

I. Appendix 3 Pakistan- Countervailable Subsidies

A. Background

1. Pakistans's PET Resin Industry

1. Novatex Limited (with Gatron Industries Limited) is the only PET Resin Bottle Grade manufacturer in Pakistan, operating under the brand name Gatronova.
2. The Government of Pakistan (GOP) actively supports the growing plastics industry in Pakistan, of which PET Resin is a key contributor. A range of subsidies and financial incentives are utilised in order to further this end. Pakistan's Ministry of Commerce has developed the *Strategic Trade Policy Framework 2015-2018* which aims to increase Pakistani exports through production sophistication and diversification.¹ In order to meet this goal, the Pakistani Department of Commerce utilises a preferential monetary, tariff and tax regime to increase the competitiveness of Pakistani exports. The policy framework further envisions significant infrastructural development with the stated purpose of increasing the competitiveness of the export sector, including improving railway services to reduce inland freight costs and improving inland water navigation.²
3. The Complainant has identified 18 Pakistani subsidy programs that may benefit Pakistani PET Resin producers.³ A complete list of these programs along with their source is available in Public Attachment 1 to Appendix 3 and described below. The source of the programs described in Public Attachment 1 to Appendix 3 is the EU decision imposing countervailing duties on PET Resin originating in Pakistan ("**EU PET Resin**") and the CBSA's decision regarding *Potassium Silicate Solids* originating in Pakistan.⁴ The

¹ Public Attachment 1: Government of Pakistan Ministry of Commerce, *Trade Policy*.

² Public Attachment 2: Government of Pakistan Ministry of Commerce, *Strategic Trade Policy Framework 2015-2018*, page 29-30.

³ See Public Attachment 3: to Appendix 3: List of Pakistani Programs Potentially Conferring Actionable or Prohibited Subsidies.

⁴ Public Attachment 4: Official Journal of the European Union, *Council Implementing Regulation no. 857/2010 of 27 September 2013 imposing a definitive countervailing duty and collecting definitively the provisional duty imposed on imports of certain polyethylene terephthalate originating in Iran, Pakistan and the UAE*, para 39.

Complainant submits that the programs deemed countervailable in these decisions may also have conferred a benefit on Gatronova during the POI as these programs are targeted to the same or similar industries as the Pakistani PET Resin industry.

B. Pakistani Subsidy Programs

1. Export Investment Support Fund

4. The GOP, as part of its Strategic Trade Policy Framework, has set up the Export Investment Support Fund to assist the eligible export oriented sectors, including textiles and value-added manufacturing.⁵ The program was announced in the Pakistan Federal Budget 2009-2010, in order to support export orientation of SMEs in Pakistan.⁶
5. This program was found to be countervailable in the CBSA's *Potassium Silicate Solids*. The Complainant submits that this grant constitutes a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA in that it involves the direct transfer of funds or liabilities or the contingent transfer of funds or liabilities, and pursuant to paragraph 2(1.6)(b) of SIMA as amounts owing and due to the government are forgiven or not collected. This grant is specific pursuant to subsection 2(7.2) (a) and (b) of SIMA insofar as they are limited to certain industries and SMEs, and are export contingent.

2. Quality Assurance and Lab Accreditation Scheme/Compliance Certificate Scheme

6. Originally enacted pursuant to the 2005-2006 Trade Policy by the Minister of Commerce, this program was reconfigured in 2008 under the name *Compliance Certification Scheme*. The purpose of this program is to encourage all exporters/manufacturers to obtain various quality, environmental and social certifications. Eligible manufacturers are entitled to

⁵ Public Attachment 5: Business Recorder *67% of Export Fund to be spent on Textile Industry: Ikhtiar* (July 5, 2009).

⁶ Public Attachment 6: Pakistan Institute of Trade and Development *Research Portfolios*.

receive 50% subsidy on 1st certification; 66% subsidy on 2nd certification; 82% subsidy on 3rd certification; and 100% subsidy on 4th certification.⁷

7. The Complainant submits that this grant constitutes a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA as it involves a direct transfer of funds, and confers a benefit to the recipient equal to the amount of the funds received. The funding provided is limited to export oriented enterprises, is a prohibited subsidy, as such subsidies are contingent, in whole or in part, on export performance, and is therefore specific pursuant to paragraph 2(7.2)(b) of SIMA.

3. Warehouse Scheme

8. This program, established pursuant to the 2009-2010 Trade Policy, provides financial assistance to exporters to establish a warehouse in any country where a potential market for Pakistani exports may exist. Funding is provided for one year as follows: 100% subsidy for the 1st quarter; 75% subsidy for the 2nd quarter; 50% subsidy for the 3rd quarter; and 25% subsidy on 4th quarter. At the termination of one year the exporter is responsible for the full cost of the warehouse.⁸
9. The Complainant submits that this program constitutes a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA, as it is an action of government that involves a direct transfer of funds, and confers a benefit to the recipient equal to the amount of the funds received. This grant is specific pursuant to 2(7.2)(b) of SIMA as it is limited to exporting entities and is contingent on export performance.

4. Export Long Term Fixed Rate Financing Scheme

10. Pursuant to this program entities engaged in export activities receive long-term fixed rate loans from the State Bank of Pakistan. The purpose of these loans is to facilitate the import of machinery for the upgrading of existing technology and the enhancement of quality

⁷ CBSA *Concerning the Termination of Investigations with respect to the Dumping and Subsidizing Certain Potassium Silicate Solids from the Islamic Republic of Pakistan* (Statement of Reasons) May 8, 2012, page 24.

⁸ CBSA *Concerning the Termination of Investigations with respect to the Dumping and Subsidizing Certain Potassium Silicate Solids from the Islamic Republic of Pakistan* (Statement of Reasons) May 8, 2012, page 25

industrial production. Export oriented SMEs are eligible for this program.⁹ This program was found to be countervailable and available to Pakistani PET Resin producers in EU PET Resin.¹⁰

11. The Complainant submits that this program constitutes a financial contribution under s. 2(1.6)(a) of SIMA as a direct transfer of funds. A benefit under s. 28 of SIMR is conferred is the difference between the interest actually paid and the interest on a comparable non-guaranteed commercial loan. The program is specific under s. 2(7.2)(b) of SIMA as it is export-contingent.

5. Export Finance Scheme from the State Bank of Pakistan

12. Pursuant to this program, eligible exporting enterprises may receive financing at prevailing mark-up rates, which are more advantageous than standard commercial financing schemes. This program has been recognized by the GOP in BSD Circular No.35/2001.¹¹ In EU PET Resin, it was established that a Pakistani PET Resin producer had utilized this program prior to 2010.¹² The Ministry of Commerce has noted the successful implementation of this program in its 2015-2018 Strategic Trade Policy Framework.¹³ The Complainant submits that as the PET Resin producers have availed themselves of this subsidy in the past, it may have been used during the POI.
13. The complainant submits that this program constitutes a financial contribution under s. 2(1.6) (a) of SIMA as a direct transfer of funds. A benefit under s. 28 of SIMR is conferred

⁹ Public Attachment 7: State Bank of Pakistan FAQ's *Scheme for Long-Term Financing for the Export Oriented Products (LTE-EOP)* accessed June 7, 2017.

¹⁰ Public Attachment 4: Official Journal of the European Union, *Council Implementing Regulation no. 857/2010 of 27 September 2013 imposing a definitive countervailing duty and collecting definitively the provisional duty imposed on imports of certain polyethylene terephthalate originating in Iran, Pakistan and the UAE*, para 72.

¹¹ CBSA *Concerning the Termination of Investigations with respect to the Dumping and Subsidizing Certain Potassium Silicate Solids from the Islamic Republic of Pakistan* (Statement of Reasons) May 8, 2012, page 27.

¹² Public Attachment 4: Official Journal of the European Union, *Council Implementing Regulation no. 857/2010 of 27 September 2013 imposing a definitive countervailing duty and collecting definitively the provisional duty imposed on imports of certain polyethylene terephthalate originating in Iran, Pakistan and the UAE*, para 75.

¹³ Public Attachment 8: Ministry of Commerce of Government of Pakistan *Strategic Trade Policy Framework 2015-2018*, page 14-15.

is the difference between the interest actually paid and the interest on a comparable non-guaranteed commercial loan. The program is specific under s. 2(7.2)(b) of SIMA as it is export-contingent.

6. *Land at Concessionary Rates in Industrial Estates and Export Processing Zones*

14. The Export Processing Zones Authority (EPZA) provides land in five Export Processing Zones (EPZ) at reduced rates, including Karachi, where Novatex is located. The Novatex factory is located within the Karachi EPZ on Siding Export Processing Zone Road, and as such, may be the recipient of EPZA benefits, including the acquisition of land at the concessionary rate of \$1.00 US per square foot on a lease basis.¹⁴¹⁵
15. The Complainant submits that this program provides a financial contribution pursuant s. 2(1.6)(c) of SIMA, insofar as the government provides goods or services, other than general governmental infrastructure which confers a benefit to the recipient equal to the difference between the fair market value of the goods or services in Pakistan and the price at which the goods or services were provided by the government. As this subsidy is only available to enterprises located in the EPZ's, it is specific pursuant to s. 2(7.2) (a) of SIMA.

7. *Export Processing Zones Incentives and Benefits*

16. As described above, Novatex is located within the Karachi EPZ, and as such is eligible for certain benefits and incentives, including, but not limited to: duty-free machinery and equipment; potential underpayment of duty and sales tax on raw materials and no sales tax on inputs, including electricity and gas.¹⁶
17. Benefits available to Novatex through its location within the Karachi EPZ constitute a financial contribution pursuant to s. 2(1.6)(c) of SIMA as the the government provides

¹⁴ Public Attachment 9: Phonebook Website, *Gatron Industries Limited- Novatex Ltd.: Company Address* Accessed June 7, 2017.

¹⁵ CBSA *Concerning the Termination of Investigations with respect to the Dumping and Subsidizing Certain Potassium Silicate Solids from the Islamic Republic of Pakistan* (Statement of Reasons) May 8, 2012, page 33.

¹⁶ Public Attachment 10: Export Processing Zone Authority *Route Map of Export Processing Zone Authority*, accessed June 12, 2017.

goods or services, other than general governmental infrastructure, and confers a benefit to the recipient equal to the difference between the fair market value of the goods or services and the preferential rate of receipt. As determined by the CBSA in *Silicate Solids*, goods and services provided by government to enterprises located in EPZs are specific pursuant to paragraph 2(7.2) (a) of SIMA as the subsidy is only provided to enterprises located in the EPZ.¹⁷

8. *Pakistan Water and Power Development Authority*

18. According to the CBSA's decision in *Silicate Solids*, the Pakistan Water and Development Authority ("PWDA") is considered to be vertically integrated SOE.¹⁸ As an SOE, the PWDA may provide actionable benefits to certain exporters where the amount of the price of electricity or water is lower than fair market value. It is ostensible that the Novatex has purchased water and or power from the PWDA at less than fair market value.
19. Any benefits conferred under this program would constitute a financial contribution pursuant to s.2(1.6) (c) of SIMA. Furthermore, goods and services provided by government to producers are specific pursuant to s. 2(7.2) (a) of SIMA because the subsidy is only provided to the limited number of enterprises purchasing from SOEs.

9. *Karachi Electric Supply Corporation*

20. According to the CBSA's decision in *Silicate Solids*, the Karachi Electric Supply Corporation ("KESC") is considered to be a vertically integrated SOE.¹⁹ As an SOE, the KESC may provide actionable benefits to certain exporters where the amount of the price of electricity is lower than fair market value. It is ostensible that the Novatex has purchased electricity from the PWDA at less than fair market value.

¹⁷ CBSA *Concerning the Termination of Investigations with respect to the Dumping and Subsidizing Certain Potassium Silicate Solids from the Islamic Republic of Pakistan* (Statement of Reasons) May 8, 2012, page 34-35.

¹⁸ CBSA *Concerning the Termination of Investigations with respect to the Dumping and Subsidizing Certain Potassium Silicate Solids from the Islamic Republic of Pakistan* (Statement of Reasons) May 8, 2012, page 44.

¹⁹ CBSA *Concerning the Termination of Investigations with respect to the Dumping and Subsidizing Certain Potassium Silicate Solids from the Islamic Republic of Pakistan* (Statement of Reasons) May 8, 2012, page 45.

21. Any benefits conferred under this program would constitute a financial contribution pursuant to s.2(1.6) (c) of SIMA. Furthermore, goods and services provided by government to producers are specific pursuant to s. 2(7.2) (a) of SIMA because the subsidy is only provided to the limited number of enterprises purchasing from SOEs.

10. Purchases from other State-Owned Enterprises at Less than Fair Market Value

22. The Complainant is unable to accurately assess what purchases Novatex has made from SOEs at less than fair market value, and as such requests that the CBSA investigate purchases in this regard. According to the CBSA's decision in *Silicate Solids*, there are a variety of service-providing SOEs, including a natural gas provider, Sui Southern Gas Company Limited.²⁰ As an SOE, Sui Southern Gas Company Limited may provide actionable benefits to certain exporters where the amount of the price of natural gas is lower than fair market value. It is ostensible that the Novatex has purchased natural gas from the Sui Southern Gas Company at less than fair market value.
23. Any benefits conferred on Novatex from SOEs would constitute a financial contribution pursuant to s.2(1.6) (c) of SIMA. Furthermore, goods and services provided by government to producers are specific pursuant to s. 2(7.2) (a) of SIMA because the subsidy is only provided to the limited number of enterprises purchasing from SOEs.

11. Cost of Domestic Inputs Lower than Imported Inputs

24. According to the CBSA's decision in *Silicate Solids*, the GOP may have a program in place which encourages the purchase of domestically produced raw materials over imported raw materials wherein domestic raw materials are available at lower prices.²¹ If this program is in place, Novatex may have purchased PTA or MEG at a price which is lower than imported fair market value, resulting in a benefit of the difference in the price between

²⁰ CBSA *Concerning the Termination of Investigations with respect to the Dumping and Subsidizing Certain Potassium Silicate Solids from the Islamic Republic of Pakistan* (Statement of Reasons) May 8, 2012, page 46.

²¹ CBSA *Concerning the Termination of Investigations with respect to the Dumping and Subsidizing Certain Potassium Silicate Solids from the Islamic Republic of Pakistan* (Statement of Reasons) May 8, 2012, page 48-49.

domestic and imported raw materials. The Complainant requests that the CBSA inquire into any purchases of inputs made in this regard.

25. Any benefits conferred under this program would constitute a financial contribution pursuant to s.2(1.6) (b) of SIMA, as an amount that would otherwise be owing and due to the government is exempted or deducted, which confers a benefit to the recipient equal to the amount of the exemption/deduction. This subsidy is specific pursuant to s. 2(7.2) (a) of SIMA because the subsidy is contingent on the use of goods that are produced or originate in Pakistan.

12. *Purchases of Goods and Services from the State Bank of Pakistan*

26. According to the CBSA's decision in *Silicate Solids*, the GOP, through the State Bank of Pakistan, may have a program in place wherein goods and services in the form of loans may be provided to exporters at less than fair market value.²² While the Complainant was unable to determine whether the Pakistani PET Resin producer received loans from the State Bank of Pakistan, any loans at less than fair market value would confer an actionably benefit to the PET Resin producer.
27. Any benefits conferred on Novatex from the State Bank of Pakistan would constitute a financial contribution pursuant to s.2(1.6) (c) of SIMA. Furthermore, goods and services provided by government to producers are specific pursuant to s. 2(7.2) (a) of SIMA because the subsidy is only provided to the limited number of enterprises purchasing from SOEs.

13. *Manufacturing Bond Scheme*

28. Pursuant to this program, licenses are issued from the Collector of Customs, which permits the duty-free importation of input materials, on the conditions that the final product will subsequently be exported. This program was acknowledged by the GOP through the *Customs Rules* 2001, issued June 18, 2001, and administered by the Federal Board of

²² CBSA *Concerning the Termination of Investigations with respect to the Dumping and Subsidizing Certain Potassium Silicate Solids from the Islamic Republic of Pakistan* (Statement of Reasons) May 8, 2012, page 49.

Revenue.²³ Pakistani PET Resin producers were found to have received benefits under this program in the EU PET Resin decision.²⁴

29. The Complainant submits that this program provides a financial contribution within the meaning of s. 2(1.6)(b) of SIMA in that amounts otherwise owing are not collected, and a corresponding benefit within the meaning of s. 35.01(1) of the SIMR in the amount of duties saved. The scheme is specific under s. 2(7.2)(b) of SIMA as it is contingent upon export performance, as well as s. 2(7.2)(a) because it is limited to the manufacturing sector.

14. Imports of Plant Machinery and Equipment in Manufacturing Bond

30. Pursuant to this program, exporters are permitted the duty-free imports of plant, machinery and equipment for the manufacturing sector.²⁵ Pakistani PET Resin producers were found to have received benefits under this program in the EU PET Resin decision.²⁶
31. The Complainant submits that this program provides a financial contribution within the meaning of s. 2(1.6)(b) of SIMA in that amounts otherwise owing are not collected, and a corresponding benefit within the meaning of s. 35.01(1) of the SIMR in the amount of duties saved. The scheme is specific under s. 2(7.2)(b) of SIMA as it is contingent upon export performance, as well as s. 2(7.2)(a) because it is limited to the manufacturing sector.

15. Final Tax Regime

32. The final tax regime is a presumptive tax scheme where taxes are withheld at the source on the sale of goods and execution of contracts or collected at the time of import (for other

²³ Public Attachment 11: AAJ News Site, *Manufacturing Bond Scheme: FBR unveils new formula for duty drawback rates* (July 3, 2009).

²⁴ Public Attachment 4: Official Journal of the European Union, *Council Implementing Regulation no. 857/2010 of 27 September 2013 imposing a definitive countervailing duty and collecting definitively the provisional duty imposed on imports of certain polyethylene terephthalate originating in Iran, Pakistan and the UAE*, para 43.

²⁵ Public Attachment 12: Pakistani Exporters " Temporary Importation Scheme (SRO-818-89) Accessed March 12, 2017.

²⁶ Public Attachment 4: Official Journal of the European Union, *Council Implementing Regulation no. 857/2010 of 27 September 2013 imposing a definitive countervailing duty and collecting definitively the provisional duty imposed on imports of certain polyethylene terephthalate originating in Iran, Pakistan and the UAE*, para 54.

than industrial raw materials), is considered a final tax liability in respect of income arising from the sale, contract, or import. In the case of exports, tax collected at the time of realisation of foreign-exchange proceeds is treated as final tax for that income.²⁷

33. Pursuant to this tax regime, profits from exports are taxed in a at a lower rate than profits earned on domestic sales, resulting in increased benefits to exporters. Pakistani PET Resin producers were found to have received benefits under the Final Tax Regime in the EU PET Resin decision.²⁸ This program was also found to be countervailable in the CBSA's *Silicate Solids* decision.²⁹
34. The Complainant submits that this program provides a financial contribution within the meaning of s. 2(1.6)(b) of SIMA in that amounts otherwise owing are not collected, and a corresponding benefit within the meaning of s. 35.01(1) of the SIMR in the amount of tax saved. The scheme is specific under s. 2(7.2)(b) of SIMA as it is contingent upon export performance.

16. Excessive Claims of Deductions, Exemptions and Concessions

35. According to the CBSA's decision in *Silicate Solids*, exporters in Pakistan may utilize the Pakistani Income Tax Regime to obtain profitable benefits through claiming excessive deductions, exemptions and/or concessions.³⁰ While the GOP has denied the existence of this program, any PET Resin exporter which claims excessive exemptions and/or concessions beyond what it is entitled to would avail themselves of a benefit.
36. Any benefits conferred on Novatex pursuant to this program would constitute a financial contribution pursuant to s. 2(1.6)(b) of SIMA in that amounts otherwise owing are not

²⁷ Public Attachment 13: PKF International Limited, *Pakistan Tax Guide 2015/2016*, June 2015, page 5.

²⁸ Public Attachment 4: Official Journal of the European Union, *Council Implementing Regulation no. 857/2010 of 27 September 2013 imposing a definitive countervailing duty and collecting definitively the provisional duty imposed on imports of certain polyethylene terephthalate originating in Iran, Pakistan and the UAE*, para 63.

