

(NON-CONFIDENTIAL)



**Government of Pakistan  
National Tariff Commission**

**REPORT**

**ON**

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

**CVD No. 01/2016/NTC/CY  
October 17, 2017**

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

The National Tariff Commission (“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 has conducted an investigation under the Act and the Rules on subsidised imports of fine cotton yarn carded or combed of 55.5 and above counts (the “Fine Cotton Yarn”), originating in and/or exported from the Republic of India (“India”) to the Islamic Republic of Pakistan (“Pakistan”). The Commission has made final determination in this investigation under Section 16 of the Act. This report on final determination has been issued in accordance with Section 25(3) of the Act and Rule 15 of the Rules.

3. In terms of Section 12(8) of the Act, *“an investigation shall, whenever possible, be concluded within one year and in no event later than eighteen months from its initiation”*. This investigation was initiated on April 20, 2016 (paragraph 11 infra). Therefore, the Commission is required to make final determination in this case latest by October 19, 2017. This final 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”):

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- i. Alhamd Corporation (Pvt) Ltd;
- ii. Acro Spinning & Weaving Mills Limited;
- 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 to clarify the situation in accordance with Section 11(9) of the Act and Article 22.1 of the ASCM.

5.4 The Government of India did not respond the Commission's offer of consultations before initiation of the investigation. However, the Government of India requested for consultations after initiation of the investigation, 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.

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

7.1 The Applicant had 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 the Fine Cotton Yarn is being dumped into Pakistan from India in terms of provisions of the Anti-Dumping Duties Act 2015 (the “AD Act”) and requested for imposition of anti-dumping duty on imports of the Fine Cotton Yarn from India.

7.2 The Commission initiated an anti-dumping investigation on imports of the Fine Cotton Yarn originating in and/or exported from India on August 20, 2015 and has concluded that investigation on February 22, 2017. However, the definitive antidumping duties were suspended till the time of conclusion of this countervailing investigation on the Fine Cotton Yarn.

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:*

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**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:*

*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:

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**Table-I  
Domestic Industry**

| <b>S.No</b> | <b>Unit Name</b>  | <b>S.No</b> | <b>Unit Name</b>      |
|-------------|-------------------|-------------|-----------------------|
| 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     |             |                       |

8.3 Out of these 35 units, 7 units are stated to be themselves importers of the Fine Cotton Yarn from India. Further, the Commission's investigation has shown that the share in domestic production of these 7 producers have decreased over the period of time, which is an indication of shift in interest of these producers from domestic production to imports of the investigated product. 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 were neither related to importers and exporters nor they themselves have imported

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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                               | Production (MT) | % Share in production | Status      |
|--------|------------------------------------|-----------------|-----------------------|-------------|
| 1      | Alhamd Corporation (Pvt) Ltd.      | 2,216           | 8.14                  | Applicant   |
| 2      | Acro Spinning & Weaving Mills Ltd. | 2,486           | 9.13                  | Applicant   |
| 3      | Babri Cotton Mills Ltd.            | 1,095           |                       | Applicant   |
| 4      | Colony Textile Mills Ltd.          | 3,228           | 11.85                 | Applicant   |
| 5      | Hasan Ltd.                         | 2,221           | 8.16                  | Applicant   |
| 6      | Sally Textile Mills Ltd.           | 233             | 0.86                  | Applicant   |
| 7      | Saif Textile Mills Ltd.            | 150             | 0.55                  | Applicant   |
| 8      | Others (21 Units)                  | 15,604          | 57.30                 | Indifferent |
|        | <b>Total</b>                       | 27,233          | 100.00                |             |

Source: the Applicant

9.3 The Applicants represent 42.70 percent of the domestic production. The Application was supported by 100% of the producers who expressed their opinion

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on the application because other 28 units in the industry remained indifferent and did not provide their opinion. Thus, the standing requirements as given in section 11(8) of the Act are met and it is determined that the application was made on behalf of the domestic industry.

10. **Applicant's Views**

The Applicant, *inter alia*, 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 66 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;
  
- vii. The Applicant 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 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 18, 2016.

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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 Gazette<sup>1</sup> of Pakistan and in two widely circulated national newspapers<sup>2</sup> (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 PCT<sup>3</sup> 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:

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<sup>1</sup> The official Gazette of Pakistan (Extraordinary) dated April 20, 2016.

<sup>2</sup> The daily "Ausaf" and Daily "News" of April 20, 2016 issue

<sup>3</sup> "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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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 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 provided 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* |
|---|-----------|---|--------------|------------------|
| <b>Cotton yarn (other than sewing thread), containing 85 % or more by weight of cotton, not put up for retail sale.</b> |           |   |              |                  |
| 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   | 05%          | 10%              |

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|     |           |   |     |     |
|-----|-----------|---|-----|-----|
|     |           | (exceeding 120 metric number)   |     |     |
| 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

**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**

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13.1 In terms of Section 12(2)(a) of the Act, period of investigation (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 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**

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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, 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.

