reimbursement

v. **KARNATAKA STATE**

48. Credit Linked Capital Subsidy

49. Interest Subsidy

50. VAT/Entry Tax Reimbursement

51. Stamp Duty Reimbursement

52. Common Infrastructure for Greenfield Textile Parks

53. Brownfield Cluster Development

54. Specific Textile Zones in Backward Areas

55. Power Subsidy

56. Provision of Common Effluent Treatment Plant and Hazardous Waste Disposal Facility

57. Assistance for Resources Conservation and Environmental Compliance for Existing Units

vi. **PUNJAB STATE**

58. Incentive for Large Manufacturing Sector Units

- i. VAT & CST Incentives (units above RS. 25 Cr Fixed capital investment)
- ii. VAT & CST Incentives (units above RS. 10 Cr to 25 Cr Fixed capital investment)
- iii. Electricity Duty Incentives

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- iv. Stamp Duty Incentives
 - v. Property tax Incentives
-
- 59. Incentives for Small & Medium Units
 - i. VAT & CST Incentives
 - ii. Electricity Duty Incentives
 - iii. Stamp Duty Incentives
 - iv. Property tax Incentives
-
- 61. Incentives for Integrated Textile Units
 - i. VAT & CST Incentives
 - ii. Electricity Duty Incentives
 - iii. Stamp Duty Incentives
 - iv. Property tax Incentives
 - v. Market Fee/Rural Development Fund/ Infrastructure Development Case, Incentives