²⁹ CBSA *Concerning the Termination of Investigations with respect to the Dumping and Subsidizing Certain Potassium Silicate Solids from the Islamic Republic of Pakistan* (Statement of Reasons) May 8, 2012, page 37.

³⁰ CBSA *Concerning the Termination of Investigations with respect to the Dumping and Subsidizing Certain Potassium Silicate Solids from the Islamic Republic of Pakistan* (Statement of Reasons) May 8, 2012, page 38.

collected, and a corresponding benefit within the meaning of s. 35.01(1) of the SIMR in the amount of tax saved. This scheme is specific pursuant to s. 2(7.2) (b) of SIMA because it is contingent upon export performance.

17. Excessive Repayments of Customs Duties

37. According to the CBSA's decision in *Silicate Solids*, exporters in Pakistan may receive benefits through excessive repayment of customs duties.³¹ While the GOP has denied the existence of this program, any PET Resin exporter which claims excessive customs duties beyond what it is entitled to would avail themselves of a benefit. As such, any repayments of customs duties received by Novatex should be investigated to insure no overpayment was received.
38. Any benefits conferred on Novatex pursuant to this program would constitute a financial contribution pursuant to s. 2(1.6)(b) of SIMA in that amounts otherwise owing are not collected, and a corresponding benefit within the meaning of s. 35.01(1) of the SIMR in the amount of duty saved. This scheme is specific pursuant to s. 2(7.2) (b) of SIMA because it is contingent upon export performance.

18. Drawback and Remission Schemes

39. According to the CBSA's investigation in *Silicate Solids*, the Duty and Tax Remission Scheme ("DTRS") provides an exemption for 4 types of duties and taxes: (i) refundable Customs Duty at 5%; (ii) refundable Federal Excise at 1%; (iii) adjustable Advance Tax at 4%; and (iv) adjustable Sales Tax at 16%.³² The exemptions are available on imported raw materials where the raw materials are used for production of goods for export, thus

³¹ CBSA *Concerning the Termination of Investigations with respect to the Dumping and Subsidizing Certain Potassium Silicate Solids from the Islamic Republic of Pakistan* (Statement of Reasons) May 8, 2012, page 40.

³² CBSA *Concerning the Termination of Investigations with respect to the Dumping and Subsidizing Certain Potassium Silicate Solids from the Islamic Republic of Pakistan* (Statement of Reasons) May 8, 2012, page 42.

incentivizing export activities.³³ It is ostensible that PET Resin producers benefitted from this scheme where raw materials were imported.

40. Under the DTRS, any excessive claims or repayments of duties would constitute a financial contribution pursuant to s. 2(1.6)(b) of SIMA in amounts that would otherwise be owing or due to the government and confers a benefit to the recipient equal to the amount in excess of the allowed repayment. The scheme is specific under s. 2(7.2)(b) of SIMA as it is contingent upon export performance. The Complainant submits that to the extent Novatex has utilised the DTRS, the amounts of drawback or remission should be investigated to ensure that the amounts received are not in excess of the actual amount of duties paid on the inputs, and further, that the amounts received relate to export only, and not domestic sales.
41. The Complainant submits that the 18 programs described above may have conferred contributions to the Pakistani PET Resin producer in the form of countervailable subsidies. The Complainant further submits that there are likely further potentially countervailable programs in use by the Pakistani PET Resin and requests that the CBSA conduct investigate all programs conferring benefits accordingly.
42. In light of the stated policy goals of the Pakistani Ministry of Commerce's aforementioned *Strategic Trade Policy Framework*, the European Commission's *PET Resin* Decision and the CBSA's *Silicate Solids* Decision, the CBSA may similarly determine that Pakistani PET Resin producers have received financial benefits pursuant to this complaint.
43. A complete list of the afore-described programs along with their source is available in Public Attachment 1 to Appendix 3.

³³ Public Attachment 14: Business Record *Budget 2016-2017: FBR to retain DTRE and Manufacturing Bond Schemes* (May 1, 2016) accessed June 12, 2017.

List of Attachments

Tab #	Description
Public Attachment 1	Government of Pakistan Ministry of Commerce, Trade Policy
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Public Attachment 5	Business Recorder 67% of Export Fund to be spent on Textile Industry: Ikhtiar (July 5, 2009)
Public Attachment 6	Pakistan Institute of Trade and Development Research Portfolios
Public Attachment 7	State Bank of Pakistan FAQ's Scheme for Long-Term Financing for the Export Oriented Products (LTE-EOP) accessed June 7, 2017
Public Attachment 8	Ministry of Commerce of Government of Pakistan Strategic Trade Policy Framework 2015-2018
Public Attachment 9	Phonebook Website, Gatron Industries Limited- Novatex Ltd.: Company Address Accessed June 7, 2017
Public Attachment 10	Export Processing Zone Authority Route Map of Export Processing Zone Authority, accessed June 12, 2017
Public Attachment 11	AAJ News Site, Manufacturing Bond Scheme: FBR unveils new formula for duty drawback rates (July 3, 2009)
Public Attachment 12	Pakistani Exporters " Temporary Importation Scheme (SRO-818-89) Accessed March 12, 2017
Public Attachment 13	PKF International Limited, Pakistan Tax Guide 2015/2016, June 2015
Public Attachment 14	Business Record Budget 2016-2017: FBR to retain DTRE and Manufacturing Bond Schemes (May 1, 2016) accessed June 12, 2017



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Trade Policy

Text of Strategic Trade Policy Framework 2015-18		New SROs		
				
(http://www.commerce.gov.pk/wp-content/uploads/2016/03/STPF-2015-18-Documen.doc)	(http://www.commerce.gov.pk/wp-content/uploads/2016/03/STPF-2015-18-Documen.pdf)	(http://www.commerce.gov.pk/wp-content/uploads/2016/10/Export-Policy-Order-2016-new.pdf)	(http://www.commerce.gov.pk/wp-content/uploads/2016/10/IPO-2016.pdf)	(http://www.commerce.gov.pk/wp-content/uploads/2016/10/Final-English.pdf)
MS Word	PDF format	Export Policy Order 2015-18	Import Policy Order 2015-18	STPF (Englist)

Strategic Trade Policy Framework 2015-18 by Engineer Khuram Dastgir Khan, Federal Minister for Commerce

- On the basis of (i) key enablers, (ii) evaluation of STPF 2012-15, (iii) emerging global trade scenario and (iv) extensive consultation with the private sector and other stakeholders, STPF 2015-18 identifies four pillars. This includes Product sophistication and diversification, Market access, Institutional development and strengthening and Trade facilitation. To meet the target of transition from 'factor-driven economy' to 'efficiency-driven' and subsequently 'innovation-driven economy', Product Sophistication and Diversification will done through Research & Development, value addition and branding.
- To develop the export sector and achieve the above targets, some key enablers are vital to increase productivity and competitiveness and resultantly enhance exports. The key enablers are categorized into four groupings i.e. Competitiveness, Compliance to Standards, Policy Environment and Market Access.
 - Competitiveness includes quality infrastructure, labour productivity, access to utilities, and level of technological development
 - Compliance to standards include convergence of local & international standards, protection of intellectual property, and effective and efficient disputes resolution mechanism
 - Policy environment includes monetary policy, tariff & tax regime, and synergic industrial & investment policies
 - Market access includes multilateral, regional, and bilateral
- The STPF 2015-18 aims to achieve following targets by June 30, 2018:
 - Enhancement of annual exports to US\$ 35 Billion
 - Improve Export Competitiveness
 - Transition from 'factor-driven' economy to 'efficiency-driven' and 'innovation-driven' economy
 - Increase share in regional trade
- The procedural and budgetary bottlenecks are removed in STPF 2015-18 by learning from the previous two medium term frameworks i.e. 2009-12 and 2012-15. All business processes have simultaneously been formulated. Budgetary allocation of Rs. 6 Billion has been approved to implement the trade policy initiatives for year 2015-16.
- The strategic trade policy framework has been formulated by the Ministry of Commerce through an extensive consultative process spanning over almost a year. All stakeholders in the public and private sector including Federation of Pakistan Chambers of Commerce and Industry, district Chambers, trade associations, private businesses, academia, think tanks, trade missions, Ministries/Divisions and other government agencies were actively engaged.
- On the basis of research and consultations with stakeholders, it has been identified that use of inefficient technologies is the principal constraint in exports of selected sectors i.e., fans, home appliances, rice, cutlery and sports goods. In order to increase the sophistication level and to realize true potential of these sectors, an incentive for technology up-gradation will be provided in the shape of investment support of 20% or mark-up support of 50% upto a maximum of Rs. 1 (one) Million per annum per company will be available for import of new plant and machinery.
- Leather, pharmaceutical, fisheries and surgical instruments are sectors with higher export potential. These sectors can lead to a quantum jump in total exports. In order to further boost export in these sectors, matching grant will be provided upto a maximum of Rs. 5 (five) Million for specified plant and machinery or specified items to improve product design and encourage innovation in SMEs and export sectors of leather, pharmaceutical and fisheries. Moreover, a Common Facility Center for surgical sector will be established.

8. The manufacturing in surgical instruments, sports and cutlery sectors in Pakistan is largely done under the brands of foreign companies, resulting in lower prices for manufacturers in these sectors. Brand development needs special attention. Matching grant will be provided to facilitate the branding and certification for faster growth of the SME and export sector in Pakistan's economy through Intellectual Property Registration (including trade and service marks), Certification and Accreditation.
9. To reduce the cost of doing business and increase the competitiveness of the value added non-textile selected sectors, draw-back for local taxes and levies will be given to exporters on free on board (FOB) values of their enhanced exports if increased by 10% and beyond (over last year's exports) at the rate of 4% on the increase.
10. Raw and semi-processed agricultural produce being currently exported can get higher values if exported as processed food. Lack of necessary processing facilities results in the wastage of large quantities, thus restricts the income of farmers. To reduce the wastage of produce, increase income of the farmers and foreign exchange earnings, 50% support on the cost of imported new plant and machinery for specified under-developed regions or 100% mark-up support on the cost of imported new plant and machinery on all Pakistan basis will be provided
11. Pakistan's exports have sustained despite all the challenges due to the market access in EU countries after the grant of GSP Plus. Pakistan is complying with the mandatory 27 conventions relating to environment, narcotics control, drugs, human rights and labour to retain this market access. In the wake of review of the GSP Plus, Ministry of Commerce will launch a robust public information campaign to disseminate and sensitize stakeholders and the public on compliance issues.
12. Extensive information dissemination on opportunities available under market access secured by Pakistan, and other export promotional activities like exhibitions and delegations, will continue to be an integral part of the strategy for sustainability and enhancement of share in the existing markets.
13. In order to diversify our export markets, an outreach strategy for Africa, Commonwealth of Independent States (CIS) and Latin America is being adopted. As part of the market penetration/outreach strategy, these new markets will be explored through Market Research, Opening of new Trade Missions, Exhibitions and Delegations, Linkages through Export Import Bank [EXIM Bank].
14. The Ministry of Commerce will continue working on its three-pronged strategy of trade diplomacy in the multilateral, regional and bilateral arenas for increasing market access.
 1. Multilateral
Entering into multilateral arrangements for better market access such as Trade Facilitation Agreement (TFA), Information Technology Agreement (ITA), Government Procurement Agreement (GPA)
 2. Regional
Enhancing access to regional markets such as GCC, ASEAN, SAARC, Afghanistan and CARs
 3. Bilateral
Negotiating bilateral preferential access with Thailand, South Korea, Turkey, Iran, China, Malaysia, Indonesia, Nigeria and Jordan
15. Despite immense potential, the regions of South and Central Asia are amongst the least integrated regions of the world with intra-regional trade less than 5% primarily caused by high costs due to infrastructure, missing links and lack of transit agreements. Opportunities are, therefore, immense for greater regional connectivity and enhanced cooperation through transit trade agreements. The Ministry of Commerce is working on achieving shared prosperity through better connectivity and transit trade through the following initiatives:
 - Resolution of outstanding issues in Afghanistan Pakistan Transit Trade Agreement (APTTA)
 - Negotiation and early conclusion of Afghanistan, Pakistan and Tajikistan Transit Trade Agreement (APTTA)
 - Effective implementation of Transports Internationaux Routiers (TIR) Convention
 - Reactivation of Quadrilateral Transit Trade Agreement (QTTA) among Pakistan, China, Kyrgyz Republic and Kazakhstan
 - Taking institutional lead on formulation of a Pakistan-Afghanistan-Central Asia regional economic integration framework through a Regional Trade Office, established at the Ministry of Commerce
16. To improve the functioning of the Ministry of Commerce and its attached departments a task force has been established in the Ministry of Commerce to suggest measures to restructure the Ministry of Commerce as well as its Trade Promoting Organizations i.e. Pakistan Horticulture Development & Export Company and the Trade Development Authority of Pakistan. Intellectual Property Organization will be placed under the Ministry of Commerce as its current placement under the Cabinet Division has not been able to build the required synergies between the Trade Policy and the IPR Policy.
17. Shortage of well-trained skilled manpower will be catered by the training and product development institutes, running under MOC/TDAP carrying out detailed 'entity improvement diagnostic'. As a first step skill development institutes for fan, cutlery and leather industry will be considered keeping in view the industrial demand.
18. Moreover, capacity building requirements of the previously established institutions/organizations under the Ministry of Commerce have also been identified which include; Trade Dispute Resolution Organization, Services Trade Development Council, Pakistan Institute of Trade and Development, National Tariff Commission and the Domestic Commerce Wing.
19. Ministry of Commerce will establish Export Promotion Council for Pharmaceuticals & Cosmetics and Rice.
20. A taskforce to conduct expeditious work on improving railway services for exporters will be established. The cost of transport through roads is twice as uncompetitive as compared to rail and 148 times uncompetitive as compared to inland navigation. Accordingly, a task force will be established with its Secretariat in the Ministry of Water & Power.

21. A short term export enhancement strategy has also been made part of the STPF 2015-18, wherein, following four products will be focused in the four chosen markets:

1. Focus Products

Basmati Rice
Horticulture
Meat and meat products
Jewellery

2. Focus Markets

Iran
China
Afghanistan
European Union

22. Regulatory measures pertaining to various sectors in the form of amendments after consultation with the stakeholders have been taken to facilitate existing import regime. The same will be notified in the Import Policy & Export Policy Order accordingly. Details are as under:-

The condition of submission of annual environment report is not applicable in case of units importing plastic scrap for the first time.

Pyrolysis plants which are duly registered with respective EPAs and FBR are also allowed to import shredded tyres scraps on same terms and conditions as are applicable to industrial consumers.

Import of aerial vehicles and night vision goggles will be subject to NOC from Ministry of Defence.

Import of 3D Printers will be subject to prior permission from Ministry of Interior.

Import of mobile hand sets and tablets will be subject to type approval certification from PTA.

Pakistan Security Printing Corporation may import security papers without having NOC from Security Paper Limited.

Exporters operating under various schemes like DTRE, Temporary Importation etc. will be allowed to import all items borne on restricted list subject to fulfillment of conditions laid down in Import Policy Order.

Construction companies will be allowed to import specialized vehicles mounted machinery not older than five years subject to certification from pre-shipment in the exporting country and submission of original equipment manufacturers confirmation that such vehicles are built as specialized mounted machinery.

Import of pesticides will be allowed subject to prior pre-shipment certification issued by recognized Pre-shipment and Inspection Agencies to be notified by the Department of Plant Protection.

Digital Enhanced Cordless Telecommunication 6.0 will not be allowed to ensure compliance with the provisions of the PTA Act, 1969.

Ban on import of poultry and poultry products from South Korea, Russia, Kazakhstan, Mongolian, Turkey, Greece, Croatia, Italy, Azerbaijan, Ukraine Iraq, Bulgaria, Slovenia, Slovakia, Austria, Bosnia and Herzegovina will be lifted subject to certification from respective veteran authority of the exporting country that birds are only from such flocks where no incidence of Bird Flu has been reported for the last seven years.

Import of Plug Wrap Paper will also be allowed in favour of manufacturers of cigarettes rods duly registered with the Federal Board of Revenue.

Import of two or three wheeler auto vehicles will be subject to compliance with the condition of Euro-II standard.

Import of mercury and mercury compounds will be allowed to industrial consumers having valid environmental approval from the concerned Federal/Provincial Environmental Protection Agency/Department.

Fireworks will now be placed on the restricted list and its import is allowed subject to the conditions of compulsory physical examination by explosives expert. Furthermore, the Department of Explosives of Ministry of Industries will allow import only to the applicants and companies having valid licenses under the Explosives Rules, 2010.

Import of Air-pistol and slugs may also be allowed.

An Inter-Ministerial Working Group comprising Ministries of Science and Technology, Commerce and National Food Security and Research will be set up to work on quality standard and harmonization of Pakistan Standard besides working on updation on the list of pre-shipment inspection companies given in the Import Policy Order.

ATTACHED ORGANIZATIONS

Trade Development Authority of Pakistan
(<http://www.tdap.gov.pk/>)

Trading Corporation of Pakistan
(<http://www.tcp.gov.pk/Home.aspx>)

State Life Insurance Corporation of Pakistan
(<http://www.statelife.com.pk/>)

Pakistan Tobacco Board
(<http://www.ptb.gov.pk/default.php>)

National Tariff Commission
(<http://www.ntc.gov.pk/>)

Directorate General of Trade Organizations
(<http://www.dgto.gov.pk/>)

Pakistan Institute of Trade and Development
(<http://www.pitad.org.pk/>)

OFFICIAL SOCIAL MEDIA ([HTTPS://WWW.FACEBOOK.COM/MOCOMMERCEPK/](https://www.facebook.com/MOCOMMERCEPK/))



National Insurance Company Limited
(<http://www.nicl.com.pk/>)

Pakistan Reinsurance Company Limited
(<http://www.pakre.org.pk/ms/>)

Trade Dispute Resolution Organization
(<http://www.tdro.gov.pk>)

Expo Centre Lahore
(<http://www.expolahore.com/new/>)

Pakistan Institute of Fashion and Design
(<http://www.pifd.edu.pk/>)

Pakistan Horticulture Development & Export
Company (<http://www.phdec.org.pk/>)

Intellectual Property Organization of Pakistan
(<http://ipo.gov.pk/>)

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5



Strategic Trade Policy framework (STPF) 2015-18



MINISTRY OF COMMERCE GOVERNMENT OF PAKISTAN

Engr. Khurram Dastgir Khan

Minister for Commerce

“We aim to get into new sectors by promoting the innovation-driven and efficiency-driven route.”

“Regional trade will be pushed through this policy. Starting from Afghanistan we intend to expand all over Central Asian Republics along with our efforts for export development in ASEAN and SAARC countries.”

(Excerpts from Trade Policy Speech, 22nd March 2016)

Forword

The Strategic Trade Policy Framework (STPF) 2015-18 marks the success of the government in giving the exporters consistency and predictability in the policy for third time in a row. The important feature of this policy is that it has focused on addressing the lessons learnt from the earlier two medium term frameworks.

The STPF 2015-18 has been prepared on the basis of extensive research and stakeholders' consultations. Unfortunately I was not able to be part of the formulation process but I am very pleased and honored to have been able to announce and launch this very well carved out policy.

This policy has a strategic direction by promoting value addition and innovation and through interventions in the niche areas. The STPF 2015-18 has four pillars:

- (i) Product sophistication and diversification
- (ii) Market Access
- (iii) Institutional Development and Strengthening
- (iv) Trade Facilitation




All the initiatives are flowing from these four pillars. However, in order to meet the set target through these various initiatives it is imperative to ensure competitiveness, compliance to standards, sound policy environment and market access. These will ensure the whole of the government approach and can be termed as the key enablers for achieving the set target.

The policy gives a strong hope in making our economy efficiency and innovation driven. However, it is not cast in stone and hence through the room for mid-course corrections continuous efforts will be made to sail through for our better future.