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**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 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

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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 India involved in this investigation and nature of the product, it was 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 (amongst the cooperating exporters) during the POI in accordance with provisions of Section 27 of the Act:

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**S. No**      **Exporter/Producer Name**

- i.            Nagreeka Spinning Ltd./ Nagreeka Trading Ltd., 21-22, Kala Bhavan, 3 Mathew Road, Mumbai.
- iii.          Trident Limited, Raikot Road, Sanghera Barnala, Punjab  
Veebee Yarnntex Private Limited & Subburaaj Cotton Mill Pvt.  
Ltd., 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 final 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 ("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 up to June 25, 2016. Its response was received in the Commission on June 25, 2016.

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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 laws. 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.

**18.8 Questionnaire Response by Trident Limited**

18.8.1. The Commission sent the exporter's questionnaire to Trident India Limited (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 Ltd. and Subburaj Cotton Mills Ltd.**

18.9.1 The Commission sent the exporter's questionnaire to Veebee Yarnntex Private Limited and Subburaj Cotton mills Ltd. ("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.

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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.

19.2 As stated earlier (paragraph 7 supra) the Commission has also conducted an anti-dumping investigation on 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. The results of verification of these units are also taken into account for the purposes of this investigation:

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

19.3 To verify information provided by the selected Indian exporters/ producers, on-the-spot investigations at their premises were conducted by the officers of the Commission from March 27, 2017 to April 04, 2017.

19.4 The Commission prepared reports of on-the-spot investigations, which were provided in full to the concerned party and non-confidential versions of the same were placed on the public file for information of the other interested parties.

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**20. Written Submissions by the Interested Parties**

On initiation of the investigation all interested parties were invited to make their views/comments known to the Commission and to submit information and documents (if any) with regard to this investigation. The Commission received written submissions/comments from Directorate General of Anti-Dumping and Allied Duties (“DGAD”), Ministry of Commerce and Industry, Government of India (“GOI”) and The Cotton Textiles Export Promotion Council (“TEXPROCIL”), India after initiation of the investigation, which were considered by the Commission and the preliminary determination made by the Commission duly accounted for those views/comments.

**21. Preliminary Determination**

21.1 The Commission made preliminary determination in this investigation on January 17, 2017 and imposed following provisional countervailing duties under Section 12 of the Act on the subsidized imports of the investigated product imported from India for a period of four months effective from January 18, 2017:

**Table-IV  
Provisional Countervailing Duties**

| Exporter Name                                  | Provisional countervailing duty (Rs./Kg) |
|--|--|
| Nagreeka Exports Ltd., Mumbai.                 | 26.89                                    |
| Trident Ltd, Sanghera Barnala.                 | 50.81                                    |
| Veebee Yarnntex Ltd., Rajapalayam, Virudhungar | 48.10                                    |
| Kikani Exports Private Limited. Coimbatore,    | 46.76                                    |
| Nahar Spinning Mills Limited. Ludhiana         |  |
| SJLT Spinning Mills Limited. Chennai           |  |
| SJLT Textile Mills Limited. Paramathi – Vellur |  |
| Vardhman Textiles Limited., Ludhiana           |  |
| K.A.S Industries India Pvt. Ltd.Veerabathrar   |  |
| Prasuna Vamsikrishna Spinning Mills Private    |  |
| Prime Urban Development India.                 |  |
| All other exporters from India                 | 55.80                                    |

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21.2 The Commission issued a notice of preliminary determination, which was published on January 18, 2017 in the Official Gazette of Pakistan and in two widely circulated national newspapers (one English and one Urdu Language) notifying the preliminary determination and levy of provisional antidumping duty. Copy of the notice of preliminary determination was also sent to the High Commission of India in Islamabad, the exporters/foreign producers, the importers, domestic producers and the Applicant on January 19, 2017 in accordance with the requirements of the Act. Further, a non-confidential version of the report of preliminary determination was placed on public file and was also posted on Commission's website, [www.ntc.gov.pk](http://www.ntc.gov.pk).

22. **Hearing**

Upon request of the GOI, under Rule 10 of the Rules, a hearing in this investigation was held on April 13, 2017 in accordance with Rule 13 of the Rules. All interested parties were invited to attend the hearing. However, only the representatives of the Applicant (All Pakistan Textile Milles Association) attended the hearing. The GOI approached the Commission and stated that due to unavoidable circumstances they, as well as exporters were unable to attend the hearing held on April 13, 2017, therefore, another hearing may be held in this case. Therefore, the Commission scheduled second hearing on June 01, 2017, but neither GOI nor Indian exporters attended hearing that hearing. However, the Commission received views/comments of the GOI through High Commission of India in Islamabad on June 01, 2017.

23. **Disclosure of Essential Facts**

23.1 In accordance with Rule 14(1) of the Rules, the Commission disclosed essential facts of this investigation to the interested parties. In this context the Commission dispatched a Statement of Essential Facts ("SEF") on June 12, 2017 to all interested parties including the known exporters/producers, the Applicants, the known Pakistani importers, and to the High Commission of India in Pakistan.

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23.2 Under Rule 14(2) of the Rules, the interested parties were required to submit their comments (if any) on the facts disclosed in SEF, in writing, not later than fifteen days of such disclosure. The Applicant and the GOI presented their comments on the essential facts disclosed in the SEF, which were considered by the Commission and due account is given to these comments in this final determination.

**24. Views/Comments and Submissions by the Interested Parties**

24.1 Views/comments and the information presented by the Applicant during the hearing and views/comments submitted by the GOI and TEXPROCIL have been duly considered by the Commission while arriving at the final determination of this case. In this regard the Applicant, the GOI and the TEXPROCIL have mainly raised following issues:

- i. The application does not meet evidentiary requirement of Article 11 of the *ASCM* for initiation of a countervailing duty investigation.
- ii. The Commission has not determined adequacy and accuracy of the evidence provided in application for the purposes of initiation of an investigation in this case.
- iii. Excessive claims of confidentiality in the application.
- iv. Determination of subsidies, specificity and benefits for the alleged subsidy schemes
- v. The application as well as preliminary determinations fail to demonstrate both actual and potential decline in economic parameters of the domestic industry
- vi. Simultaneous imposition of countervailing and antidumping duties.

24.2 The Commission has considered all comments submitted by the interested parties while arriving at this final determination.

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**B Determination of Subsidy and Calculation of Benefit to the Recipients**

**25. Subsidy**

25.1 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."*

25.2 Section 4 of the Act define subsidy as follows:

**"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*

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*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.”*

**26. 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 “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 objectives 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*

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*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 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.*

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*“(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.”*

**27. Calculation of Amount of Countervailable Subsidy**

27.1 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 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*

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*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.”*

27.2 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.”*

**28. Determination of Subsidies for the Investigated Product**

28.1 The Commission requested information and evidences from the 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 including the information provided by the GOI, and the

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exporters/ foreign producers of the investigated product who are investigated in this investigation (paragraph 18.5 supra). On the basis of the information provided by the GOI and investigated exporters/ foreign producers, the Commission has found following schemes which are determined as subsidies in accordance with provisions of the Act:

- i. Technology Up-gradation Fund Scheme (“TUFS”) of the GOI;
- ii. Export Promotion Capital Goods (“EPCG”) Program of the GOI;
- iii. Duty Drawback Scheme of the GOI; and
- iv. Industrial Promotion Policy (“IPP”) and/or Special Textile Policy (“STP”) of the Government of Madhya Pradesh (“GOMP”).

28.2 Brief description of these schemes are provided in the following paragraphs.

**29. Technology Up-gradation Fund Scheme (“TUFS”):**

29.1 TUFS is briefly narrated as follows:

- i. The GOI introduced TUFS in 1999 to upgrade technology in textile and jute industry. It was extended in 2004 and again in 2007 with certain modifications. The Scheme was restructured and the Restructured TUF Scheme (“RTUFS”) was launched w.e.f. 28.04.2011 to 31.03.2012. RTUFS was revised further and was named 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.
- i. The benefits available under TUFS are interest reimbursement on long term loan, capital subsidy and margin money. The GOI reimbursed interest of the long-term loan to the beneficiary of the TUFS. Initially the rate for reimbursement of interest was 7 percent for composite units and 5 percent for standalone units. However,

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later on the interest reimbursement rate under TUFs was revised to 5 percent for composite units and 2 percent for standalone spinning units. Further, 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, margin money required for working capital, specifically required for the technology upgradation etc. is also provided under TUFs. However, this 15 percent subsidy of capital expense cannot be availed if interest reimbursement is availed.

- 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.
- iii. Benefits under the program includes "spinning machines" that are used for manufacture of the investigated products. Therefore, any investment for upgradation of spinning machines fulfilling the eligibility criteria laid down under the TUFs are covered under the program for availing the benefits.
- iv. New as well as old machinery for textile industry is entitled to get benefits of this scheme. 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 loans 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.
- v. 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

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system to the Office of Textile Commissioner (TxC office) for obtaining unique identification number (“UID”) under the scheme.

- vi. The bank will submit quarter-wise or month-wise claim to the Government through online system, made for this purpose, supported with prescribed certificates. The Government will release eligible claimed assistance/subsidy directly to the entrepreneur bank’s account.
- vii. The maximum permissible period is seven years under Revised Restructured Technology Up-gradation Fund Scheme (“RR-TUFS”).
- viii. 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 up-gradation project.

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- 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.
  