Azmat Ali Ranjha

Secretary Commerce

Trade Facilitation**Reducing Cost of Doing Business**

Inland Water Transport (in numbers)			
	Road 	Rail 	Inland Navigation ² 
Transport capacity of one traffic unit	25 Nt	40 Nt	3,700 Nt
Number of traffic units for same transport volume	148	93	1
Transport widths for a goods ton with same energy consumption	100 km	300 km	370 km
External costs in €/1000 tkm	24	8.7	7.3
CO ₂ - emissions in kg/1000 tkm	77.2	27.8 ¹	25.2

¹ with 40% coal-to-gas production of energy
² specific energy consumption and CO₂ emissions could be reduced by 20% with better extent of utilisation of the ship

Railway Services

Extra inland freight costs erode export competitiveness on a range of exports. The cost of transport through roads is expensive as compared to rail and water. Therefore, a task force will be established to conduct expeditious work on improving railway services for exports. The task force will be headed by Secretary Railways and will comprise Secretaries Commerce, Planning & Development and Board of Investment. While the Secretariat of the task force will be in the Ministry of Railways, the funds required for studies/consultancies shall be met from the STPF allocations. Task Force will submit its report to the Cabinet Committee on Production & Exports, along with an action plan.

Inland Water Navigation

A task force will be setup to conduct expeditious work on improving inland water navigation for exports. This task force will be headed by the Secretary Water & Power and comprising Secretaries Ports and Shipping, Commerce, Planning &

Development, Communication, Chairman WAPDA, respective provincial Departments of Irrigation and Chairman Inland Water Transport Development Company. The Secretariat of the task force will be in Ministry of Water & Power. The task force will submit its report to the Cabinet Committee on Production & Exports, along with an action plan.

Exporters' Tax Refund

Lengthy delays and administrative hurdles in refunds of sales tax as well as other taxes and levies are cited by exporters as the principal cause of liquidity crunch and increasing their financial cost of doing business. Accordingly, the payment of all tax refunds in full will be made expeditiously.

Regulatory Measures

The regulatory amendments in the Import and Export Policy Orders 2013 have been developed after extensive consultation with private sector and relevant ministries and government organizations. These amendments would further facilitate Pakistan's trade and contribute to the ease of doing business by simplifying the procedures and strengthening the regulatory processes.

a) Import of Plastic Waste And Scrap

Procedure for import of the Plastic Scrap is subject to the conditions laid down in the Import Policy Order 2013 including, inter alia, submission of environmental audit report which is not possible for the units importing for the first time. The units importing plastic scrap for the first time, therefore, be exempted from the requirement of submitting an Annual Environmental Audit Report.

b) Import of Shredded Tyres

Import of waste and scrap of second-hand/used tyres is allowed in favor of industrial consumers subject to fulfilment of environmental requirements of using tyres as a fuel as prescribed by the Federal/Provincial Environmental Authorities. Existing facility is not extended to Pyrolysis plants. The pyrolysis plants, which are

Listing of Pakistani PET Resin Programs

Program Name	Program Description (Source of info is Decision in Colmn 4)	Reason for specificity	Decisions where program was countervailed		Subsidy Range
Export Investment Support Fund	The GOP, as part of its Strategic Trade Policy Framework, has set up the Export Investment Support Fund to assist the eligible export oriented sectors. The program was announced in the Pakistan Federal Budget 2009-2010, in order to channel investments to selected sectors.	The subsidy is specific under s. 2(7.2)(a) and (b) of SIMA as it is export contingent and limited to select industries and SMEs	CBSA (Postassium Silicate Solids)		NA
Quality Assurance and Lab Accreditation Scheme/Compliance Certificate Scheme	The program was established to encourage all exporters/manufacturers to obtain various quality, environmental and social certifications. This program provides eligible manufacturers 50% subsidy on 1st certification; 66% subsidy on 2nd certification; 82% subsidy on 3rd certification; and 100% subsidy on 4th certification.	The scheme is specific under s. 2(7.2)(b) of SIMA as it is export contingent.	CBSA (Postassium Silicate Solids)		NA
Warehouse Scheme	This program was announced under the Trade Policy 2009-2010 through a notification by the Ministry of Commerce, TDAP, to encourage foreign trade. This program provides financial assistance to exporters to establish a warehouse in any country, which is a potential market for Pakistani products by way of funding for one year as per the following: 100% subsidy on 1st quarter; 75% subsidy on 2nd quarter; 50% subsidy on 3rd quarter; and 25% subsidy on 4th quarter.	The scheme is specific under s. 2(7.2)(b) of SIMA as it is export contingent.	CBSA (Postassium Silicate Solids)		NA

Direct Transfer of Funds - Grant

Listing of Pakistani PET Resin Programs

Program Name	Program Description (Source of info is Decision in Colmn 4)	Reason for specificity	Decisions where program was countervailed	Subsidy Range
Export Long Term Fixed Rate Financing Scheme	Preferred loan rates offered to exporting entities by the State Bank of Pakistan.	The scheme is specific under s. 2(7.2)(b) of SIMA as it is contingent upon export performance.	EU (certain polyethylene terephthalate)	NA
Export Finance Scheme from the State bank of Pakistan	This program was acknowledged by the GOP by providing the relevant circulars: i) BSD Circular No. 35/2001 and ii) BSD Circular No.44/1998. The eligibility criteria for this program are found in the BSD Circular No.35/2001. Under this program, any enterprise exporting eligible commodities can avail financing under this scheme at prevailing mark-up rates, which vary between 7.5% to 11% per annum.	The scheme is specific under s. 2(7.2)(b) of SIMA as it is contingent upon export performance.	EU (certain polyethylene terephthalate) CBSA (Potassium Silicate Solids); US DOC (Circular Welded Carbon-Quality Steel Pipe)	NA

Direct Transfer of Funds - Loan

Listing of Pakistani PET Resin Programs

Program Name	Program Description (Source of info is Decision in Colmn 4)	Reason for specificity	Decisions where program was countervailed	Subsidy Range
Land at Concessionary Rates in Industrial Estates and Export Processing Zones	The Export Processing Zones Authority (EPZA) provides land rates in five Export Processing Zones (EPZi8) at reduced rates. The EPZA was established on the February 28, 1980 by the GOP through ordinance, i.e. EPZA Ordinance IV of1980. The EPZA are responsible for administrating the EPZs.	The subsidy is specific under s. 2(7.2)(a) of SIMA as it applies only to the limited number of enterprises located in the EPZ.	CBSA (Postassium Silicate Solids)	NA
Export Processing Zones Incentives and Benefits	In the objective to-accelerate the pace of industrialization in Pakistan and to enhance the volume of exports by creating and enabling an environment for investors to initiate export-oriented projects, the EPZA offers the industries located in EPZs the following incentives: lower rental rates than outside the zone; duty-free machinery and equipment; potential underpayment of duty and sales tax on raw materials and no sales tax on inputs, including electricity and gas.	The subsidy is specific under s. 2(7.2)(a) of SIMA as it applies only to the limited number of enterprises located in the EPZ.	CBSA (Postassium Silicate Solids)	NA
Pakistan Water and Power Development Authority	The GOP denied the existence of this program in <i>Postassium Silicate Solids</i> . However, any manufacturer that would purchase electricity from a SOE at less than fair market value would avail itself a benefit under this program.	The subsidy is specific under s. 2(7.2)(a) of SIMA as it applies only to the limited enterprises purchasing from SOE's.	CBSA (Postassium Silicate Solids)	NA
Karachi Electric Supply Corporation	The GOP denied the existence of this program in <i>Postassium Silicate Solids</i> . However, any manufacturer that would purchase electricity from a SOE at less than fair market value would avail itself a benefit under this program.	The subsidy is specific under s. 2(7.2)(a) of SIMA as it applies only to the limited enterprises purchasing from SOE's.	CBSA (Postassium Silicate Solids)	NA
Purchases from SOE's at LTFMV	The GOP denied the existence of this program in <i>Postassium Silicate Solids</i> . However, any manufacturer that would purchase goods or services from a SOE at less than fair market value would avail itself of a benefit under this program.	The subsidy is specific under s. 2(7.2)(a) of SIMA as it applies only to the limited enterprises purchasing from SOE's.	CBSA (Postassium Silicate Solids)	NA

Government provides goods or services or purchases goods

Listing of Pakistani PET Resin Programs

Program Name	Program Description (Source of info is Decision in Colmn 4)	Reason for specificity	Decisions where program was countervailed	Subsidy Range
Cost of Domestic Inputs Lower than Imported Inputs	The GOP may have a program in place to encourage the purchase of domestic raw materials over imported raw materials. The exporter would benefit from the amount by which the price of domestic raw materials is lower than imported fair market value raw materials. The GOP denied the existence of this program in <i>Postassium Silicate Solids</i> . However, any manufacturer that would purchase raw materials from a SOE at less than fair market value would avail itself of a benefit under this program.	The subsidy is specific under s. 2(7.2)(b) of SIMA as it is limited to enterprises purchasing certain raw materials produced domestically.	CBSA (Postassium Silicate Solids)	NA
Purchases of Goods and Services from the State Bank of Pakistan	The GOP may have provided goods or services to exporters at less than fair market value. The GOP denied the existence of this program in <i>Postassium Silicate Solid</i> . However, any manufacturer that would purchase goods or services from the GOP at less than fair market value would avail itself a benefit under this program	The subsidy is specific under s. 2(7.2)(a) of SIMA as it applies only to the limited enterprises purchasing from SOE's.	CBSA (Postassium Silicate Solids)	NA

Government provides goods or services or purchases goods

Listing of Pakistani PET Resin Programs

Program Name	Program Description (Source of info is Decision in Column 4)	Reason for specificity	Decisions where program was countervailed	Subsidy Range
Manufacturing Bond Scheme	The scheme permits licensees to procure the duty-free import of raw materials for export production in customs manufacturing bonds or otherwise.This program was acknowledged by the GOP through the Customs Rules 2001, issued June 18, 2001, and administered by the Federal Board of Revenue.	The scheme is specific under s. 2(7.2)(b) of SIMA as it is contingent upon export performance, as well as s. 2(7.2)(a) because it is limited to the manufacturing sector.	EU (certain polyethylene terephthalate) CBSA (Postassium Silicate Solids)	2.57%
Imports of plant, machinery and equipment in manufacturing bond	The scheme permits the duty-free imports of plant, machinery and equipment for the manufacturing sector.	The scheme is specific under s. 2(7.2)(b) of SIMA as it is contingent upon export performance, as well as s. 2(7.2)(a) because it is limited to the manufacturing sector.	EU (certain polyethylene terephthalate)	0.01%
Final Tax Regime	This regime permits the withholding of 1% of tax at the time of realisation of foreign exchange proceeds, resulting in the profits from export sales being taxed at a lower rate than profits earned on domestic sales.	The scheme is specific under s. 2(7.2)(b) of SIMA as it is contingent upon export performance.	EU (certain polyethylene terephthalate) CBSA (Postassium Silicate Solids)	1.97%
Excessive Claims of Deductions and Exemptions and Concessions	In <i>Postassium Silicate Solid</i> the GOP denied the existance of this program. However, any exporter that would claim excessive deductions, exemptions and/or concessions beyond what is entitled would avail themselves of a benefit.	The scheme is specific under s. 2(7.2)(b) of SIMA as it is contingent upon export performance.	CBSA (Postassium Silicate Solids)	NA
Excessive Repayments of Customs Duties	In Postassium Silicate Solids the GOP denied the existance of this program. However, any exporter that would claim excessive deductions, exemptions and/or concessions beyond what is entitled would avail themselves a benefit.	The scheme is specific under s. 2(7.2)(b) of SIMA as it is contingent upon export performance.	CBSA (Postassium Silicate Solids)	NA
Drawback and Remission Schemes	Available pursuant to the Duty and Tax Remission Scheme. Under the this scheme, essentially 4 types ofduties and taxes are exempted namely (i) customs duty at 5% (refundable); (ii) Federal Excise Duty at 1% (refundable); (iii) Advance tax at 4% (adjustable); and (iv) Sales tax at 16% (adjustable). Any excess claims or payments made under this schme would result in a benefit to the exporter.	The scheme is specific under s. 2(7.2)(b) of SIMA as it is contingent upon export performance.	CBSA (Postassium Silicate Solids)	NA

Government Revenue Foregone

L 254/10

EN

Official Journal of the European Union

29.9.2010

COUNCIL IMPLEMENTING REGULATION (EU) No 857/2010

of 27 September 2010

imposing a definitive countervailing duty and collecting definitively the provisional duty imposed on imports of certain polyethylene terephthalate originating in Iran, Pakistan and the United Arab Emirates

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community (the 'basic Regulation')⁽¹⁾, and in particular Article 15(1) thereof,

Having regard to the proposal submitted by the European Commission (the Commission) after consulting the Advisory Committee,

Whereas:

1. PROCEDURE

1.1. Provisional measures

- (1) The Commission, by Regulation (EU) No 473/2010⁽²⁾ (the provisional Regulation), imposed a provisional countervailing duty on imports of certain polyethylene terephthalate originating in Iran, Pakistan and the United Arab Emirates (the countries concerned).
- (2) The proceeding was initiated following a complaint lodged on 20 July 2009 by the Polyethylene Terephthalate Committee of Plastics Europe (the complainant) on behalf of producers representing a major proportion, in this case more than 50 %, of the total Union production of certain polyethylene terephthalate.
- (3) As set out in recital (15) of the provisional Regulation, the investigation of subsidisation and injury covered the period from 1 July 2008 to 30 June 2009 (the investigation period or 'IP'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2006 to the end of the IP (period considered).
- (4) In the parallel anti-dumping proceeding, the Commission by Regulation (EU) No 472/2010⁽³⁾, imposed a provisional anti-dumping duty on imports of certain polyethylene terephthalate originating in Iran and the United Arab Emirates.

1.2. Subsequent procedure

- (5) Subsequent to the disclosure of the essential facts and considerations on the basis of which it was decided to impose provisional countervailing measures (provisional disclosure), several interested parties made written

submissions making their views known on the provisional findings. The parties who so requested were also granted the opportunity to be heard.

- (6) The Commission continued to seek and verify all information it deemed necessary for its definitive findings. The oral and written comments submitted by the interested parties following the provisional disclosure were considered and, where appropriate, the provisional findings were modified accordingly.
- (7) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of a definitive countervailing duty on imports of certain polyethylene terephthalate originating in Iran, Pakistan and the United Arab Emirates and the definitive collection of the amounts secured by way of the provisional duty (final disclosure). They were also granted a period within which they could make representations subsequent to this disclosure.
- (8) The oral and written comments submitted by the interested parties were considered and, where appropriate, the findings were modified accordingly.

1.3. Parties concerned by the proceeding

- (9) Some interested parties claimed that the sample of EU producers was not representative and inconsistent and that therefore the injury analysis was deficient. In particular, it was claimed that sampling was not necessary since the number of producers was not large. In addition, it was claimed that by 'artificially' splitting company groups into individual legal entities, the sample would not contain some of the market leaders (Artenius, M&G Polimeri) and that the methodology for the selection of the sample is inconsistent since the sample also included two groups of companies. It was also claimed that the sample was not representative since it did not contain any producer that is selling to a related PET processor in sufficient quantities. As a result, the institutions allegedly could not assess the real supply capability of the Union industry and did not take into account the Union industry's conflict of interest. Moreover, as one company did not provide all necessary information and was excluded from the sample, the representativity allegedly dropped to 28 % of EU production. The same parties claimed that the selected sample was not statistically valid.
- (10) With regard to the argument that sampling was not necessary since the number of producers was not large, it is reiterated that in the sampling exercise 14 Union

⁽¹⁾ OJ L 188, 18.7.2009, p. 93.

⁽²⁾ OJ L 134, 1.6.2010, p. 25.

⁽³⁾ OJ L 134, 1.6.2010, p. 4.

29.9.2010

EN

Official Journal of the European Union

L 254/11

producers belonging to eight groups of companies came forward. Given the objectively high number of EU producers that cooperated, i.e. 14, sampling was applied in accordance with Article 27(1) of the basic Regulation on the basis of the largest representative volume of sales that could reasonably be investigated within the time available. The sample selected consisted of five individual companies (with six producing locations).

- (11) With regard to the first claim concerning the representativity of the sample, it should be noted that the institutions can include individual companies which are part of a company group within the sample as long as they are representative and have separate financial accounts. Otherwise, investigating all fourteen EU producers belonging to the eight groups of companies would have prevented the timely completion of the investigation. However, the fact that two company groups have been included in the sample is not inconsistent with the sampling methodology applied in this case, i.e. the largest representative volumes of sales to EU clients.
- (12) As regards Indorama, this group had two different production plants in the IP – one in the Netherlands and the other one in UK. Including this group in the sample is in line with the sampling methodology applied since those plants formed one entity from the legal and financial perspective. As regards Equipolymers, which had two separate entities producing PET in the IP (one in Italy and another one in Germany), the company reported consolidated figures for both locations. Given that the verification of these consolidated figures was possible during one visit at the company's headquarters, it was decided to treat Equipolymers PET producing companies as one entity for the purpose of this proceeding. With regard to the claim that Artenius and M&G Polimeri had to be included in the sample because they were the market leaders, it is noted that none of their individual entities belonged to the companies with the highest volumes of sales to EU clients.
- (13) As regards the claim that the sample was not representative because it did not include one producer who produces mainly for internal consumption, it should be noted that the capability to supply can be examined in the framework of the Union interest analysis if such a claim is made and for that purpose the captive consumption can be deducted from the production volume. Thus, there is no need to have such a producer in the sample for the examination of certain injury factors. Secondly, any double interest resulting from the position of a company as EU producer and processor at the same time can also be assessed in the Union interest analysis. The position of a company as EU producer and processor is not linked with the performance of the Union industry where sales to unrelated customers in the EU are taken as a benchmark. The claim is thus rejected.

- (14) With regard to the claim concerning the overall representativity of the sample, it is reiterated that the reduction of the sample to four companies lowered the representativity from 65 % to 47 % of the sales by all cooperating producers. The same four companies accounted for 52 % of the Union production. This is considered to be a representative sample of the EU producers in terms of sales to independent customers in the EU.
- (15) As regards the claim that the sample selected was not statistically valid, it is noted that Article 27(1) of the basic Regulation clearly allows for a sample to be based on the largest representative volume of the sales that can reasonably be investigated in the time available, as an alternative for a 'statistically valid' sample.
- (16) In the absence of any other comments concerning the sampling, the findings in recitals (5) to (14) of the provisional Regulation are hereby confirmed.

2. PRODUCT CONCERNED AND LIKE PRODUCT

- (17) It is recalled that, in recital (16) of the provisional Regulation, the product concerned was defined as polyethylene terephthalate having a viscosity number of 78 ml/g or higher, according to the ISO Standard 1628-5, originating in the countries concerned and currently falling within CN code 3907 60 20.
- (18) Moreover, in recital (18) of the provisional Regulation, it was stated that the investigation showed that PET produced and sold in the Union by the Union industry, and the PET produced and sold on the domestic markets of the countries concerned, and exported to the Union were like products.
- (19) Since the product under investigation was considered a homogeneous product, it was not further subdivided into different product types for calculating the injury margins.
- (20) One exporting producer claimed that PET should be subdivided into different product types according to their different viscosity numbers since the viscosity number is essential to determine the different possible applications of the PET type produced. It was considered that the claim should be accepted and the methodology for calculating injury margins was adapted accordingly.