- ix. Reimbursement of interest to the nodal agency is made by the Ministry of Textile and subsequent credited to the company. The reimbursement of interest on eligible loans is applied on quarterly basis by each nodal agency to the Ministry of Textiles.

**29.2 Determination of Subsidy and Specificity of TUFS**

**29.2.1 Subsidy:**

On the basis of the information and evidence submitted by the GOI and the investigated Indian exporters/producers of the investigated product the Commission has determined 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, final and pre-operative expenses; and
- iv. Margin money required for working capital, specifically required for the technology up gradation etc.

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29.2.2 **Specificity:**

Review of the documents submitted by the GOI and the investigated exporters/ foreign 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.

29.3 **Amount of Benefit Under TUFS:**

Nagreeka, Veebee and Subburaj availed TUFS of the GOI. Benefit to them is calculated in accordance with Section 7(2)(b) of the Act on the basis of the interest amounts reimbursed by the GOI to these companies during the POI. Per unit amount of benefit is determined on the basis of their total production during the POI. Following table shows the calculations of benefit/ subsidy to Nagreeka, Veebee and Subburaj under TUFS:

**Table – V**  
**Calculations of Benefit under TUFS**

| <b>Description</b>                          | <b>Nagreeka</b> | <b>Veebee</b> | <b>Subburaj</b> |
|---|-----------------|---------------|-----------------|
| Interest amount reimbursed during POI (INR) | *****           | *****         | *****           |
| Total production during POI (MT)            | ****            | ****          | ****            |
| Per unit benefit (INR/MT)                   | ***             | ****          | ****            |

Note: Actual figures have been omitted to keep confidentiality

30. **Export Promotion Capital Goods (“EPCG”) Program of the GOI**

30.1 EPCG program of the GOI is briefly narrated as follows:

- 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 covers upgradation of technology of the industry. For this purpose, licences are issued by the GOI or the State Governments.

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- 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 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 fulfillment of export obligation specified in the licence. To ensure that the capital goods imported under this Scheme are utilized in manufacture of export products, 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.

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**30.2 Determination of Subsidy and Specificity of EPCG Program**

**30.2.1 Subsidy:**

Review of the information and evidence submitted by the GOI and the investigated 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.

**30.2.2 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

**30.3 Amount of Benefit Under EPCG Program**

Nagreeka, Veebee, Subburaj and Trident availed EPCG program of the GOI and imported plant, machinery and spares/parts at concessional or free of duties and taxes. Benefit to them is calculated on the basis of the difference between the applicable duty/tax rate and the actual duty/tax paid on import of plant, machinery and spares/parts. Benefits to the investigated exporters under EPCG is calculated for the POI on the basis of useful life of the plant, machinery or spares/ parts in accordance with Section 8(4) and 8(5) of the Act. As this this program is contingent upon export performance (paragraph 30 supra), therefore, per unit benefit is determined on the basis of volume of exports during the POI. Calculations are provided in the following tables:

**Table – VI  
Calculations of Amount of Benefit to Nagreeka under EPGC**

| S.No | Description  | Value/volume |
|------|--|--------------|
| i.   | Duty Saved on 25 years depreciable goods (IRs)             | *****        |
| ii.  | Depreciation period for Sr. i. above                       | ** Years     |
| iii. | Duty saved for the POI on 25 years depreciable goods (IRs) | *****        |
| iv.  | Duty Saved on 1year depreciable goods (IRs)                | *****        |

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|      |  |       |
|------|--|-------|
| v.   | Total duty saved for the POI                       | ***** |
| vi.  | Quantity exported during POI (all types of CY)(MT) | ****  |
| vii. | Per unit benefit (IRs/MT)                          | ****  |

Note: Actual figures have been omitted to keep confidentiality

**Table – VII**

**Calculations of Amount of Benefit to Veebee/ Subburaj under EPGC**

| S. No | Description  | Value/volume |          |
|-------|--|--------------|----------|
|       |  | Veebee       | Subburaj |
| i.    | Duty Saved on 1 year depreciable goods (IRs)               | --           | *****    |
| ii.   | Duty Saved on 10 years depreciable goods (IRs)             | *****        | *****    |
| iii.  | Duty Saved on 15 years depreciable goods (IRs)             | *****        | *****    |
| iv.   | Duty saved for the POI on 10 years depreciable goods (IRs) | *****        | *****    |
| v.    | Duty saved for the POI on 15 years depreciable goods (IRs) | *****        | *****    |
| vi.   | Total duty saved for the POI                               | *****        | *****    |
| vii.  | Quantity exported during POI of all types (MT)             | ****         | ****     |
| viii. | Per unit benefit (IRs/MT)                                  | ****         | ****     |