3. SUBSIDISATION

3.1. Iran

3.1.1. Introduction

- (21) The Government of Iran and the cooperating exporting producer submitted comments on the following schemes, countervailed in the provisional Regulation:
- (I) Measures connected to Special Economic Zones ('SEZs') – Petrochemical SEZ

L 254/12

EN

Official Journal of the European Union

29.9.2010

(II) Financing from National Petrochemical Company to the PET exporting producer

3.1.2. Specific Schemes

(I) Measures connected to Special Economic Zones (SEZs) – Petrochemical SEZ

- (22) The Government of Iran (GOI) disputed that duty-free imports in Free Trade Zones of raw materials and capital goods can be countervailed. Free Trade Zone and Special Economic Zones are by definition duty-free zones for import and export, compatible with the WTO. Besides, the GOI as well as the cooperating exporting producer asserted that the import of duty-free capital goods is not contingent in law on export performance because this exemption exists also for the companies established in the rest of the Iranian territory.
- (23) With respect to the compliance of SEZs with WTO rules, it is noted that the general argument submitted cannot dispute the established facts that the subsidies in question are countervailable as no elaborated analysis was provided to rebut the one presented in the provisional Regulation. With regards to the duty-free importation of capital goods in Iran, the information at the time submitting comments on the provisional disclosure suggests that this possibility exists only for companies that are modernizing their infrastructure, i.e. it is not an automatic provision applicable to all parties. Therefore, the above claims had to be rejected.
- (24) The cooperating exporting producer argued that the Commission disregarded the principle of non-discrimination given that similar rules and regimes are also applied in other countries. The company also claimed that the Commission did not correctly inform it of the scope of the verification visit and the corresponding information requirements before such verification.
- (25) As regards the general allegation of violation of the principle of non-discrimination, it is recalled that the Commission initiated this anti-subsidy investigation against the three countries mentioned in the complaint in line with the provisions of Article 10 of the basic Regulation. Thus the Commission's recommendation could only be based on the findings of this investigation. As to the alleged lack of advance information on the points to be investigated, it is noted that the Commission informed the cooperating exporting producer well in advance of the verification visit that it would seek information during the verification visit on the relationship between the exporting producer and its shareholder. Therefore, these claims had to be rejected.
- (26) The cooperating exporting producer brought to the attention of the institutions two clerical mistakes in the calculation of the duty exemption on imports of one raw

material of the production process and in the total import value of capital goods exempted. Those errors are herein corrected. The revised subsidy rates are 0,14 % for the duty-free import of input products and 0,72 % for the duty-free import of capital goods. The revised total subsidy rate for this scheme is 0,86 %.

- (27) In the light of the above and in the absence of any other relevant comments, the findings in relation to this scheme as set out in recitals (20) to (44) of the provisional Regulation, as modified by recital (26) of this Regulation, are hereby confirmed.
- (II) Financing from National Petrochemical Company to the PET exporting producer
- (28) The cooperating exporting producer (Shahid Tondguyan Petrochemical Co. or STPC) claimed that its main shareholder, National Petrochemical Company (NPC), is not a public body and that the GOI neither entrusted nor directed NPC to make payments to STPC. In addition, it was submitted that the NPC financing to the STPC has to be considered as repayable and thus not a subsidy.
- (29) In addressing these claims, it should be recalled that, in order to assess whether an entity should be considered as a public body for purposes of anti-subsidy investigations, the following factors are relevant: 1) government ownership; 2) the government's presence on the entity's board of directors; 3) the government's control over the entity's activities and the entity's pursuit of governmental policies or interests; and 4) whether the entity is created by statute. All these requirements have been analysed as reported in recital (52) of the provisional Regulation. The NPC, as a government body, does not need entrustment or delegation, concepts that refer to private entities. In fact the investigation has established that NPC's role is to develop and operate the country's petrochemical sector and that the company has received from the GOI the additional task of managing as a state administrative authority the Petrochemical Special Economic Zone. Thus any claim disputing NPC's public body role has to be rejected.
- (30) With regards to the claim that the financing to STPC is repayable, it is pertinent to note that the investigation has established that the repayment of this funding is only a hypothetical allegation as no evidence was provided at any stage of the proceeding that such repayment has materialized. Indeed, as explained in the recital (51) of the provisional Regulation, the fact that the non-repayable funds have been accumulated since at least 2004 confirms that this is a recurring subsidy, the purpose of which is to keep in operation the sole cooperating Iranian exporting producer. Account taken of the above, the relevant claim has to be rejected.
- (31) The cooperating exporting producer also argued that the subsidy amount was overstated. To this respect it was claimed that it is a perfectly normal business practice

29.9.2010

EN

Official Journal of the European Union

L 254/13

in Iran not to add interest between a parent company (in this case NPC) and its subsidiary (in this case STPC). It was also argued that when calculating the subsidy rate the amounts used on total funding provided by NPC and total turnover of STPC were not correct as the turnover figure was understated and that another amount should have been used while the total funding provided was overstated as certain amounts should not to be attributed to the funds provided from NPC to STPC.

- (32) The above claims had to be rejected. With respect to the former claim concerning the interest rate calculations, it is noted that evidence gathered does not uphold the company's claim that the normal business practice in Iran is that no interest is added between a parent company and its subsidiary in their funding transactions. Moreover, any such practice is clearly inconsistent with the usual economic practice of private investors.
- (33) As regards the latter argument, it is pertinent to note that the subsidy amount has been calculated by using the financing and turnover figures provided by the cooperating exporting producer and verified during the verification visit.
- (34) With respect to the alleged new total turnover it is recalled that the figure provided at the time of submitting comments on the provisional Regulation is not substantiated by any verifiable evidence and does not tally with what the company has reported prior to and during the verification visit.
- (35) With respect to the total funding figure, the cooperating exporting producer argued that certain amounts should not be considered as forming part of NPC's funding to STPC. Nevertheless the information provided could not corroborate this claim as no evidence was provided to prove that the amounts in question were not relevant to NPC's funding to STPC. In fact part of the explanations given reconfirmed that NPC was acting as a public body taking up obligations for financing the cooperating exporting producer without charging any interest that should have been honoured by another public body. Therefore, no deduction from the total financing amount can be granted since no verifiable evidence was provided.
- (36) The GOI claimed that pursuant to Article 14 of the WTO Agreement on Subsidies and Countervailing Measures (SCM Agreement), 'government provision of equity capital ... [and] loan by government shall not be considered as conferring a benefit ...', so the NPC financing to SPTC should not be considered a subsidy. This claim has to be rejected since the same abovementioned Article 14 concludes that 'the government provision of equity capital shall not be considered as conferring a benefit, unless the investment decision can be regarded as inconsistent with the usual investment practice of private investors in the territory of that

Member'. This practice is indeed inconsistent with the usual investment practice of private investors since no commercial organisation in any WTO Member would conceivably continue to provide such non-repayable funding. In any event it should be noted that Iran is not a WTO member.

- (37) In the light of the above and in the absence of any other relevant comments, the findings in relation to this scheme as set out in recitals (45) to (57) of the provisional Regulation are hereby confirmed.

3.1.3. Amount of countervailable subsidies

- (38) Account taken of recitals (21) to (37) above, the definitive amount of countervailable subsidies in accordance with the provisions of the basic Regulation, expressed *ad valorem*, for the sole cooperating Iranian exporting producer is 51,88 %.

3.2. Pakistan

3.2.1. Introduction

- (39) The Government of Pakistan (GOP) and the cooperating exporting producer submitted comments on the following schemes, countervailed in the provisional Regulation:
- (I) Manufacturing Bond Scheme
 - (II) Imports of plant, machinery and equipment in Manufacturing Bond
 - (III) Tariff protection on purchases of PTA in the domestic market
 - (IV) Final Tax Regime (FTR)
 - (V) Export Long-Term Fixed Rate Financing Scheme (LTF-EOP)
 - (VI) Export Finance Scheme from the State Bank of Pakistan (EFS)
 - (VII) Finance under F.E. Circular No 25 of the State Bank of Pakistan.
- (40) The GOP as a preliminary remark submitted that the Commission has failed to grasp or overlooked its past submissions on the subsidy schemes. The cooperating exporting producer as a preliminary remark argued that the past submissions of the GOP provided a reasoned legal analysis demonstrating that the schemes should not be considered as 'prohibited' subsidies. It was also argued by this party that the Commission based its findings in the provisional Regulation not only on an incorrect appraisal of factual elements but rather on an incorrect legal analysis as well. It was further claimed that the correct legal analysis was the one presented by the GOP.

- (41) With respect to submissions prior to the provisional Regulation, it is noted that the Commission has fully taken them into consideration during the process of the investigation as they formed part, together with the relevant questionnaire replies of the parties and subsequent data provided, of the information on the basis of which the provisional determination was made.
- (42) Furthermore, it is noted that the Commission has accurately listed the legal provisions of the relevant schemes and the practical implementations derived from them. No evidence was provided that the legal provisions listed were not accurate. As to the Commission's legal analysis, this was based on the relevant provisions of the basic Regulation and reinforced by the long-standing legal analysis used by the EU in past anti-subsidy investigation when analysing for example duty drawback schemes, export credit schemes and income tax schemes⁽¹⁾. The fact that a party does not agree with the presented legal analysis does not imply that this analysis is incorrect, especially when no evidence is provided to corroborate this claim. This is even more obvious since the GOP expressed with its submission to provisional Regulation its willingness to amend to the extent possible a number of schemes. Account taken of the above the claims presented in recital (40) had to be rejected.
- (44) In regard to this scheme, as stated in recital (70) of the provisional Regulation, the relevant record of input goods received, manufactured and exported was not kept on the basis of actual consumption. Only the theoretical consumption was registered, according to an Analysis Certificate, with input-output ratios of all the raw materials for producing 1 000 kg of outputs. These input-output norms are set out by the authorities and periodically reviewed on the basis of information derived from the cooperating exporting producer but there are no clear rules and no evidence of how these reviews are performed. In addition, following the revisions made on the Analysis Certificate which indicated the existence of excess remission no follow-up action was taken by the authorities to verify the totality of the previous actual consumption and to request payments made for the previous years. In other words no control of any excess remission on the duties foregone was performed. The cooperating exporting producer alleged that the excess raw materials accounted in the previous period was added back to update the stock-in register, thus obtaining the actual stock. It is worth noting that this practice relies on the fact that it is the exporting producer that, by its own initiative, proceeds to show to the relevant authority the excess remission accumulated in the previous period. More interestingly, this practice was not in any way foreseen in the legislative provisions disciplining this scheme. All the above confirms that no effective implementation and monitoring system exist for this scheme. In these circumstances, all the relevant claims had to be rejected.
- 3.2.2. *Specific Schemes*
- (I) *Manufacturing Bond Scheme*
- (43) The GOP and the cooperating exporting producer reiterated their views that the Manufacturing Bond scheme is properly managed thanks to the existence of an effective implementation and monitoring system that records consumption/deduction and controls duty-free raw materials and the company's actual consumption as per its total production records. It was also submitted that the input/output ratio is based on actual consumption of the relevant company availing the benefits of the scheme and that the record on input is subject to verification. According to these claims the input/output ratio was established with a verified benchmarking system that was regularly updated on the basis of company's actual consumption. After any change in the ratio, the excess remission of the previous period was added back to update the stock-in register, thus obtaining the actual stock, and it is on the basis of such actual stock that the company availing benefits under the scheme must demonstrate the export of finished products. Furthermore, the cooperating exporting producer submitted two letters in which it disclosed to the Customs authorities the materials saved in the Manufacturing Bond showing that the company was allowed to utilise the resultant excess input materials for the manufacturing of goods for export in the future.
- (45) Both parties argued also that the customs duty under the normal import regime was zero during the IP and thus no government revenue is foregone on imports of PTA under Manufacturing Bond.
- (46) This claim had to be rejected. It is clear from the information submitted by parties that the normal customs duty on imports of PTA is 7,5 %. By derogation and under certain conditions parties may avail of a zero duty rate. The fact that the GOP has established the Manufacturing Bond scheme or the scheme on Tariff protection on purchases of PTA does not in any way imply that the customs duty rate for all imports of PTA is zero. In fact, the existence of the aforesaid schemes confirms that there is revenue forgone for the government and this is the reason why special derogation schemes with specific rules and eligible users have been implemented.
- (47) The cooperating exporting producer also claimed that there was no breach of Article 349 of Chapter XV of the Pakistani Customs Rules 2001. In this respect it was submitted that the Manufacturing Bond covers all the company's factory and thus the premises of the

⁽¹⁾ See for example Council Regulations (EC) No 713/2005 (OJ L 121, 13.5.2005, p. 1) and (EC) No 1176/2008 (OJ L 319, 29.11.2008, p. 1).

29.9.2010

EN

Official Journal of the European Union

L 254/15

warehouse fulfilled the relevant rules requesting an independent area having an independent entry or exit from a public area and having no other entry or exit with the manufacturing area and separate stores of finished goods, rejects and waste clearly ear-marked in the premises.

- (48) With regards to the above comments, it has to be reiterated that the verification visit revealed that only the raw materials imported duty-free were separated from locally procured input goods. The premises of the warehouse, that is the bonded warehouse and the manufacturing bond, were not in an independent area having an independent entry or exit from a public area and having no other entry or exit, as prescribed in Article 349 mentioned above. Furthermore the party's claim that its entire factory is under Manufacturing Bond is not based on any verifiable evidence (e.g. an explicit permit on the surface of the Manufacturing Bond) apart from an analysis of the wording of Article 349. Thus, the relevant claims had to be rejected.

- (49) The GOP provided very recent administrative changes in relation to this scheme. It has introduced a more detailed definition of the Manufacturing Bond in the legislation and has taken steps to enhance the relevant authority's control on the scheme.

- (50) With respect to the control exercised by the authority on the Manufacturing Bond, the changes introduced do not address the most critical flaws of the system as identified by the current investigation i.e.: (i) the lack of reporting of the actual consumption of raw materials imported and (ii) the lack of a verification system that focuses on the actual results rather than the historically set standards. Furthermore, as the implementation of any change made with respect to this scheme needs to be properly verified (the problems identified refer also to the management of the scheme) a certain period of time would be necessary before making any conclusive ruling on the amendments made to the scheme and the way the authorities have implemented these amendments and ensured a properly managed verification system.

- (51) The GOP expressed also its willingness to provide the Commission with an undertaking concerning the concrete implementation of the rules applicable to the Manufacturing Bond. It was proposed that this would take the form of providing evidence that the cooperating exporting producer complies with the new rules (e.g. changes in the premises, revision of input/output ratios, remission of duties), providing periodical reports and allowing for verifications visits by the Commission.

- (52) As regards the above it is noted that by this undertaking proposal the GOP indirectly confirms all the flaws highlighted by the provisional Regulation with respect to this scheme. In addition, as it is stated at recital (50) above it is not possible to accept an undertaking referring to the management of a scheme on the basis of evidence that would materialise only in the future. Finally, such an undertaking is not practical because the necessary monitoring would effectively require repeating important parts of the investigation on a regular basis. In this respect it should be highlighted that the GOP and/or the cooperating exporting producer may request, should the relevant provisions of Article 19 of the basic Regulation be fulfilled, an interim review of the measures.

- (53) In the light of the above and in the absence of any other relevant comments, the findings in relation to this scheme as set out in recitals (60) to (80) of the provisional Regulation, as modified in recitals (44) to (52) above, are hereby confirmed.

(II) Imports of plant, machinery and equipment in Manufacturing Bond

- (54) Concerning this scheme both parties claimed that the interest rate used to calculate the subsidy margin has to be the interest rate available to the concerned exporter during the IP. Further, the parties argued that as the plant, machinery and equipment were used for the production of PET meant for exports as well as domestic sales, the subsidy margin should be determined on the basis of the total turnover of the exporting producer.

- (55) In replying to these claims it should be noted that the interest rate used in the calculation is the commercial interest rate applied during the IP in Pakistan, as sourced from the website of the State Bank of Pakistan. This rate represents the normal credit rate prevailing in the market. With regards to the denominator in the subsidy calculation, it has to be recalled that the precondition to avail of the scheme is to install the imported machinery in the Manufacturing Bond which is a system of duty-free import of raw materials used only for subsequent export of the production under the Manufacturing Bond. Thus, the subsidy amount (nominator) has to be allocated over the total export turnover during the IP because the subsidy is contingent upon export performance. Consequently, all the above claims had to be rejected.

- (56) In the light of the above and in the absence of any other relevant comments, the findings in relation to this scheme, as set out in recitals (81) to (92) of the provisional Regulation, are hereby confirmed.

L 254/16

EN

Official Journal of the European Union

29.9.2010

(III) Tariff protection on purchases of PTA in the domestic market

(57) The GOP argued that the price of locally produced PTA is not reduced by 7,5 % over the international price and that the refund is not only given for domestically-produced PTA but also for imported PTA. The cooperating exporting producer argued that the scheme allows refund of customs duties for both locally-procured as well as imported PTA and thus the scheme does not favour procurement of domestically-produced PTA. It was also argued that the legislation does not limit access to this scheme.

(58) The above arguments had to be rejected. In this regard it is noted that this scheme provides a financial contribution in the form of a direct transfer of funds that confers a clear benefit upon the recipient company. By analyzing the information submitted by the GOP, it is clear that an eligible company may: (i) buy in the domestic market PTA and receive a compensatory support of a portion equal to 7,5 % of the price paid for PTA purchases manufactured locally or (ii) import PTA and receive a refund of the applicable customs duty (7,5 %) paid on imports of PTA. Nevertheless, the latter option is not permitted if the eligible company uses a duty drawback scheme (e.g. Manufacture Bond) on imports of PTA. It is clear from the above that the cooperating exporting producer was de jure forced to use this scheme only for its purchases of domestically-procured PTA as it was using in parallel the Manufacturing Bond scheme for its imported PTA.

Furthermore it is obvious that even in cases where one eligible company makes use of both available options of the scheme (i.e. by denouncing the possibility to use the drawback scheme of Manufacturing Bond) it is clear that the refunds that one would expect to receive would have been different as in one case the rate is calculated on a full domestic invoice price while on the other case it is calculated on the declared value at customs that is not necessarily the full invoice price. No verifiable evidence was provided that could undermine the aforesaid conclusions. Finally, with respect to the argument that there are no restrictions in the access of the scheme, the investigation has established that the relevant legislation clearly listed by name the eligible parties. In any event, domestically-produced PTA is not subject to any duty and therefore the 7,5 % 'refund' is a direct transfer of funds, or a pure grant. The only way for a producer of PET to obtain this subsidy, i.e. the grant, is to purchase domestically-produced PTA. On the other hand, any 'refund' of customs duty on imported PTA is an exemption of a payment normally due, not a direct transfer of funds; therefore, there is no equivalence between the two situations.

(59) Consequently, the scheme confers a clear benefit to the domestic buyer i.e. the producer of PET by means of a direct transfer of funds and it is specific, within the

meaning of Article 4(4)(b) of the basic Regulation, given that the subsidy is contingent upon the use of domestic over imported goods, since only domestic goods are eligible for the direct grant. Furthermore, this subsidy can also be considered specific within the meaning of Article 4(4)(a) of the basic Regulation, given that the legislation itself explicitly limits access to this scheme to certain enterprises belonging to the polyester industry.

(60) In relation to this scheme, the GOP provided with its comments on the provisional Regulation a Government Order issued on 28 June 2010 stating that the SRO No 1045(I)/2008 has been repealed with effect from 1 July 2010. The GOP submitted that this development will ensure that no refund on domestically procured or imported PTA is allowed or will be allowed anymore to the users of PTA.

(61) Furthermore, a press clipping submitted on the same matter from the cooperating exporting producer appears to suggest that the GOP decided to withdraw the regulation relevant to this scheme in order for Pakistan to meet international standards in this regard. The cooperating exporting producer corroborated the information provided by GOP by data confirming that starting from 1 July 2010 it is not possible anymore to receive the relevant grant when purchasing domestically-produced PTA. In this respect it is recalled that in line with Article 15 of the basic Regulation no measure shall be imposed if the subsidy is withdrawn or it has been demonstrated that the subsidy no longer confers any benefit on the exporters involved. It is obvious from the above information that Pakistan in substance accepts that the points highlighted by the provisional Regulation with respect to this scheme called for corrective action from its side, that the GOP has terminated the scheme and that the cooperating exporting producer is not receiving any benefits related to this scheme. Under these circumstances it is considered that the conditions set out by Article 15 of the basic Regulation are met and thus this scheme should not be countervailed.

(62) In the light of the above and in the absence of any other relevant comments, the findings in relation to this scheme as set out in recitals (93) to (105) of the provisional Regulation, as modified in recitals (58) to (61) above, are hereby confirmed.