Note: Actual figures have been omitted to keep confidentiality

**Table – VIII**

**Calculations of Amount of Benefit to Trident under EPGC**

| S.No | Description   | Value/volume    |
|------|---|-----------------|
| i.   | Duty Saved on 10 years depreciable goods (IRs)                              | *****           |
| ii.  | Depreciation period for Sr. i. above  | <b>** Years</b> |
| iii. | Duty saved for the POI on 10 years depreciable goods (IRs)                  | *****           |
| iv.  | Duty Saved on 1 year depreciable goods (IRs)                                | *****           |
| v.   | Total duty saved for the POI  | *****           |
| vi.  | Quantity exported during POI (all types of cotton yarn of Bhudni Unit) (MT) | ****            |
| vii. | Per unit benefit (IRs/MT)   | ****            |

Note: Actual figures have been omitted to keep confidentiality

**31. Duty Drawback Scheme**

31.1 Brief description of the Duty Drawback Scheme of the GOI is provided as under:

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- i. The Duty Drawback scheme provides rebates for duty or tax chargeable on: (a) imported or domestic excisable inputs/materials; and (b) input services, used in the production of export goods. The duties and tax neutralized under the program are:
- ii. 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.
- iii. **All Industry Rates Scheme (“AIR”)**: AIR are fixed for a large number of export products, which are notified every year by the GOI. To avail AIR facility, no proof of actual duties and taxes paid on inputs is required to be produced. During POI, the AIR rates for the investigated product were 3.06 percent (3% for input goods and 0.06% for input services) of FOB value of exported cotton yarn.
- 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. Any exporter or the producing exporter is eligible for rebate under Duty Drawback Scheme. Rebate/ duty drawback on exported goods

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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 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 rebate claim is automatically processed through EDI system.
- vii. The rebate 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).

**31.2 Determination of Subsidy of Duty Drawback Scheme**

31.2.1 Sub-sections (h) and (i) of Section 2 of the First Schedule to the Act provide that exemption, remission or deferral of prior-stage cumulative indirect

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taxes/ duties will be subsidies only if it is in excess of the amount of such taxes actually levied on inputs that are consumed in the production of an exported product. Further, drawback schemes can constitute an export subsidy to the extent that they result in a remission or drawback of import charges in excess of those actually levied on inputs that are consumed in the production of an exported product. Both the said clauses stipulate that normal allowance for waste must be made in findings regarding consumption of inputs in the production of an exported product. It also provides for substitution, where appropriate.

31.2.2 The Third Schedule to the Act allows refund or drawback of import charges on inputs, which are consumed in a production process of another product and where export of this latter product contains domestic inputs having the same quality and characteristics as those submitted for imported inputs. Pursuant to clause (i) of para 2 of the First Schedule, substitution drawback systems can constitute an export subsidy to the extent that they result in an excess drawback of import charges levied initially on imported inputs for which drawback is being claimed.

31.2.3 The second schedule to the Act provides guidelines on consumption of inputs in the production process and determination of excess remission of indirect taxes and import charges, which are briefly narrated as follows:

- i. The Commission shall first determine whether the government of an exporting country has in place and applies a system or procedure to confirm which inputs are consumed in the production of an exported product and in what amounts.
- ii. Where such a system or procedure is determined to be applied, the Commission shall then examine the system or procedure to see whether it is reasonable and effective for the purpose intended. The Commission may carry out certain practical tests in order to verify information or to satisfy itself that the system or procedure is being effectively applied.
- iii. Where there is no such system or procedure, or where it is not

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reasonable, or where it is instituted and considered reasonable but is found not to be applied or not to be applied effectively, a further examination by the exporting country based on the actual inputs involved will be carried out in the context of determining whether an excess payment occurred.

31.2.4 The investigation of the Commission has shown the investigated exporters/ foreign producers have availed All Industry Rates Scheme of rebate during the POI, for which there is no system or procedure being applied by the GOI to confirm which inputs are consumed in the production of an exported product and in what amounts. As explained above (paragraph 31.1 supra) the GOI notified AIR rates (which was 3.06% of the FOB value during the POI). To avail AIR scheme the exporter is not required to provide or prove that which inputs are consumed in the production of an exported product, in what amounts and what was the incidence of taxes and duties paid on procurement of these inputs, and what is the waste amount in production process. Further, to avail AIR scheme the exporter is not required to submit any application for refund of taxes and duties paid on the inputs used the production of exported product, rather the shipping bill/bill of export itself is treated as the claim for drawback. Once the Export General Manifest (EGM) has been filed by respective airlines/shipping lines and the export is confirmed, the rebate claim is automatically processed through EDI system.

31.2.5 During on-the-spot investigations conducted by the officers of the Commission at office of the Directorate General of Anti-Dumping and Allied Duties ("DGAD"), Ministry of Commerce and Industry, Government of India on 23-24 March 2017, the investigating team explained that, to determine excess remission complete information on procurement of inputs, their usage, wastage, payment and reimbursement of taxes and duties etc. is required. Alternatively, the GOI may conduct an investigation based on the actual inputs used by the exporters of the investigated products to determine whether an excess payment occurred. In absence of such information it is not possible to determine excess remission, and the entire amount of rebate availed by the exporters will be considered as benefit/subsidy.