(IV) Final Tax Regime (FTR)

(63) Both parties claimed that this scheme constitutes a different taxation system and should not be countervailed given that Pakistan has sovereignty of taxation and is free to apply the taxation system it wishes. It was also argued that the FTR does not imply any financial contribution to any company and it is a generalised rule of taxation in Pakistan (a withholding tax of 1 % at the time of the realisation of foreign exchange proceeds) that operates under a different concept and on a different basis as compared to the Normal Tax Regime (NTR) which provides for a taxation at 35 % on the domestic income. According to these parties it is not possible to determine which of the two systems is more favourable

29.9.2010

EN

Official Journal of the European Union

L 254/17

and thus the FTR does not result in revenue foregone or not collecting government revenue that is otherwise due.

- (64) With respect to these claims, it should be noted that it is not Pakistan's sovereignty that is questioned, but the alleged subsidies granted to certain exporting producers. Moreover, it should be recalled that profits from exports are taxed in a different way from those earned on domestic sales. To the extent that this tax regime results in profits from exports being taxed at a lower rate than those earned on domestic sales, this scheme is considered to be a subsidy within the meaning of Article 3(1)(a)(ii) and Article 3(2) of the basic Regulation in the form of forgone government revenue that confers a benefit upon the recipient company. It is also a specific subsidy under Article 4(4)(a) given that it is contingent upon export performance.
- (65) In addition, the cooperating exporting producer provided a set of calculations made in excel format for the years 2008 and 2009 and a notice of tax demand and assessment order issued by the Deputy Commissioner of Income Tax which revised a set of figures of the company's 2008 income tax return statement. The GOP corroborated the claims of the cooperating exporting producer by arguing that the provided calculations show that the cooperating exporting producer has paid more tax under the FTR regime compared to what it would have paid in case of application of the NTR regime.
- (66) These arguments had to be rejected. Firstly, the calculations provided do not form part of the company's income tax return statement or any other official tax authority document. Thus there is no verifiable evidence that they accurately picture the income tax obligations of the cooperating exporting producer.
- (67) Secondly, an analysis of the submitted official tax documents (notice of tax demand and assessment order) does not in any way confirm the claims made by parties on the levels of tax due under the different tax regimes.
- (68) With respect to the submitted documentation referring to 2008, the parties have failed to show how the amounts presented can accurately tally with the company's 2008 income tax return statement and the two documents issued subsequently by the relevant tax authorities. With respect to the latter documents they appear to confirm that the company is requested to pay an income tax amount on its domestic income. Nevertheless, it is not at all clear from the submitted information that this tax amount (or any other tax amount) was actually paid or if the company has

appealed the above-mentioned tax notice. It is also not clear how the amounts submitted in the excel calculations could tally either with the company's income tax return statement or with the tax authority's assessment order. In any event even if one was to accept that the amount set in the notice of tax demand was paid, this would not alter the conclusion that the cooperating exporting producer paid less tax than it would have paid if the 35 % rate was applied to export income.

- (69) With respect to the submitted documentation relating to 2009 it is noted that the parties have not provided the cooperating exporting producer's 2009 income tax return statement. Instead of providing the official tax declarations and return statements, an Excel calculation was provided as evidence. Such kind of information is clearly non verifiable and cannot corroborate any claim made for post IP income tax developments. In this respect it should be highlighted that the GOP and/or the cooperating exporting producer may request, should the relevant provisions of Article 19 of the basic Regulation be fulfilled, an interim review of the measures.
- (70) However, when calculating the subsidy amount under the FTR, a clerical error referring to the cooperating exporting producer's export income as stated in the company's 2008 income tax return statement was discovered. This was corrected accordingly. The subsidy rate established with regards to this scheme during the IP for the exporting producer amounts to 1,97 % (instead of 1,95 %).
- (71) In the light of the above, and in the absence of any other relevant comments, the findings in relation to this scheme as set out in recitals (106) to (116) of the provisional Regulation, as modified in recital (70) above, are hereby confirmed.

(V) Export Long-Term Fixed Rate
Financing Scheme (LTF-EOP)

- (72) Both parties claimed that the interest rate used to calculate the subsidy margin of this financing scheme has to be the interest rate available at the time the exporting producer was negotiating the fixed rate financing, namely the rate in the year 2004-2005. Furthermore, the denominator used to calculate the provisional subsidy margin should be the total company turnover rather than the total export turnover, given that the same manufacturing facilities which are financed under the LTF-EOP are used to produce both domestic and exported goods.

(73) These claims had to be rejected. First of all, it should be clarified that the rate used in the calculation is the commercial interest rate which prevailed during the IP in Pakistan, as sourced from the website of the State Bank of Pakistan. The financing negotiated in 2004/2005 was drawn down in tranches by the exporter concerned. When calculating the subsidy amount the amount of credit drawn down for the IP, as reported by the cooperating exporting producer, was used. When examining the benefit received by a party during a specific IP the applicable commercial credit rate prevailing in the market during the IP is normally compared to the rate paid on the loan received during the IP, and this was done here. With regards to the denominator in the subsidy calculation, it has to be recalled that a precondition to benefit from the scheme is that the company has to export directly or indirectly at least 50 % of its annual production. Thus, the subsidy amount (nominator) has to be allocated over the export turnover of the product concerned during the IP because the subsidy is contingent upon export performance.

(74) In the light of the above and in the absence of any other relevant comments, the findings in relation to this scheme as set out in recitals (117) to (133) of the provisional Regulation are hereby confirmed.

(VI) Export Finance Scheme from the State Bank of Pakistan (EFS)

(75) The Government of Pakistan submitted that the PET sector was excluded from this scheme by a decision taken by the State Bank of Pakistan on 28 June 2010. It was thus argued that this scheme is in line with the provisions of Article 15 of the basic Regulation and that the Commission should not countervail since it is demonstrated that the subsidy is withdrawn. To this matter the cooperating exporting producer argued that pursuant to the State Bank of Pakistan (SBP) Circular No 09 of 2010, dated 28 June 2010 the company has repaid the entire amounts of EFS financing and there is no amount outstanding on 30 June 2010 with respect to the EFS.

(76) With respect to this claim it is recalled that Article 15 of the basic Regulation states that no measures shall be imposed if the subsidy is withdrawn or it is demonstrated that the subsidy no longer confers a benefit on the exporter involved. With respect to the submitted documentation relevant to the EFS facility it is noted that indeed the decision of the State Bank of Pakistan states that banks may not allow financing facilities for PET under this scheme. The relevant text also states that existing facilities granted to exporters will remain valid up to the maturity date of the respective loans while the export performance of companies will be taken into account for the companies' borrowing during 2009-2010 and for entitlements up to 2011.

As regards these points the GOP clarified, by providing the necessary documentation, that companies which do not hold short-term loans under this scheme within the Pakistani Financial Year 2009-2010 (i.e. up to 30 June 2010) are not entitled to any benefit in the transitional period up to 2011. As to the claim that the cooperating exporting producer has no outstanding financing under the EFS it is noted that this claim has been substantiated with a set of evidence provided by the relevant banks and complemented by the company's chartered accountant. Account taken of the above, it is concluded that the parties were in a position to demonstrate that the EFS scheme no longer confers any benefit on the exporter involved. Thus the conditions lay down in Article 15 of the basic Regulation are fulfilled and the claims made were considered warranted. It was therefore concluded that this scheme should not be countervailed.

(77) The cooperating exporting producer also claimed that the interest rate used to calculate the subsidy margin has to be the short-term interest rate available to the company during the IP. It was also argued that the finance obtained is used to meet the overall financing needs of the company's current assets for both domestic and export sales and thus the denominator in the subsidy margin calculation should be the total company's turnover.

(78) These claims had to be rejected. It is recalled that the rate used in the calculation is the commercial interest rate applied during the IP in Pakistan, as sourced from the website of the State Bank of Pakistan. This rate represents the normal credit rate prevailing in the market. With regards to the denominator in the subsidy calculation, it is noted that the precondition to avail of the scheme is either the fulfilment of specific export transactions or the overall export performance. Thus, the subsidy amount (nominator) has to be allocated over the total export turnover during the IP because the subsidy is contingent upon export performance.

(79) In the light of the above and in the absence of any other relevant comments, the findings in relation to this scheme as set out in recitals (134) to (148) of the provisional Regulation, as modified in recitals (75) to (78) above, are hereby confirmed.

(VII) Finance under F.E. Circular No 25 of the State Bank of Pakistan

(80) Both parties submitted that there is no intervention of the State Bank of Pakistan in this scheme, that commercial banks provide financing in foreign currency without preferential interest rates and that the scheme is not contingent upon export performance since both exporters and importers may use it.

29.9.2010

EN

Official Journal of the European Union

L 254/19

- (81) The arguments provided were analysed in the light of the relevant legal provisions and practical implementation of the scheme and they were found warranted. It was therefore concluded that this scheme should not be countervailed. Since the scheme under F.E. Circular No 25 of the State Bank of Pakistan will not be countervailed, it is not necessary to respond to the corresponding disclosure comments.

3.2.3. Amount of countervailable subsidies

- (82) Account taken the above, the definitive amount of countervailable subsidies in accordance with the provisions of the basic Regulation, expressed *ad valorem*, for the sole cooperating Pakistani exporting producer is 5,15 %.

3.3. United Arab Emirates (UAE)

3.3.1. Introduction

- (83) The Government of the UAE (GUAE) and the cooperating exporting producer submitted comments on the following schemes, countervailed in the provisional Regulation:

(I) Federal Law No 1 of 1979

(II) Free Trade Zone (FTZ).

3.3.2. Specific Schemes

(I) Federal Law No 1 of 1979

- (84) The GUAE submitted that the scheme under Federal Law No 1 of 1979 is broadly and horizontally available to all industrial sectors and enterprises in the UAE and is granted without any exemption. The cooperating exporting producer submitted that the licence issued under the Federal Law No 1 of 1979 constitutes the precondition to exist and operate in the UAE.
- (85) With respect to the above it is noted that the investigation established that industrial undertakings in the UAE could operate under various types of licences. Indeed, apart from the licence granted under Federal Law No 1 of 1979, an industrial undertaking may operate under a licence issued by the regional authorities in the specific emirate where it is established. This was the case for the cooperating exporting producer who holds a licence issued by the Government of the Ras al Khaimah Emirate. Furthermore, an industrial undertaking could operate under a Free Trade Zone where no licence is required under the aforementioned law. Thus, it is not correct to say that all industrial undertakings in the UAE operate under Federal Law No 1 of 1979. Thus it is not proved that the allocation of the scheme is automatic and the relevant claim has to be rejected.

- (86) Both parties argued that the requirements provided in the law are just the necessary preconditions for any industrial project to operate in the country and not to obtain the exemptions from payment of customs duties and thus the Commission's analysis in the provisional Regulation of Articles 12, 13 and 21 of the Federal Law No 1 is erroneous. The GUAE also submitted that with respect to Article 13 the term 'considered' has no mandatory meaning in the Arabic version of the law. The GUAE also argued that Articles 11 and 12 of the aforesaid law were never applied in practice as the Technical Committee responsible for recommending to the Minister on the applications has never been established. It was also submitted that the role of the Industrial Development Department is set out in the User Manual of the Electronic Industrial System issued by the Ministry, as mentioned in recital (173) of the provisional Regulation.

- (87) These claims had to be rejected. It is noted that Articles 13 and 21 of the law form part of the step-by-step process foreseen in the analysis for the Industrial Licence under Federal Law No 1 of 1979. With respect to Articles 11 and 12 it is noted that these articles set out the role and responsibilities of the various bodies of the state authority issuing the Industrial Licence under Federal Law No 1 of 1979. The fact that a body has never been established although it is foreseen by the law and it is responsible for: (i) assessing the input provided by the Industrial Development Department and (ii) recommending to the Minister the approval or rejection of applications, confirms that the legislation pursuant to which the granting authority operates is in practice not followed and thus there is no legal certainty on the way the subsidy is granted. Moreover, in fact the claim of the GUAE with respect to the Technical Committee is contradictory to previous claims according to which the Minister requested this committee to provide comments on a possible revision of the law. With respect to the definition of the word 'considered' in Article 13 of the Federal Law it is noted that the English version was the only text provided by the GUAE during the investigation. Moreover, it only submitted subsequent to the provisional disclosure that there may be differences in definitions between English and Arabic texts. The fact that the two versions of the text raise doubts on certain parts of the eligibility criteria is again a clear indication that there is no legal clarity on the criteria and conditions governing the eligibility of the subsidy. With respect to the role of the Industrial Development Department it is noted that no new information was submitted that could undermine the findings of the investigation.

- (88) The GUAE submitted that its industrial statistics prove that there are more than 4 000 industrial firms registered under Federal Law No 1 of 1979. Both parties argued that the Commission failed to provide positive evidence that the UAE authorities have exercised discretion in granting or rejecting applications to the scheme.

L 254/20

EN

Official Journal of the European Union

29.9.2010

- (89) These claims had to be rejected. It is noted that the investigation has established that the granting of Industrial Licence under Federal Law No 1 of 1979 is not automatic and that the rules governing the granting process for choosing recipients are not objective. Account taken of the fact that the scheme was found to be specific in line with the provisions of Article 4(2)(a) and 4(2)(b) of the basic Regulation, it was up to the GUAE to prove, in line with the provisions of Article 4(2)(c) of the basic Regulation, its claim that the requests from all parties that have submitted applications for Industrial Licence under Federal Law No 1 of 1979 since the enactment of the law have been approved. No such verifiable information was ever provided.
- (90) Both parties claimed that all industrial undertakings in the UAE obtain customs duty exemptions for their production. The cooperating exporting producer also claimed that the WTO Trade Policy Review on the UAE, published in 2006, has analysed the Federal Law No 1 of 1979 and found that custom duties exemptions are granted to all industrial concerns. It was also argued that there are controls of the system as Industrial Licences are renewed every year, companies under the scheme report the imported duty-free materials and authorities reject duty-free imports if inputs are not related to production.
- (91) These claims had to be rejected. It is pertinent to note that customs duty exemptions are granted to companies availing of the scheme under Federal Law No 1 of 1979 and the normal customs duty rate for the raw materials is not zero. The cooperating exporting producer has failed to demonstrate how a general statement in the WTO Trade Policy Review document is more accurate than the detailed analysis, based on the verification visit, provided in the provisional Regulation explicitly on the eligibility and practical implementations of the Federal Law No 1 of 1979. Even more importantly, the investigation has established that the authorities act in a discriminatory way when managing the importation of duty-free materials under the scheme. Indeed since there are no rules on the way requests to duty-free imports are accepted or rejected and in view of the absence of an effective verification system on the management of the scheme, it is unclear why one party at a certain time may be allowed to import duty-free while at some other date it may be refused to import duty-free. In fact this was the case for the cooperating exporting producer who was requested from time to time to pay duties without any justification provided by the granting authority. Therefore the two parties have failed to provide any evidence to corroborate their claims on the management of the scheme and allocation of duty-free imports.
- (92) It was also submitted that the scheme is governed by objective criteria, namely the requirement that the duty exemption can only concern imported goods used for the industrial undertaking's production. This claim had to be rejected since, as it is explained under recitals (89) and (91) above, no such objective criteria have been demonstrated to exist.
- (93) The GUAE submitted that the Federal Law No 1 of 1979 is under revision and that this information was provided to the Commission. It was also argued that the Commission has disregarded the information and documents submitted by GUAE and did not provide arguments and positive evidence on the facts and law which led to its conclusions.
- (94) With respect to the above it is noted that the Commission has closely evaluated and analysed all information provided by the parties. With respect to the revision of the Federal Law No 1 of 1979 it is pertinent to note that the text provided by GUAE is an internal draft document of the Ministry of Finance and Industry. As such it has no legal value. The investigating authority is bound to analyze the actual legal provisions and the way these are implemented and not a non-binding draft that has not been approved by the administrative and legislative branches of the UAE and has not been enacted. Even more importantly, the fact that the GUAE is currently working on a possible revision of the Federal Law No 1 of 1979 confirms that the authorities have realised that there is a need, as the GUAE has stated, to remove any inconsistency with the WTO Agreement on Subsidy and Countervailing Measures.
- (95) In the light of the above, the findings in relation to this scheme as set out in recitals (166) to (183) of the provisional Regulation are hereby confirmed.
- (II) Free Trade Zone (FTZ)
- (96) Both parties submitted that all enterprises in the UAE are granted duty-free imports of capital goods.
- (97) In this respect it is noted that the investigation has established that companies established in the FTZ receive duty-free imports of capital goods. The fact that one party may avail of the same benefit by using another scheme (namely the Federal Law No 1 of 1979) does not imply that the subsidy in question is not considered countervailable. Furthermore, the parties were not in a position to provide any factual evidence to rebut the findings of the investigation with respect to the FTZ. Account taken of the above, the submitted claim had to be rejected.
- (98) In the light of the above, the findings in relation to this scheme as set out in recital (184) to (199) of the provisional Regulation are hereby confirmed.

29.9.2010

EN

Official Journal of the European Union

L 254/21

3.3.3. Amount of countervailable subsidies

- (99) Account taken the above, the definitive amount of countervailable subsidies in accordance with the provisions of the basic Regulation expressed *ad valorem*, for the sole cooperating United Arab Emirates exporting producer is 5,13 %.

noted that the information provided is inconclusive and non-verifiable and thus it cannot be taken into consideration.

3.4. Comments on final disclosure

- (100) It is recalled that all interested parties were given an opportunity to comment and make representations subsequent to final disclosure. Their comments were considered and taken into account where appropriate but they were not of a nature as to change the above findings.

- (101) The Iranian cooperating exporting producer presented again its analysis of the facts of the case but did not provide any new conclusive evidence which would undermine the findings of the investigation.

- (102) The Government of Pakistan expressed dissatisfaction with the rejection of its undertaking with respect to the Manufacturing Bond scheme and repeated comments on the LTF-EOP scheme and FTR. It also submitted a new decision of the Federal Board of Revenue issued on 27 July 2010 setting the customs duty on imports of PTA (raw material used for PET) at the rate of 3 % and argued that the institutions were bound by law to recalculate the subsidy margin established for the Manufacturing Bond scheme. This had to be rejected because there is no indication that the subsidy does not continue to exist. The Government of Pakistan claims that it is reduced. Nevertheless, as per Manufacturing Bond scheme rules, input material may be used at least up to two years after importation. In other words something that was imported up to July 2010 (when the duty rate was 7,5 %) may be used up to July 2012. The institutions have made a determination of the amount of subsidy on the basis of data pertaining to the IP and in accordance with the scheme rules there may still be an impact of the previous customs rate up to 2012. Thus, subsidisation is clearly present at the time of the definitive duty imposition. Furthermore, the customs duty is just one element of the data set and, as demonstrated under recitals (43) to (53) above, if the duty rate had been lower, import volumes may have been higher.

- (104) The Government of the United Arab Emirates presented again its analysis of the facts of the case and argued that the institutions based their findings on an unclear interpretation of the Federal Law 1 of 1979 and failed to provide any positive evidence. In this respect it is recalled that specificity has been established in accordance with Articles 4(2)(a) and 4(2)(b) of the basic Regulation, that the interpretation of the Federal Law 1 of 1979 by the institutions was based on the submitted information, evidence and data and no conclusive evidence was found that could alter the findings of the investigation. GUAE clarified that the amendment process of the Federal Law 1 of 1979 has been advanced and it is reaching its final steps for promulgation. In this respect it is noted that the Commission welcomes the efforts made by UAE to amend its relevant legal provisions but the aforesaid developments bear no impact on the findings of the investigation, as there is no clear timetable for the conclusion of the amendment process and the enactment of the new law.

- (105) The UAE cooperating exporting producer repeated its claims concerning the Federal Law 1 of 1979. It also submitted that there are errors in the calculation of the subsidy margin. It was argued that the company realised following definitive disclosure that procurements of raw material made from Saudi Arabia bear no customs duty because UAE and Saudi Arabia form part of the customs union of the Gulf Cooperation Council and provided a set of documentation related to its claims. In this respect it is noted that these representations form part of a totally new set of information that should already have been presented in the questionnaire reply or in the verification visit at the latest so that the Commission would have been able to verify the veracity of these claims. Thus the data provided cannot be verified at this late stage of the investigation. Moreover, there is also no conclusive evidence to corroborate these claims. Furthermore it was argued that the benefit should be calculated on the basis of raw materials consumed during the IP and not on the basis of raw materials purchased. In this respect it is noted that the split between raw materials consumed and purchased is irrelevant as the amount countervailed is the total amount attributable to the IP as explained in recitals (84) to (95) above.