31.2.6 The investigated exporters were also requested to provide details of inputs/raw materials procured and used during POI, taxes and duties paid on these inputs/raw materials, input-output ratios and calculations of incidence of taxes and duties of inputs which formed part of the cost of production of the

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investigated product to determine amount of duty drawback and excess remission (if any). In response, all the investigated exporters stated they do not have such kind of information because all this information is not required to avail AIR scheme.

31.2.7 In view of the above, the Commission has determined that rebate under AIR scheme constitutes 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 was otherwise due.

31.3 **Specificity:**

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

31.4 **Amount of Benefit Under Export Rebate/Duty Drawback Scheme:**

All the investigated exporters i.e. Nagreeka, Veebee, Subburaj and Trident got rebate/duty drawback under export rebate/drawback scheme from the GOI during the POI. Benefit to them is calculated in accordance with Section 8(5) of the Act on the basis of the amount received on account of rebate/duty drawback from the GOI during the POI. Per unit amount of benefit is determined on the basis of their total exports of cotton yarn during the POI. Following table shows the calculations of benefit on account of rebate/duty drawback under this scheme:

**Table – IX  
Calculations of Benefit under Rebate/Duty Drawback Scheme**

| Description   | Nagreeka | Veebee | Subburaj | Trident |
|---|----------|--------|----------|---------|
| Quantity exported to Pakistan during POI (MT)       | ****     | ***    | ***      | ***     |
| C&F Value of exports to Pakistan (IRs)              | *****    | *****  | *****    | *****   |
| Value of ocean freight (IRs)                        | *****    | *****  | *****    | *****   |
| FOB value of exports to Pakistan (IRs)              | *****    | *****  | *****    | *****   |
| Amount of Rebate/duty drawback (3.06% of FOB value) | *****    | *****  | *****    | *****   |
| Per unit benefit (INR/MT)                           | ****     | ****   | ****     | ****    |

Note: Actual figures have been omitted to keep confidentiality

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**32. Industrial Promotion Policy (“IPP”) and/or Special Textile Policy (“STP”) of the Government of Madhya Pradesh (“GOMP”)**

32.1 Trident’s manufacturing unit which produces the investigated product is located at Budhni, Madhya Pradesh. The Government of Madhya Pradesh (“GOMP”) is providing subsidies under its Industrial Promotion Policy (“IPP”) and/or Special Textile Policy (“STP”). Brief description of the GOMP’s IPP/STP is as follows:

- i. The policy is meant for the mobilization of investment in employment generating industries namely as "Policy on New/Expansion/Upgradation Under Revised Textile Projects 2012"
- ii. The program is applicable to the companies that are involved in the establishment of new industrial units with an investment of INR 25 crores or more for a single unit and has 50% of it's employees as local residents.
- iii. The eligibility to the program is upon fulfilment of conditions laid down in para 2 of the policy.
- iv. The program is operated by the Department of Commerce, Industry and Employment, Government of Madhya Pradesh
- v. Benefits are available to the companies for a period of 5 years, which are as under:
  - a. Interest subvention at the rate of 5 percent of interest payable on a secured loan for standalone units and 7 percent of interest payable for composite unit on a secured loan for purchase of plant and machineries.
  - b. Provision of land at 25 percent of the prescribed premium rate
  - c. Exemption of electricity duty for captive power plants

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- d. Exemption of stamp duty
  - e. Reduced rates of Central Sales Tax/VAT and Commercial Tax
  - f. Exemption of entry tax
- vi. Trade and Investment Facilitation Corporation Limited (“TRIFAC”), an undertaking of Government of Madhya Pradesh is responsible to implement IPP program

32.2 The investigation has shown the Trident availed all the above-mentioned benefits under the GOMP’s IPP/STP scheme. As the Trident is a composite unit, it is entitled interest subvention of 7 percent on long term loans. Trident also availed 100 percent refund of gross CST/VAT during the POI. Further, Trident’s Budhni unit-3 was also entitled for 100% exemption of entry tax on procurement of inputs/raw materials during the PO.

**32.3 Determination of Subsidy of IPP/STP Scheme of GOMP**

**32.3.1 Subsidy:**

32.3.1 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 a portion of interest paid on secured loans was reimbursed by the GOMP/GOI to Trident.

32.3.2 According to the information provided by Trident Ltd., 100 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.

32.3.3 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

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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.

**32.4 Determination of Specificity of IPP/STP Scheme of GOMP**

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.

**32.5 Amount of Benefits to the Trident Under IPP/STP Scheme of the GOMP:**

32.5.1 Trident has availed following subsidy schemes of GOMP under its IPP/STP:

- i. Interest subvention on long term loans;
- ii. VAT and CST Refund; and
- iii. Exemption of Entry Tax.