4. INJURY

4.1. Union production, Union industry and Union consumption

- (103) The Pakistani cooperating exporting producer disagreed with the analysis concerning FTR but the elements provided could not alter the findings of the investigation. It also submitted that there is verifiable evidence picturing accurately its income tax obligations and provided a set of documents to prove that the findings of the Commission are not accurate. In this respect it is

- (106) No comments have been received with regard to Union production, Union industry and Union consumption. Consequently, recitals (201) to (206) of the provisional Regulation are hereby confirmed.

L 254/22

EN

Official Journal of the European Union

29.9.2010

4.2. Imports from the countries concerned

- (107) No comments have been received with regard to the cumulative assessment of the effects of the imports concerned, the volume of imports from the countries concerned and their respective market share. Consequently, recitals (207) to (213) of the provisional Regulation are hereby confirmed.

Prices and price undercutting

- (108) Given that, as mentioned above at recital (20), it was decided to divide the product under investigation into several product types a new undercutting calculation reflecting that change was performed.
- (109) For the purpose of analysing price undercutting, the weighted average sales prices of the Union industry to unrelated customers on the Union market per product type, adjusted to an ex-works level, were compared to the corresponding weighted average prices of the imports from the countries concerned to the first independent customer on the Union market, established on a CIF basis with appropriate adjustments for post-importation costs and differences in the level of trade.
- (110) The comparison showed that, during the IP, the subsidised imports originating in the UAE sold in the Union undercut the Union industry's prices by 3,2 %. The subsidised imports originating in Iran sold in the Union undercut the prices of the Union industry by 3,0 %. The subsidised imports originating in Pakistan sold in the Union undercut the prices of the Union industry by 0,5 %. The weighted average undercutting margin of the countries concerned during the IP is 2,5 %.
- (111) The Iranian exporter commented that its injury margin was overstated since the weighted average unit sales price established was understated due to an incorrect calculation of the amount of level of trade adjustment. As regards this claim it must be noted that the amount for the level of trade used in the provisional calculation was a fixed amount per tonne which is the commission charged by the cooperating importing agent and which represents around 1 % of the average CIF price. However, since no alternative quantification of the level of trade adjustment was proposed and no other information is available for such an adjustment, the claim is thus rejected.
- (112) The same party also claimed that the 2 % rate taken for post-importation costs appeared to be understated.
- (113) It is reiterated in this regard that no importer cooperated in this investigation and it was not possible to verify the actual post-importation cost. Thus, in absence of any other information available, the rate used in previous proceedings was applied.

4.3. Situation of the Union industry

- (114) Some interested parties claimed that injury did not exist since the sample was wrongly chosen and as a result no results could be extrapolated for the total Union industry. It was claimed that since one company (not in the sample) had indicated that it was using over 100 % of its capacity, this would be a clear sign of no injury. It is

noted that the information submitted is an extract of this company's submission to the stock exchange authorities in a third country and is not verified. This information also does not square with the information on the file. Moreover, and in any event, the capacity utilisation of one EU producer alone cannot alter the findings of injury for the sampled EU producers and the other EU producers.

- (115) In the absence of any other claims or comments, recitals (218) to (237) of the provisional Regulation are hereby confirmed.

4.4. Conclusion on injury

- (116) In the absence of any specific comments, the conclusion on injury laid down in recitals (238) to (240) of the provisional Regulation is hereby confirmed.

5. CAUSATION

5.1. Effect of the subsidised imports

- (117) In the absence of any specific comments, recitals (241) to (245) of the provisional Regulation are hereby confirmed.

5.2. Effect of other factors

- (118) Some interested parties claimed that any injury found would not be due to the subsidised imports, but that the low prices for PET in the EU reflect the worldwide cycle of the industry and that from September 2008 until June 2009 the PET prices in the EU followed the low prices of crude oil. As regards this argument, it is acknowledged that the prices of PET depend to some extent on the prices of crude oil, its derivatives being the main raw material to produce PET. However, prices for crude oil were not low during the whole IP but very volatile, starting with a huge decrease and followed by a recovery. This volatility of world prices of crude oil cannot explain why imports of PET were subsidised and therefore undercut the Union producers' prices. It was precisely this undercutting, made possible due to the subsidies received, that depressed the prices of the Union industry, forcing EU producers to sell at a loss in order not to lose their clients.
- (119) The Iranian exporter claimed that financial and technical problems of some EU producers were not properly separated from the injury analysis and wrongly attributed to Iranian imports since it only entered the market after 2006. In this respect it is noted that imports from Iran were present already in 2006 and 2007 in quantities below 1 % of the market share. Since 2008, they were above 1 % and contributed with their low prices to the price suppression in the EU. Moreover, the conditions for cumulative assessment were fulfilled in this case and the effects of subsidised imports from all countries concerned could be assessed cumulatively. In addition, only one of the companies mentioned by the Iranian exporter was in the sample and the technical problems of this EU

29.9.2010

EN

Official Journal of the European Union

L 254/23

producer, limited from September to mid-October 2008, did not significantly influence the overall injury picture.

(120) The same party reiterated that any injury found would be linked to the contraction in demand, especially during the IP which was marked by the global financial and economic crisis. However this party did not rebut the arguments given in recitals (254) to (256) of the provisional Regulation: that the economic downturn starting in the last quarter of 2008 cannot in any way diminish the damaging injurious effects of low priced subsidised imports in the EU market over the whole period considered and that, even though the shrinking demand was a factor contributing to the injury suffered, it did not break the causal link. It is further noted that those subsidised imports even increased their market share when demand contracted, i.e. from 7,6 % to 10,2 %, to the detriment of the EU producers.

(121) Some interested parties claimed that any injury was due to lack of investment by the EU PET producers and their consequent cost disadvantage vis-à-vis the exporters.

(122) It is recognised that PET is a capital intensive industry and that a certain level of investment is necessary to remain competitive in the mid-to-long term perspective. It is recalled that, as mentioned in recital (237) of the provisional Regulation, some of the sampled companies made important investments in 2006 and 2007, but there was only a minimal level of investment in 2008 and in the IP.

(123) It is noted in this regard that given the decreasing production and capacity utilisation rates in 2008 and in the IP combined with the sharply dropping market share of the Union producers, it would be unreasonable to expect any major investment in new capacities in the same period.

(124) It is also reiterated that, as mentioned in recitals (233) and (234) of the provisional Regulation, the financial situation of the sampled Union producers was very bad during the whole period considered and that they experienced significant losses between 2006 and the IP. Again, in such a situation, it would be unreasonable to expect any major investment by the Union producers.

(125) Consequently, it is concluded that the limited investment in 2008 and the IP did not materially contribute to the injury suffered by the Union industry but was rather a result thereof.

5.3. Conclusion on causation

(126) In the absence of any further comments on causation, recitals (246) to (264) of the provisional Regulation are hereby confirmed.

6. UNION INTEREST

(127) Following the provisional disclosure a significant number of EU converters and/or bottlers came forward and claimed that the Union interest analysis would not correctly reflect the arguments of the great number of cooperating users and that the findings contradicted the current economic environment. There was, however, no further substantiation or explanation. The companies all requested a hearing, but only two companies of this group of users and one association of Italian bottlers actually came to the hearing. More substantive comments were received from one cooperating EU converter (ALPLA), a group of processors (Caiba SA, Coca-Cola group, Danone Waters, Logoplaste, MFS Commodities, PepsiCO, Novara International and Silico Polymers), the cooperating import agent (GSI) and the association of plastic converters (EuPC). All these parties strongly opposed the imposition of any measures.

6.1. Interest of the Union industry and other Union producers

(128) Some interested parties claimed that the EU producers would (mis-)use trade defence instruments to shield the Union market and to set artificially high prices in the EU. These parties point to the existing anti-dumping and/or countervailing measures in place against India, Indonesia, South Korea, Malaysia, Taiwan, Thailand and the People's Republic of China. However, it is noted that any company producing in the EU has a right to complain and to seek remedies in case it can demonstrate the existence of injurious subsidisation practices. The fact that subsidisation and dumping practices have been found concerning numerous countries can possibly be explained by the fact that demand for this product increased tremendously since the '90s with usually double digit annual growth rates. This attracted significant investments worldwide, leading to a structural worldwide oversupply for PET. It is also noted that some third countries have measures in place against several of the above-mentioned countries, underlining the existing structural problem.

(129) Several interested parties reiterated that the Union producers would not be able to improve their performance in the long term since new investments in other third countries would come on-stream soon and decrease the artificially high prices in the EU.

L 254/24

EN

Official Journal of the European Union

29.9.2010

(130) The investigation showed that a new investment that only recently came on-stream in Oman has increased its import volumes considerably in 2009 and it cannot be excluded that it might cause problems to the Union industry in the future. However, as already indicated in recital (270) of the provisional Regulation, new investments that might come on-stream and might cause injury to the Union industry are no valid reason to deny legitimate protection in this proceeding.

(131) One interested party claimed that the increase in the PET prices in the EU would allow only the EU producers with investment in third countries not subject to measures (Thailand, US, Russia) or other PET producers in third countries (South Korea) to improve their performance. Thus, the party argued, the short-term benefit for the EU producers would clearly be outweighed by the transfer of wealth to producers outside the EU.

(132) In this respect it is noted that there is no evidence on file supporting the statement that any financial benefit that might be shifted to producers in third countries not subject to trade defence measures or to companies with a zero duty would outweigh the benefits to the Union industry.

(133) It was also claimed that Union producers only employ some 2 000 people whereas PET processors and bottlers that would be highly affected by any duty employ around 20 000 and 60 000 people respectively.

(134) It is noted that the employment created by PET producers is not marginal and the question whether the imposition of measures is against the Union interest as a whole cannot be reduced to a simple question of the number of people employed. In this regard it is also particularly relevant that the relevant users would likely not significantly be affected by the measures, taking into account the level of the duty as well as alternative sources of supply, as set out below in recitals (141) to (156).

6.2. Interest of unrelated importers in the Union

(135) It is reiterated that no unrelated importer cooperated in this investigation.

(136) The cooperating agent strongly contested that the imposition of duties would not have a considerable impact on its business. The company claimed that while it was indeed working on a commission basis, the impact would be important since an important part of its business was linked to the countries concerned. Should definitive measures be imposed, the commission obtained from the producers in the countries concerned would be affected given that the PET from the countries concerned could no longer compete with PET produced by other producers.

(137) In view of the overall moderate duty level, it is not likely that PET sales from the countries concerned will be affected substantially. Moreover, the agent can in the medium term most probably switch to other sources of supply, namely to imports from Oman, US, Brazil,

Mexico and the companies with a zero anti-dumping duty rate in South Korea. Sales of these exporting producers should put the agent in a position to compensate for any loss that may be incurred due to the imposition of measures. Consequently, the claim is rejected.

6.3. Interest of the raw material suppliers in the Union

(138) One interested party claimed that it is not legitimate to protect the raw material suppliers of the EU PET producers at the expense of the packaging industry, the bottlers and the final consumers.

(139) It is noted that the analysis of the impact of measures on the supplying industry is in conformity with Article 31 of the basic Regulation. It is a standard practice to carry out such an analysis, in particular when there is a strong dependency between raw material suppliers and Union producers.

(140) In the absence of any other comments in this regard, recitals (265) to (279) of the provisional Regulation are hereby definitively confirmed.

6.4. Interest of users

(141) It is reiterated that PET used in the production of bottle pre-forms amounts to between 70 % and 80 % of the total cost of production for converters. It is therefore a critical cost component for these companies.

(142) Some interested parties indicated that the EU packaging industry is constantly challenged by the requirements of the bottle fillers for new designs and more environmental friendly packaging. To that end, some of the converters appear to invest constantly in R & D to invent new products and design in order to remain competitive and to add more value in the chain.

(143) Some interested parties claimed that the impact on the EU converting industry will be very heavy and will lead to the erosion of their resources to invest in new, environmental friendly packaging and possibly even to the closure of hundreds of smaller companies as their margins are even narrower due to the small volumes processed and limited negotiation power.

(144) Indeed, should the converters absorb the whole price increase due to the measures, the impact on them could be sizeable, depending on their sources of supply, given that the cost of PET constitutes the majority of their costs and that many of the small and medium-sized companies operate on low margins.

(145) In this regard, a verification visit was carried out to a small plastic converter in Italy in order to gain a better insight about the impact of duties on this user group. The investigation showed that, although limited, processors normally have some ability to pass on their price increase, especially if the price increase is not

29.9.2010

EN

Official Journal of the European Union

L 254/25

marginal and can be anticipated. Moreover, some PET processors have adaptation clauses in their contracts for raw material prices and this might help EU converters to pass on some price increase to bottlers.

(146) Consequently, and against the background of the rather moderate duty level, it is concluded that the imposition of countervailing duties would likely not have a devastating effect on converters.

(147) Some interested parties reiterated the argument that the risk of delocalisation of PET processors/converters would increase if definitive measures were imposed. These parties also claimed that due to the delocalisation of EU processors there would be no long-term benefit to EU producers. One of the cooperating PET converters stated that the process of delocalisation is already ongoing and that any imposition of countervailing duties would further accelerate this development. This party claimed that a substantial part of EU converters would be located in areas which are close to EU borders (Switzerland, Croatia, Bosnia, Serbia, Turkey, Russia and Ukraine) and that some converters would be much more flexible to move their production to these areas than suggested in the provisional Regulation.

(148) Based on the information on file, the delocalisation is indeed already an ongoing process and it is thus considered that the imposition of countervailing duties might be one factor out of many other considerations influencing such a company decision. It was not found that, without the imposition of measures in this case, those companies would be ready to stay within the EU given that such a decision is normally a result of an analysis taking into account a number of aspects other than trade defence measures, such as being close to the client, having access to skilled workers for R & D, general cost structure, etc.

(149) It is also noted that the information on the file shows that the EU converter industry is facing a number of important challenges due to inherent structural deficiencies that are becoming more and more apparent in the fast changing and increasingly competitive environment. It is evident that size matters in that business and that the consolidation of the market is already ongoing, including closures and delocalisation. Consequently, it is considered that any price increase for PET due to countervailing measures is not the reason for the feared closures of the smaller converters.

(150) Consequently, it is concluded that the imposition of countervailing duties is not going to be a determinative factor in the eventual decision about delocalising for the companies in the PET processing industry.

(151) Several interested parties stated that any measures would have a sizeable effect on many bottlers as due to

contractual arrangements any increase in PET resin prices would be (at least partially) passed on to them. It was also claimed that some bottle fillers might not be in a position to pass on price increases to their clients, being the supermarket/retail chains, and that they might not survive any increased cost.

(152) These parties claimed that the range of products that will be affected by duties was underestimated as they will not only affect bottled water, soft drinks and edible oil, but also beer, milk and dairy products, juice producers, ketchup and spices, cosmetic and personal care products, drugs, vitamins and supplements, household cleaning products and oil and lubricants for cars.

(153) It is acknowledged that PET packaging is manifold. It is noted, however that the provisional Regulation focused on the impact on bottlers, as it based on the data submitted by the companies cooperating in this investigation, being mainly water, soft-drink or juice producers. No other detailed data was available showing an even higher impact on the other applications mentioned above.

(154) Consequently, it is considered that the provisional findings described in recital (291) of the provisional Regulation can be definitively confirmed. In addition, given the moderate level of the proposed measures, they may result in a cost increase of not more than 1 % (in the worst case scenario – i.e. full impact of the measures to be born by the bottling companies) and thus will only have a limited impact on the overall situation of the bottling companies, even if, as claimed, they would not be in a position to pass on the increased cost to their customers.

(155) Several interested parties claimed that any trade defence measures will exacerbate the shortage of supply in the Union market which will be particularly problematic in the summer months given the higher demand for water/drinks. It was claimed that up to 900 000 tonnes of imports would be needed in 2010. This problem would be notably reinforced by the fact that some EU producers are also PET processors and would only sell to the free market once their internal demand is satisfied and at premium prices.

(156) In this regard no new information was submitted and the arguments provided in recitals (294) and (295) of the provisional Regulation were not refuted. It is also noted that given the moderate level of duties imposed on imports from UAE and Pakistan, the impact on trade volumes from those countries might not be significantly affected. Consequently, the findings set out in recitals (294) and (295) are definitively confirmed.

L 254/26

EN

Official Journal of the European Union

29.9.2010

6.5. Impact on consumers

- (157) Several interested parties claimed that the provisional Regulation failed to properly address the impact on consumers which would buy, on a daily basis, products containing PET resins. These claims were not substantiated further than stating that an increase of 50 EUR/t applied to a consumption of 3 million tonnes would lead to EUR 150 million to be borne by the final consumer per year.
- (158) It is noted that the proposed estimate is unrealistic given that most parties agreed that some impact will be borne by the PET processors, the bottlers and supermarkets/retail chains, i.e. that some of the increased costs will be diluted in the sales chain.
- (159) The impact on the final consumer, in the worst case scenario (i.e. the unrealistic scenario where the customer would bear all the impact of the price increase), given the moderate level of measures proposed, would not exceed 0,5 eurocent per bottle consumed, and is highly likely to be much less.

6.6. Conclusion on Union interest

- (160) Given the above and after analysing in detail all the interests at stake, it is definitively concluded that, on balance, no compelling reasons exist for not imposing measures in the present case. In the absence of any other comments in this regard, recitals (280) to (298) of the provisional Regulation are hereby definitively confirmed.

6.7. Comments on final disclosure

- (161) Following disclosure of the essential facts and considerations on the basis of which the Commission has proposed the imposition of definitive countervailing duty some interested parties submitted further comments. Considering that the majority of these comments were a repetition of the observations already submitted and addressed, they did not change the above findings.
- (162) With regard to the reiterated argument that the recent change in the exchange rate between USD and EUR led to a significant increase in the price of the imported PET and consequently the Union industry allegedly does not need to be granted protection by trade defence measures, it is noted that any anti-subsidy investigation normally does not take into account the post IP developments; unless, in extraordinary situations, it can be shown, inter alia, that they are of a lasting nature and would significantly alter the findings of the case. Any changes in the exchange rate between USD and EUR cannot be considered to be of such nature.

7. DEFINITIVE MEASURES

7.1. Injury elimination level

- (163) One interested party claimed that a target profit of 5 % was overstated for the second quarter of the IP given that in this quarter (4th quarter of 2008) not only the demand was lower (winter season), but the global economic crisis also affected the PET producers heavily. Thus, it is claimed that a correct application of the principle developed in Case T-210/95 ⁽¹⁾ must lead to a 0 % margin in the absence of subsidised imports. Moreover, the party claimed, since all quarters of the IP were affected by the crisis, also in the other quarters, a 5 % profit margin would appear as unrealistic given that even without an economic crisis, i.e. in 2006/2007, the Union industry did not come close to the 5 % profit.
- (164) It is acknowledged that in line with the jurisprudence, the target profit to be used should be the profit which the Union industry could reasonably achieve under normal conditions of competition, in the absence of subsidised imports. It is recalled that in previous investigations for the same product a target profit of 7 % and above was used instead of the 5 % provisionally used in the current investigation. The 5 % target profit is considered to be the profit that the Union industry could expect in the absence of subsidised imports. Consequently, the claim for reducing the target profit is rejected.

- (165) Given the adjusted undercutting calculation mentioned in recitals (108) to (110) above, the corresponding injury elimination levels are as follows:

Country	Injury elimination level
Iran	16,7 %
Pakistan	14,1 %
UAE	17,5 %

7.2. Definitive measures

- (166) In view of the definitive conclusions reached with regard to subsidisation, injury, causation and Union interest, and in accordance with Article 15(1) of the basic Regulation, it is considered that a definitive countervailing duty should be imposed on imports of the product concerned originating in Iran, Pakistan and the United Arab Emirates at the level of the lowest of the subsidisation and injury elimination level found, in accordance with the lesser duty rule.
- (167) In the light of the foregoing, and in accordance with Article 12(1) of the basic Regulation, it is considered

⁽¹⁾ Case T-210/95 European Fertilizer Manufacturers' Association (EFMA) v Council of the European Union, ECR 1999, p. II-3291.

29.9.2010

EN

Official Journal of the European Union

L 254/27

that the definitive countervailing duty rate should be imposed on imports originating in Iran at the level of the injury margin found while for imports originating in Pakistan and the United Arab Emirates, the definitive countervailing duty rate should be imposed at the level of the subsidy margin found.

- (168) It is recalled that costs and prices of PET are subject to considerable fluctuations in relatively short periods of

time. It was therefore considered appropriate to impose duties in the form of a specific amount per tonne. This amount results from the application of the countervailing rate to the CIF export prices used for the calculations in the parallel anti-dumping proceeding.

- (169) On the basis of the above, the proposed countervailing duty amounts, expressed on the CIF Union border price, customs duty unpaid, are as follows:

Country	Total subsidy margin	Injury margin	Definitive countervailing duty rate	
			%	Amount (EUR/tonne)
Iran	51,8 %	16,7 %	16,7 %	139,70
Pakistan	5,1 %	14,1 %	5,1 %	44,02
UAE	5,1 %	17,5 %	5,1 %	42,34

- (170) Any claim requesting the application of an individual company countervailing duty rate (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission⁽¹⁾ forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with, for example, that name change or that change in the production and sales entities. If appropriate, the Regulation will then be amended accordingly by updating the list of companies benefiting from individual duty rates.

7.3. Undertakings

- (171) Following the disclosure of the essential facts and considerations on the basis of which it was intended to recommend the imposition of definitive anti-subsidy measures, the Iranian exporting producer offered a price undertaking in accordance with Article 13(1) of the basic Regulation.
- (172) The offer was examined and in view of the fact that the prices for the individual product types differ significantly, it was found that the sole minimum import price (MIP) offered would not guarantee the elimination of the injurious subsidisation for all products.
- (173) It was also established that the Iranian cooperating exporting producer sells the product concerned and other products to the EU exclusively through a related trading company which exports a multitude of products manufactured by various companies. This sales structure bears a very high risk of cross-compensation as PET subject to an undertaking could be sold together with other products to the same customers and prices set for a variety of products sold to the same client could be very easily compensated or off-set. Finally, it also appears from publicly available sources that there is at

least one additional producer of PET in Iran. In view of the above sales structure, this situation casts serious doubts on whether the institutions and customs authorities can ensure that only PET from the cooperating exporting producer is sold according to the provisions of the undertaking as the product is a commodity product and easily interchangeable in the sense that in such commodity products it is not at all clear to physically recognise the producer.

- (174) On the basis of the above, it was concluded that such undertaking was impractical and therefore it cannot be accepted. The party was informed accordingly and given an opportunity to comment. However, its comments have not altered the above conclusion.

8. DEFINITIVE COLLECTION OF THE PROVISIONAL DUTY

- (175) In view of the magnitude of the countervailable subsidies found and in the light of the level of the injury caused to the Union industry, it is considered necessary that the amounts secured by way of provisional duty imposed by the provisional Regulation be definitively collected to the extent of the amount of definitive duties imposed,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive countervailing duty is hereby imposed on imports of polyethylene terephthalate having a viscosity number of 78 ml/g or higher, according to the ISO Standard 1628-5, currently falling within CN code 3907 60 20 and originating in Iran, Pakistan and the United Arab Emirates.

2. The rate of the definitive countervailing duty applicable to the net, free-at-Union-frontier price, before duty, of the products described in paragraph 1 shall be as follows:

⁽¹⁾ European Commission, Directorate-General for Trade, Directorate H, Office N105 04/092, 1049 Brussels, BELGIUM.

L 254/28

EN

Official Journal of the European Union

29.9.2010

Country	Definitive countervailing duty rate (EUR/tonne)
Iran: all companies	139,70
Pakistan: all companies	44,02
United Arab Emirates: all companies	42,34

3. In cases where goods have been damaged before entry into free circulation and, therefore, the price actually paid or payable is apportioned for the determination of the customs value pursuant to Article 145 of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code⁽¹⁾, the amount of definitive countervailing duty, calculated on the amounts set above, shall be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable.

4. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

The amounts secured by way of provisional countervailing duty pursuant to Commission Regulation (EU) No 473/2010 on imports of polyethylene terephthalate having a viscosity number of 78 ml/g or higher, according to the ISO Standard 1628-5, currently falling within CN code 3907 60 20 and originating in Iran, Pakistan and the United Arab Emirates, shall be definitively collected at the rate of the definitive countervailing duty imposed pursuant to Article 1. The amounts secured in excess of the rate of the definitive countervailing duty shall be released.

Article 3

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 27 September 2010.

For the Council
The President
K. PEETERS

⁽¹⁾ OJ L 253, 11.10.1993, p. 1.

6/7/2017

67 percent of Export Fund to be spent on textile industry: Ikhtiar || Business Recorder

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Wednesday, June 7th, 2017

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PAKISTAN

67 percent of Export Fund to be spent on textile industry: Ikhtiar

TAHIR AMIN JUL 5TH, 2009 ISLAMABAD

Advisor to the federal government for Ministry of Textile and Industries Dr Mirza Ikhtiar Baig on Saturday said that 67 percent of the Rs 40 billion Export Investment Support Fund is targeted to be spent on textile and clothing industry.

In the federal budget 2009-10, the government proposed the setting up of Rs 40 billion (\$500m) Export Investment Support Fund for which the government would contribute Rs 10 billion, another Rs 10 billion would be contributed by the Export Development Fund and the rest Rs 20 billion would be contributed by the government agencies through mopping up surpluses in commercial banks.

Talking to *Business Recorder* here, Ikhtiar Baig revealed that 67 percent of the Export Investment Support Fund would be spent on textile and clothing industry, aimed at value addition and consolidation of the sector. He said that in the budget 2009-10, Federal Excise Duty (FED) on the import and supply of viscose staple fiber is withdrawn and tax on exports of textile and clothing items made zero rated in the real sense.

6/7/2017

67 percent of Export Fund to be spent on textile industry: Ikhtiar || Business Recorder

enhanced duty drawback to value added textile exporters in lieu of R&D support.

Baig said in addition, Rs 500 million (\$6.2m) has been earmarked for the 3 percent interest rate subsidy to the textile industry while Rs 510 million (\$6.4m) will be used to establish the necessary infrastructure to support export oriented textile and clothing firms.

Textile industry will be given priority in the allocation of gas and electricity, as the industry is now first priority. The government also plans to establish large export houses, and launch a National Trade Corridors Improvement Programme, he added.

Ikhtiar said there are also allocations for Textile and Garments City Projects. The Prime Minister of Pakistan recently launched Infrastructure Development of Pakistan Textile City Project in Karachi and soon Faisalabad Garments City Project will be launched, he added.

He said Rs 246 million (\$3.1m) has been earmarked for Textile City Karachi, Rs 207 million (\$2.6m) for Faisalabad Garment City Project, Rs 25 million (\$0.3m) for the Lahore Garment City Project, Rs 17 million (\$0.2m) for upgrading Textile Institutes and Rs 15 million (\$0.2m) for the Export Development Plan.

There was also a proposal for the disbursement of 3 percent to 4 percent mark-up on investment against plant and machinery in textile sector similar to Indian Technology Up Gradation Fund (TUGF) scheme in the new textile policy to be announced soon, he added.

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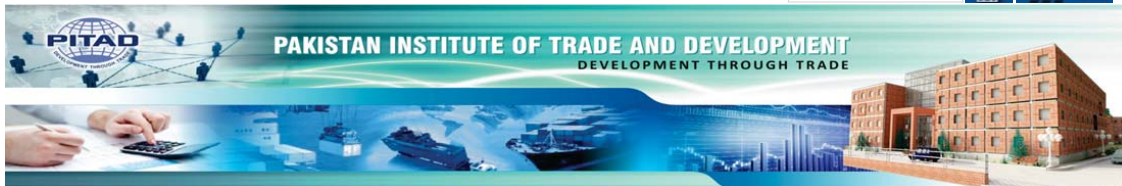


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Research Portfolios

After the government's decision the Ministry of Commerce has conceived the Strategic Trade Policy Framework (STPF) to respond to the emerging challenges to our export competitiveness. We hope that a successful implementation of STPF would enable Pakistani firms to produce and export more sophisticated and diversified range of products. This will also result in an increase in wages for the sectors ready to embrace the global competitive environment.

The Pillars of STPF are as follows:

1. Supportive Macro Policies and Services
2. Enhancing Product Sophistication level in Pakistan's Exports
3. Enhancing Firm level Competitiveness
4. Domestic Commerce Reform and Development
5. Product and Market Diversification
6. Making Trade Work for the Sustainable Development in Pakistan

1. Supportive Macro Policies and Services

1.1 Reducing Anti-Export Bias in Tariff Policy

Wide ranging structural reforms aimed at liberalisation, privatisation and de-regulation since late 80s' brought about a marked shift in dependence from trade to domestic taxes and removal of protective duties/taxes on industry to foster competition and increase exports. However, within the ambit of fiscal policy, the existing tariff structure and the concessionary tariff regime have anti-export biases, as it accords identical tariff treatment to:

- ▶ Import substitution industries vis-a-vis export oriented industries
- ▶ Low value-added industries vis-a-vis high value-added industries
- ▶ Low-tech industries vis-a-vis high-tech industries
- ▶ Labour intensive industries vis-a-vis capital intensive industries
- ▶ Small scale industries vis-a-vis large scale industries

In the given scenario, the need to formulate a long term tariff policy can hardly be over-emphasised. A rational tariff policy and structure with short and long term tariff measures aimed at making the industry competitive and moving up the sophistication ladder is the priority objective of STPF (2009-12). There is a need for devising such tariff policy which aims at removing anti-export biases. It should help Pakistan come up with a much more effective response, in the context of reduction of tariff and binding, due to the expected conclusion of Doha Development Agenda (DDA) and bilateral trade negotiations, enabling the country to benefit from the next round of trade liberalisation. The Ministry of Commerce, which deals with treaties, agreements, protocols and conventions with other countries and international agencies, having a bearing on trade and commerce under the Rules of Business, would re-design the National Tariff Policy to realise the following objectives:

- ▶ Withdrawal of protection from inefficient, internationally non-competitive and government dependent industry
- ▶ Minimisation of taxation at investment stage to reduce the cost of doing business
- ▶ Rationalisation of Effective Protection Rates (EPR) and Nominal Protection Rates (NPR) currently ranging between extreme negative protection to excessive positive protection levels
- ▶ Review and revise the tariff protection criterion for taking into account sophistication, value-addition and diversification of export items and announcement of special incentives for the industry in this regard

1.2 Monetary Policy

Another crucial component of macro policies is monetary policy. Interest costs specifically in times of tight monetary policy, as being pursued since last one year, can raise the cost of production and thereby affect the competitiveness of exports. Though interest policy at macro

6/2/2017

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6.1 Making Trade Reduce Poverty

The government is aware of the need to address the possible negative distributional aspects of globalisation, manifesting in the form of unemployment, wage decrease of unskilled labour, informalisation of labour, etc. Ignoring these factors could reduce the benefits of globalisation and unleash protectionist sentiments and resentment against the free market regime. To strengthen the role of Strategic Trade Policy Framework as a tool of sustainable development, we would align it closely with the recently approved Social Protection Policy of Pakistan, as better social protection policies and stable labour markets are characterised by more investments by the industry on labour skilling and better labour productivity. The Ministry is aware that the protection and promotion of Geographical Indication (GI) products is also an effective way to link international trade with poverty reduction as most of the GI products in Pakistan are made by cottage industry or poor, rural households. The Ministry would expedite the promulgation of GI Law and allocate sufficient resources to assist the producer organisations to benefit from opportunities in the international market.

6.2 Consolidating Gender Sensitive Trade Policies

It is recognised world over that women have exceptional multi-tasking skills, endurance, dexterity and creativity. It is becoming increasingly important to create and maintain diversity at workplace. The economy can draw immense benefits if these innate skills can be suitably harnessed and mobilised, leading to the empowerment of women. At present, there are a number of initiatives underway to increase women's role in Pakistan's economy. Trade Policy 2009-12, which has been designed as gender sensitive trade policy, seeks to leverage many such initiatives. We recognise that trade policies affect men and women differently, as more often than not, women are constrained by structural gender inequalities such as low skill level, weak ability to negotiate wages or work conditions, etc. In Pakistan, women are present more in lower-skilled and low-paying sectors, especially in the textile and garment industries. With the increasing trend of female higher education, it is important that women are represented more at the managerial, supervisory and high-skill levels. Though women have started playing a larger role in Pakistan's export sector than ever before, yet we are far from other Muslim countries such as Malaysia and Bangladesh, who have tremendously benefited from the diverse and creative expertise of women in sectors such as garments, shoes, jewellery, electronics, horticulture, handicrafts and in services sectors. While implementing Strategic Trade Policy Framework, the government would take a number of gender sensitive actions to enhance the positive contribution of Pakistani women in Pakistan's international trade, such as special incentives to encourage women in export-oriented services sector, i.e. designing, cultural industries, skill development programmes in women intensive export sectors, access to credit for women-managed SMEs in export sectors, protection and promotion of women intensive GI products, increasing the participation of women in international exhibitions and delegations and steps to encourage independent and good quality gender-oriented research and analysis on how to enhance women's trade capabilities and to study the impact of gender-based-barriers to market access and economic costs of gender inequality and the consequent trade-offs.

6.3 Promoting SMEs Exports

The Ministry of Commerce recognises the fact that large firms and conglomerates play an important part in developing new products and markets as they can produce at sufficiently large scale with high quality. Scaling is becoming very important in order to meet the requirements of large buyers and the government would work with the private sector to enable the firms for scaling up their capabilities. However, in a country like Pakistan, with such a large number of SMEs, there is a need to devise policies and programs aiming at the integration of SMEs into global value chains. In the context of Medium Term Development Framework (MTDF) 2005-10 of the Government of Pakistan, which stressed upon strategic shift of government's assistance to infrastructure development and establishing Common Facility Centers in order to enhance the productivity and exports of SME sector, many projects are under way to increase the global competitiveness of SME sector such as the establishment of Agro Food Processing Facilities (AFP) at Multan, Gujranwala Business Center (GBC), Sialkot Business & Commerce Centre (SBCC), Sports Industries Development Centre (SIDC) Sialkot and Women Business Incubation Center (WBIC), Lahore. A few sector-specific development companies have also been established by the Ministry of Industries that aim at upgrading production capabilities, i.e. Pakistan Dairy Development Company, Pakistan Gems and Jewellery Development Company, Pakistan Stone Development Company and Furniture Sector Development Company. There is a need to leverage the growth competitiveness activities of these companies with the activities and interventions being initiated through the STPF so that an improved performance by these sectors can increase the manufactured value added in Pakistan. The Ministry of Commerce fully supports the objectives of National SME Policy (2007) and would join hands with SMEDA's Policy & Project Implementation, Monitoring & Evaluation Unit (PPMIU), to make it a success. We have included many initiatives aimed at helping the SME exporters directly and indirectly. One such measure is the earmarking of significant funds from Export Investment Support Fund (EISF) for a new generation of SMEs driven by efficiency and innovation, in line with our declared focus on 'export competitiveness of Pakistan' through SMEs. We hope that with a right mix of policies and incentives, SMEs can become the main tools of 'value-addition' and 'sophistication' in Pakistan.

SME & Microfinance Department
(Refinance Division)

**FAQs - Scheme for Long Term Financing
for the Export oriented Projects (LTF-EOP)**

Q.1. What are the objectives of LTF-EOP Scheme?

Ans. State Bank of Pakistan introduced the Scheme for Long Term Financing for the Export Oriented Projects (**LTF-EOP**) to facilitate import of machinery for upgradation of existing technology and enhancement in the quality of industrial production. Banks / DFIs, approved as Participating Financial Institution (PFI) under the Scheme, are allowed to provide financing facilities to borrowers for import of machinery, plant, equipment and accessories thereof by export-oriented entities.

Q.2. What is the scope of the LTF-EOP Scheme?

Ans: The facilities under the Scheme are admissible to;

- Small, Medium and Emerging Exporters (as defined in Prudential Regulations for SMEs)
- Entities who are eligible for various incentives announced under the Trade Policy.
- The Scheme is not restricted to only SMEs. Non-SMEs or corporate sector borrowers can also avail the financing under the Scheme.
- To facilitate Pakistani exporters to access foreign markets, the Scheme also allows financing for acquisition of brand name/franchise, for a maximum period of five years inclusive of grace period

Q.3. What is the target market of LTF-EOP Scheme?

Ans: Target Market is:

- Small & Medium Size Entrepreneurs (SMEs)
- Non SMEs
- Exporters who are covered under the Trade Policy Incentive
- Exporters who needs imported machinery for BMR purposes

Q.4. Can all banks/DFIs participate in the LTF-EOP Scheme?

Ans. No: Only those banks/DFIs are eligible to participate in the Scheme who are declared as Participating Financing Institutions (PFIs) by the SBP as per criteria spelt out in the Scheme. List of approved PFIs is placed at our website and can be downloaded from URL [http:// www.sbp.org.pk/incentives/pfi_list.htm](http://www.sbp.org.pk/incentives/pfi_list.htm).

Q.5. Who can avail financing facilities under LTF-EOP Scheme?

Ans. The sponsors of export oriented projects/units are eligible to avail financing facilities for import of plant, machinery, equipments and accessories thereof.

Q.6. What is the eligibility criteria for availing of financing facilities under LTF-EOP Scheme from the Participating Financial Institutions (PFIs)?

Ans. The sponsors of those projects/units, which export at least 50% of their annual production directly or indirectly are eligible for financing under the Scheme. However, borrowers having export overdue bills of more than 365 days shall not be entitled to financing under the scheme.

Q.7. Are financing facilities under the Scheme available for import of used /second hand plant & machinery?

Ans. No: The facility under the Scheme shall not be available for import of used / second hand machinery. However, if the second hand machinery is being imported as a part of relocation of an existing project in another country, then the facilities under the Scheme can be availed but in such cases the useful life of the machinery should be more than the period of loan itself.

Q.8. What is the tenure of loans under LTF-EOP Scheme?

Ans. Facility is available for a maximum period of seven & half years, including a grace period of one and half years as per following categories;

Medium Term loans: For a period upto 2 years
For a period of over 2 years but upto 3 years

Long term loans: For a period of over 3 years but upto a maximum period of 7 ½ years

Q.9. What is the repayment procedure of the facility?

Ans Repayment of loan is made in equal half yearly or quarterly installments.

Q.10. Is there any pre-payment penalty under the Scheme?

Ans: No.

Q.11. Are incidental charges / insurance eligible for financing under the Scheme?

Ans: The cost of insurance, transit insurance and other import incidentals etc are not eligible for financing under the Scheme.

Q.12. Is down payment allowed under the Scheme?

Ans: If the terms of the contract between the borrower and supplier/manufacturer abroad require a down payment, importer can make advance payment to the extent of 25% of the C&F value of the machinery

Q.13. Which types of industries are covered under the LTF-EOP Scheme?

Ans. Exporters of all value added industry / sectors are eligible except spinning sub sector of the Textile Sector. However, only six processes of spinning sector (viz. Doubling, Twisting, Combing, Slubbing, Lycra, & Yarn Dyeing) are eligible for financing.

Q. 14. What parameters should be adhered to by PFIs while processing loan applications for LTF-EOP purposes?

Ans:

- i. Financing PFIs shall undertake due diligence at their end to protect their interest before submitting applications for refinance to State Bank.
- ii. Quantum of loan shall be determined on the basis of spot/forward exchange rates for relevant currency in the interbank market for all fresh loans.
- iii. Financing bank/DFI shall not take more than two months to examine the feasibility of any eligible project, plant, equipment and accessories thereof.
- iv. No borrowing limits are observed in respect of financings, however, where requirements exceed Rs 300 million, same may preferably be met through consortium arrangements
- v. In a consortium arrangement, payment to foreign supplier/manufacturer should be made by the leader of the consortium.
- vi. The facilities have to be sanctioned / disbursed by complying the relevant Prudential Regulations of SBP.