**32.5.2 Benefit to the Trident under Interest subvention on long term loans under GOMP's Industrial Promotion Policy's Special Textile Policy**

32.5.2.1 The Trident availed interest subvention on long term loans under the GOMP's IPP/STP. As the Trident is a composite unit, it is entitled interest subvention of 7% long term loans. The investigating has shown that the Trident has availed interest subvention from the GOMP on Budhni unit-3, therefore, entire interest reimbursement on long term loans during POI is allocated to the production of Budhni unit-3 during the POI.

32.5.2.2 Benefit to the Trident on reimbursement of interest is calculated in accordance with Section 7(2)(b) of the Act on the basis of the interest amounts reimbursed by the GOMP during the POI. Per unit amount of benefit is determined on the basis of total production of Bhudni unit-3 during the POI. Following table shows the calculations of benefit/ subsidy to the Trident on reimbursement of interest on long term loans:

**Table – X**

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**Calculations of Benefit on Interest Reimbursement**

| Description                                       | Value/volume |
|---|--------------|
| Interest amount reimbursed during POI (INR)       | *****        |
| Total production of Bhudni unit-3 during POI (MT) | ****         |
| Per unit benefit (INR/MT)                         | ****         |

Note: Actual figures have been omitted to keep confidentiality

**32.5.3 Calculations of Benefits for VAT & CST Refund:**

32.5.3.1 The investigation has shown that the Trident's Budhni unit-3 is entitled for 100% refund of gross CST/VAT paid on its domestic sales. Amount of benefit to the Trident under this scheme is determined in accordance with Section 8(3) of the Act. Following table shows calculations of benefit to the Trident during POI under VAT/CST refund:

**Table – XI  
Calculations of Benefit on VAT/CST Refund**

| Description   | Value/volume |
|---|--------------|
| VAT/CST refund during POI (INR)                       | *****        |
| Total domestic sales of Bhudni unit-3 during POI (MT) | ****         |
| Per unit benefit (INR/MT)                             | ****         |

Note: Actual figures have been omitted to keep confidentiality

**32.5.3.2 Calculations of Benefit for Exemption of Entry Tax:**

The investigation has shown that the Trident's Budhni unit-3 is entitled for 100% exemption of entry tax on procurement of inputs/raw materials, however, the major raw material for production of cotton yarn i.e. cotton is exempted from entry tax. Amount of benefit to the Trident under this scheme is determined in accordance with Section 8(3) of the Act. Following table shows calculations of benefit to the Trident during POI under exemption of entry tax:

**Table – XII  
Calculations of Benefit on Exemption of Entry Tax**

| Description   | Value/volume |
|---|--------------|
| Total Purchases During the Period (IRs)                                 | *****        |
| Purchases made in other Units (IRs)                                     | *****        |
| Purchases made in Yarn Unit 3 (IRs)                                     | *****        |
| Purchases on which Entry Tax is Non Leviable (IRs)                      | *****        |
| Purchases on which Entry Tax Applicable if No Exemption Available (IRs) | *****        |
| Entry Tax to be payable if No Exemption available (IRs)                 | *****        |

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|   |      |
|---|------|
| Total production of Bhudni unit-3 during POI (MT) | **** |
| Per unit benefit (INR/MT)                         | **   |

Note: Actual figures have been omitted to keep confidentiality

### 33. Total Amount of Subsidization or Subsidy Margin

In terms of Section 16(2) of the Act definitive countervailing duty shall be in an amount equal to or less than total amount of countervailable subsidies from which an exporter has been found to benefit as established by the Commission. In view of the countervailable subsidies established and amount of subsidies/subsidy margins determined for different schemes in the fore-going paragraphs, the total amount of subsidization/subsidy margins for the investigated exporters/foreign producers are calculated in the following table:

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

| S. No | Description/ Subsidy scheme/ program          | Investigated Exporters |                |          |                |                 |                |
|-------|---|------------------------|----------------|----------|----------------|-----------------|----------------|
|       |   | Nagreeeka              |                | Trident  |                | Veebee/Subburaj |                |
|       |   | (per MT)               | % of C&F price | (per MT) | % of C&F price | (per MT)        | % of C&F price |
| i.    | Technology Up-gradation Fund                  | 6.30                   | 0.23%          | --       | --             | 23.47           | 1.19%          |
| ii.   | Duty/tax Incentives Under EPCG                | 19.06                  | 0.71%          | 19.64    | 1.71%          | 16.97           | 0.86%          |
| iii.  | Duty Drawback scheme                          | 74.64                  | 2.77%          | 32.49    | 2.83%          | 59.57           | 3.03%          |
| v.    | Industrial Protection Policy programs of GOMP |                        |                |          |                |                 |                |
| a.    | Interest reimbursement on long-term loans     | --                     | --             | 25.81    | 2.25%          | --              | --             |
| c.    | Refund of VAT/CST                             | --                     | --             | 21.72    | 1.89%          | --              | --             |
| d.    | Exemption of Entry Tax                        | --                     | --             | 0.34     | 0.03%          | --              | --             |
| vi.   | <b>Total subsidy amount/margin</b>            | 100.00                 | 3.72%          | 100.00   | 8.71%          | 100.00          | 5.08%          |

Note: Actual figures have been indexed with reference to total subsidy amount to maintain confidentiality

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

34.1 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 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.”*

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*“(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.”*

34.2 Total amount of countervailable subsidies/ subsidy margin established at paragraph 33 supra (3.72 percent to 8.71 percent of C&F price) is well above negligible level of less than one percent.

34.3 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):

**Table – XIV**  
**Market Share during the POI**

| <b>Supply Source</b>      | <b>Volume (MT)</b> | <b>% share</b> |
|---------------------------|--------------------|----------------|
| Subsidised imports        | 10,668             | 22.82%         |
| Other imports             | 1,787              | 3.82%          |
| Domestic industry's sales | 34,299             | 73.36%         |
| Total                     | 46,754             | 100.00%        |

Sources: PRAL and the Applicant

34.4 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.

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**C DETERMINATION OF INJURY TO THE DOMESTIC INDUSTRY**

35. 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”*

36. 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 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.”*

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*“(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.”*

37. As stated earlier (paragraph 7 supra) that the Commission has also conducted an antidumping investigation on the investigated product and the POI for both (the anti-dumping and anti-subsidy) investigations were same. The Commission made final determination in the antidumping investigation on February 20, 2017 and determined that the investigated product was dumped into Pakistan during the POI, which has caused material injury to the domestic industry.

38. As the Applicants, the investigated product, domestic like product, domestic industry, the dumped source and the POI are same for this investigation and antidumping investigation, therefore, the Commission is of the view that there is no need to re-determine injury to the domestic industry in this investigation.

39. In antidumping investigation the Commission has decided to impose definitive antidumping duties pursuant to the powers under Section 50 of the Anti-Dumping Duties Act 2015 on imports of Fine Cotton Yarn from India. However, the antidumping duties were suspended till such time the countervailing investigation against subsidized imports of the investigated product is finalized. It was further decided by the Commission that if, through the final determination of

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countervailing investigation against the same product, that the countervailing duties are not called for, the anti-dumping duties determined herein will take effect.

40. 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.

41. In view of the above, the Commission has decided to impose definitive antidumping duties on the investigated product as determined on February 20, 2017 for a period of five years with effect from October 18, 2017, which are provided in the following table.

**Table – XV  
Definitive Antidumping Duty Rates**

| Exporter Name  | Antidumping duty rate (%) |
|--|---------------------------|
| Veebee Yarnntex Private Limited  | 14.55                     |
| NSL Textiles Limited   | 9.53                      |
| Sree Lalitha Parameswari Spinning  | 13.18                     |
| Prasuna Vamsikrishna Spinning Mills Pvt Ltd  | 4.84                      |
| Mohan Spintex India Limited  | 12.11                     |
| Trident Limited  | 12.17                     |
| Nagreeka Exports Limited   | 5.64                      |
| <b>All other exporters cooperating;</b><br>i. Shreedhar Cotsyn (Pvt) Ltd.<br>ii. Prime Urban Development India<br>iii. K.A.S Industries India Pvt Ltd.<br>iv. SjlT Spinning Mills (P) Ltd.<br>v. The Priyadarsini Cooperative<br>vi. SjlT Textiles Pvt Ltd.<br>vii. Prima Products Pvt Ltd.<br>viii. Vardhman Textiles Ltd.<br>ix. Nahar Spinning Mills Ltd.<br>x. Arun Spinning Mills (P) Ltd.<br>xi. Thiagarajar Mills (P) Ltd.<br>xii. Premier Mills Pvt Ltd. | 10.02                     |
| All other exporters non-cooperating  | 14.55                     |

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42. Fine Cotton Yarn imported from sources other than India shall not be subject to definitive antidumping duty. Further, in accordance with Section 51(e) of the Anti-Dumping Duties Act 2015, definitive antidumping duties 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.

43 As definitive antidumping duties are imposed on imports of the investigated product, therefore, no countervailing duty is imposed on subsidised imports of the investigated product.

44. Definitive antidumping duties levied on import of the investigated product would be in addition to other taxes and duties leviable on its imports under any other law.

45. The definitive antidumping duties 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  
October 17, 2017

(Abdul Khaliq)  
Member  
October 17, 2017

(Qasim M. Niaz)  
Chairman  
October 17, 2017

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

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
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

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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

**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

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**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)
- 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
  - iv. Stamp Duty Incentives

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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

60. 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