Q.15. What are the debt equity ratio under the LTF-EOP Scheme?

Ans.

- The PFIs may consider financing at a maximum debt equity ratio of 80:20. However, the borrower can not claim it as a matter of right as the financing bank may ask for higher contribution of equity from the borrowers keeping in view the risk profile of borrower.
- The sponsors shall contribute their equity share in an escrow account to be maintained with the concerned PFI. However, where sponsors have already invested share of equity in the project in the form of land, building etc the same may be treated as 'equity' of the sponsor and the condition of maintaining an escrow account may not be required provided overall debt/equity ratio is met.

Q.16. How are the lending rates (mark-up rates) under the LTF-EOP Scheme worked out?

Ans.

- Rates of Markup/ Service Charges have been benchmarked with the weighted average yields of 12 months T-Bills, 3 & 5 years PIBs depending upon the period of financing. Current rates are as under:

Tenor	Rate of finance to be charged to the borrower	Rate of refinance by SBP	Spread
upto 2 years	6.00%	4.0%	2.0%
more than 2 years but upto 3 years	6.00%	4.0%	2.0%
more than 3 years and upto 7 ½ years	7.00%	5.0%	2.0%

- Rates of Markup/ Service Charges are revised on annual basis in March each year.

Q. 17. Whether the rate is fixed or floating?

Ans. Rates of Markup/ Service Charges remain locked in for the entire term of financing on the amount disbursed by the PFI from the date of reimbursement by SBP-Banking Services Corporation.

Q.18. What documents are required for availing the facility under the LTF-EOP Scheme?

Ans: Following minimum documents are required for availing the facility:-

- i. Authenticated copy of LC / contract alongwith other shipping documents;
- ii. Request for refinance to the concerned office of SBP-BSC on Form EOP-1;
- iii. Agreement on Form EOP-2;
- iv. DP Note on Form EOP-3;

Q.19. What are the rates of fine(s) under the LTF-EOP Scheme?

Ans. Fine are imposed on borrowers/ PFIs as the case may be in case of their non-compliance to the instructions of the Scheme. These fines are imposed @ Paisa 60 per day per Rs. 1,000 or part thereof

Q.20. Can a PFI sanction the amount in excess of the limit fixed by SBP for it under LTF-EOP Scheme?

Ans. No: PFI has to restrict its sanction under the Scheme in accordance with the limit assigned to it by SBP for each financial year.

Q. 21. Are financing under the Scheme subject to SBP's Inspection?

Ans: Yes: The financing facilities under the Scheme shall be checked / verified by Banking Inspection Department (BID) during inspection of the banks/DFIs to ensure that the same have been allowed as per the terms and conditions of the Scheme. Any discrepancy/ delinquency pointed by BID shall be subject to penal action, as per the provisions of Banking Companies Ordinance



Strategic Trade Policy framework (STPF) 2015-18



MINISTRY OF COMMERCE GOVERNMENT OF PAKISTAN

Engr. Khurram Dastgir Khan

Minister for Commerce

“We aim to get into new sectors by promoting the innovation-driven and efficiency-driven route.”

“Regional trade will be pushed through this policy. Starting from Afghanistan we intend to expand all over Central Asian Republics along with our efforts for export development in ASEAN and SAARC countries.”

(Excerpts from Trade Policy Speech, 22nd March 2016)

Forword

The Strategic Trade Policy Framework (STPF) 2015-18 marks the success of the government in giving the exporters consistency and predictability in the policy for third time in a row. The important feature of this policy is that it has focused on addressing the lessons learnt from the earlier two medium term frameworks.

The STPF 2015-18 has been prepared on the basis of extensive research and stakeholders' consultations. Unfortunately I was not able to be part of the formulation process but I am very pleased and honored to have been able to announce and launch this very well carved out policy.

This policy has a strategic direction by promoting value addition and innovation and through interventions in the niche areas. The STPF 2015-18 has four pillars:

- (i) Product sophistication and diversification
- (ii) Market Access
- (iii) Institutional Development and Strengthening
- (iv) Trade Facilitation

All the initiatives are flowing from these four pillars. However, in order to meet the set target through these various initiatives it is imperative to ensure competitiveness, compliance to standards, sound policy environment and market access. These will ensure the whole of the government approach and can be termed as the key enablers for achieving the set target.

The policy gives a strong hope in making our economy efficiency and innovation driven. However, it is not cast in stone and hence through the room for mid-course corrections continuous efforts will be made to sail through for our better future.

Azmat Ali Ranjha

Secretary Commerce

- Increase Pakistan's cumulative exports to \$ 95 billion for the three-year period
- Make export sector an engine of growth
- Enhance Pakistan's export competitiveness in short as well as medium term

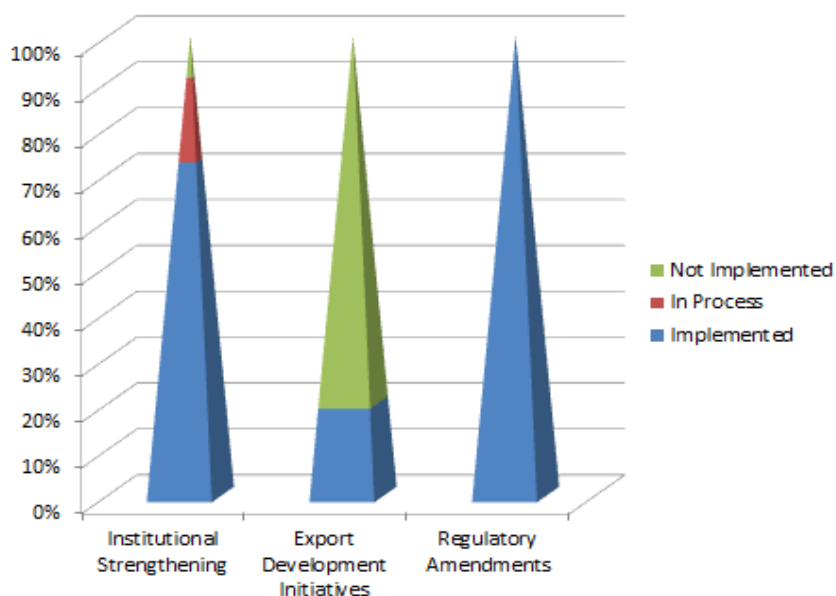
Measures announced to achieve goals

To achieve goals of STPF the following instruments of policy were employed;

- Institutional Strengthening and Governance
- Export Development Initiatives to enhance export competitiveness
- Regulatory Amendments in the trade regulations

Implementation Status

All the regulatory amendments envisaged in the STPF were notified and implemented.



Only two export development initiatives (EDIs) namely Long Term Financing Facility (LTFF) and Export Finance Scheme (EFS) could be implemented. These were implemented through inclusion in 2014-15 Budget by reduction in markup rate i.e. from 11.4% to 9% for LTFF and from 9.4% to 7.5% for EFS. The remaining EDIs

worth Rs. 21.9 billion could not be implemented due to absence of business procedures and resultantly non release of funds. Actually TDAP became almost non-functional due to initiation of legal proceedings on account of financial mismanagement with regard to previous EDIs disbursements.

Following new institutions were created:

- (i) Domestic Commerce Wing in MoC for establishing necessary linkage between domestic commerce and institutional markets
- (ii) Services Trade Promotion Council and Trade in Services Wing in the Ministry for development of trade in services
- (iii) Trade Dispute Resolution Organization to provide comprehensive alternate dispute resolution mechanism in Pakistan
- (iv) EXIM Bank to help reduce cost of borrowing for the export sector on long term basis and help reduce their risk by providing export credit, suppliers credit and export credit guaranties
- (v) Pakistan Land Port Authority

Work on creation of Leather Export Promotion Council to help in better and sustained communication between government and private sectors for promotion of leather exports and is in process

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Gatron Industries Limited - Novatex Ltd. | Address, Contacts, Reviews @ Phonebook Online

Head Office

Address : 10th Floor, G & T Tower No.18, Beaumont Road, Civil Lines -10, Karachi. **Landmarks :** Beaumont Road **City :** Karachi **Phone :** +92-21-35659585, 35659586, 35659587 **UAN :** +92-21-111241717, 111717171

Factory

Address : 117-83, Office Railway Siding Export Processing Zone Road, Near Wheat Godown, Landhi. **Landmarks :** Wheat Godown **City :** Karachi **Phone :** +92-21-35017484, 35017485 **Fax :** +92-21-35017750

Business Details

Y.O.E

1994

Business Type

Manufacturers, Exporters

Business Hours

Monday - Friday [9 am - 5 pm]

Business Headings

[Exporters](#)[Bottle Caps & Seals](#)[Bottles](#)[Resins](#)

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- [Haji & Umrah,](#)
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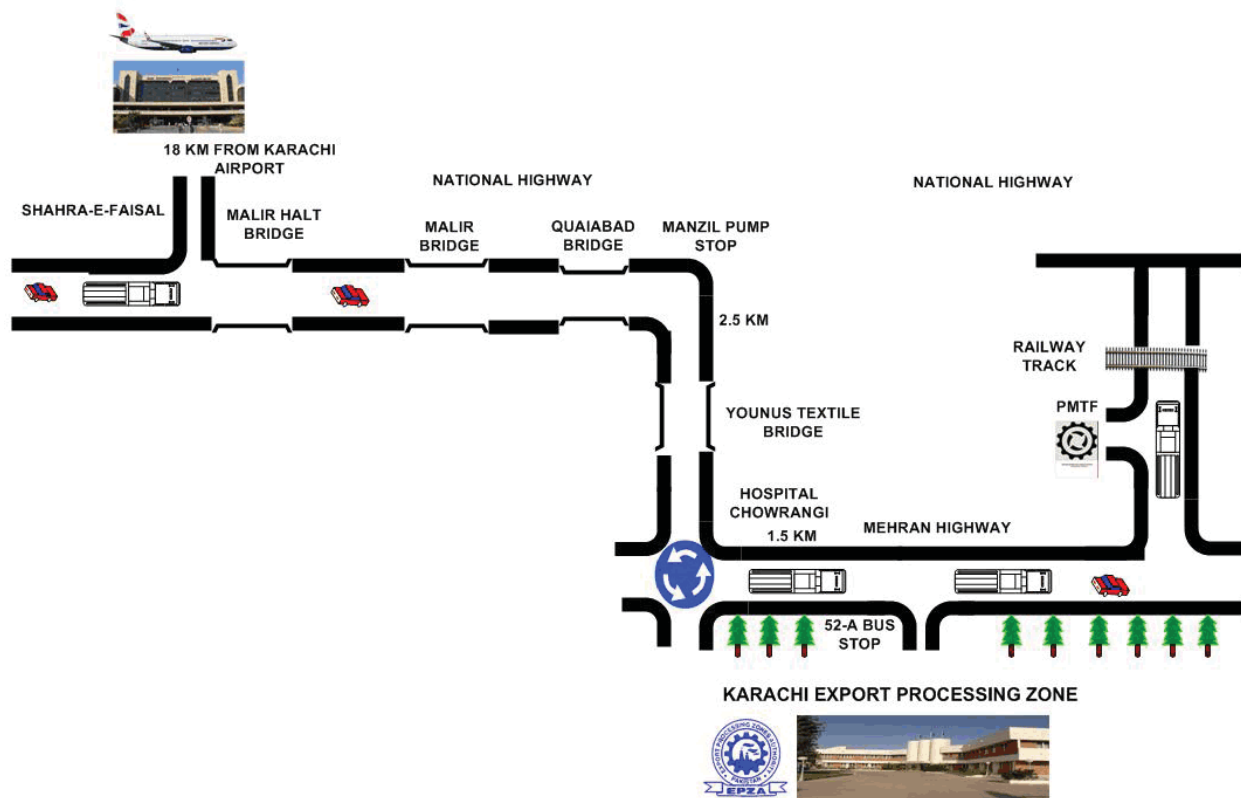
Location of KEPZ:

Karachi Export Processing Zone (KEPZ) is located adjacent to the Landhi Industrial Area (Extension). It is ideally located to reach the markets of Middle East, Far East, Africa, Europe, Amer Asia.

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ROUTE MAP OF EXPORT PROCESSING ZONES AUTHORITY



Distance to Airport	Quaid-e-Azam International	18 Kilometre
Distance to Ports	(i) Port Qasim	20 Kilometre
Proximity to Highways	(ii) Highly modernized & developed Karachi Seaport	35 Kilometre

KEPZ Phase I (Area 211 acres)

Fully in operation, garment is the dominant sector followed by electronics, chemicals etc. This phase is fully allotted to the investors, however plots can be acquired under sale/transfer price by existing investors if they wish to sell.

Infrastructure at Karachi Export Processing Zone (KEPZ)

Land	Initial allotment for a period of 30 years (renewable by mutual agreement). Developed land is available as under: <ul style="list-style-type: none"> Plots of 1000 sq. metres each in the industrial sector and warehousing/trading sector. Plots of 96 to 216 sq. metres each in the financial sector.
Land Payment	Payment for land is to be made at the following rates before execution of agreement:
Security Deposit	Rates (Per sq.metre)
Industrial plots	US\$ 10.00
Trading/Financial/Insurance plots	US\$ 30.00
Annual Ground Rent	Rates (Per sq.metre/p.a.)
Industrial plots	US\$ 2.5
Trading/Financial/Insurance plots	US\$ 3.5
Electricity	11.5 KV and 440 V (3 Phase 50 HZ AC System) 132 KV Grid Station with a capacity of 40 MW of electricity built in the Zone
Gas	600,000 cu ft/day
Water	500,000 gallons/day
Underground Water Storage	1.30 million imp. Gallons
Telecommunication	Digital electronic exchange of 8000 (optic-fiber lines) International subscribers dialing (ISD), linked with communication satellite

KEPZ Phase II (Area 94 acres)

Development of infrastructure is complete. Twelve acres are allocated for Hi-tech, Gem & Jewelry, Technology based industries. M/s Y.K.K have acquired 46000 sq.metres for production of accessories.

Advantages available now to Investors of KEPZ

- Developed land
- Cheaper electricity
- Optic-fiber network (Capacity 4000 lines)
- Grid station (No Load Shedding)
- Abundant water and gas supply

<http://epza.gov.pk/project/epz-karachi/>

4/5

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- No permission of building control department required for multi-storey building
 - No restriction on foreign currency movement (Offshore banking status)
 - Duty free import of all goods
 - Access to Zone: One fly-over completed
- Two fly-overs are near completion

Thirty-six projects already approved for KEPZ Phase-II, construction of factory building is in process

New investors are welcome in the following priority sectors:

- i) Hi-Tech Industry
- ii) Gem & Jewelry
- iii) Software Houses
- iv) Information Technology Based Industries
- v) Precision Engineering

OUR ADDRESS

- Karachi Export Processing Zone (KEPZ),
Landhi Industrial Area Extension,
Mehran Highway,
Karachi-75150 - Pakistan
- (92-21) 99208039-41-44
- info@epza.gov.pk
- www.epza.gov.pk

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Manufacturing bond scheme: FBR unveils new formula for duty drawback rates

Posted on July 3, 2009 by AAJ News Archive in Business



The Federal Board of Revenue has issued a new formula for calculation of duty drawback rates for exporters under the “manufacturing bond scheme” to clear thousands of pending claims at the level of Model Customs Collectorate (MCCs). The FBR on Thursday issued SRO.612(I)2009 through amendment in Customs Rules, 2001 to fulfil a major demand of exporters.

The amended SRO will resolve the issue of pending duty

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1/6

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Manufacturing bond scheme: FBR unveils new formula for duty drawback rates | Aaj News

drawback claims of exporters lying in different collectorates due to anomaly in calculation of duty drawback payment. The new formula for working out duty drawback rates under the “manufacturing bond scheme” is a right step towards facilitation to the export sector.

According to the new duty drawback calculation formula, ‘the licensee may procure duty-paid input goods manufactured locally, in addition to duty free input goods for production of finished goods and if duty drawback and rebate of federal excise duty is admissible on export of such finished goods on the basis of standard duty drawback and rebate notification, the f.o.b. value for claiming such duty drawback and rebate shall be the value excluding value of the duty-free goods imported under these rules’.

Details revealed that exporters were facing problems in obtaining duty drawback under the “manufacturing bond scheme”, pointing towards immediate amendment in the SRO.450(I)2001 for removal of a technical anomaly to clear thousands of pending claims. Exporters further pointed out that amendment in the requisite rules was required in which temporarily duty free imported raw materials being imported by the exporter and subsequently used in the exported goods in order to resolve the long pending issue anomaly.

Under the previous scheme, the licensee may procure duty paid input goods manufactured locally for production of finished goods and he would be entitled for payment of duty draw back and rebate of central excise duty worked out on the basis of standard duty drawback notifications on the f.o.b. value of export. Provided that the amount of duty drawback and rebate of central excise duty shall be reduced by the proportionate duty

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M	T	W	T	F	S	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		
« Jun					Aug »	

3/12/2017

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amount, applicable at current rates, on the quantity of used duty free input goods imported or procured locally. Sources said the formula specified in the “manufacturing bond scheme” for calculation of duty drawback rates was not realistic, which created problems for the exporters. Certain individual exporters have also approached the relevant collectorate, who have agreed with the viewpoint of the rebate claimants.

According to sources, the admissible amount of duty drawback rate was actually reduced due to technical errors in the notification. The procedure for calculation of drawback given in the rule 352 of the Customs Rules 2001 needed to be reviewed. Keeping in view of exporters’ problem, the FBR has resolved a major issue of the exporters through amendment in the customs rules 2001. The duty drawback calculation formula has been revised through SRO.612(I)2009 in view of exporters suggestions.

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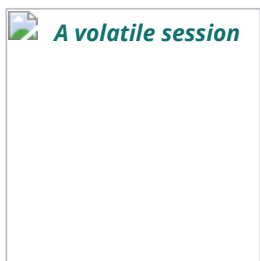
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Productivity, efficiency and branding is the back bone of success. I.T applications to achieve this is vital. I would ask you to guide and advise our industry for mutual benefits. Best of luck and see you at Expo 2006.

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Temporary Importation Schemes

In the earlier Chapters 7, 8 and 9, the Manufacturing in Bond Rules, No Duty - No Drawback Rules and Common Bonded Warehouse Rules have been discussed. All these three sets of Rules provide for duty-free import of raw materials for export production in customs manufacturing bonds or otherwise. There are some other Temporary Importation Schemes that allow duty-free import of specified raw materials and packing materials for specified export industries, with or without a manufacturing bond. These are discussed in this Chapter.

[Back to Top](#)

Temporary Importation Scheme (SRO-818/89)

This scheme provides for duty-free import of materials, components and sub-components for processing, assembling, manufacturing, repair or rebuilding, for embellishing and decorating goods produced in Pakistan, packing materials (excluding, straw, paper, paper cones, glass, wool and like material) and price labels/tags. The export industries/manufacturing operations covered are machinery, electricals and electronics, packing, leather goods (from components), sports goods (from components), garments (from fabrics), garment accessories, bicycle, dolls, toys and games, vacuum flasks, furniture, wood ware and fittings, general processes like repairs, cleaning, drying, coating, printing etc. For full details see SRO-818/89 dated 9.8.89(App:9.1). The exemption from payment of Customs duty and Sales Tax is available only when imports are made temporarily for exportation and is subject to the following conditions:

- Application for exemption is made to the Customs giving full particulars of the goods and the purpose of import.
- A Bank Guarantee, or an Indemnity Bond alongwith post-dated cheque, equal to the amount of Customs duty and Sales Tax is furnished to the Customs, binding the importer to re-export the finished goods within a period of one year, extendable for a further period of six months, in deserving cases, at the discretion of Customs and subject to such conditions as may be deemed fit. Failure to export within the stipulated period attracts enforcement of the Bank Guarantee or Indemnity Bond / post-dated cheque.
- The imported goods should be capable of identification at the time of re-export.
- Packing material may be imported empty and exported filled.
- On importation, the importer has to declare on the Bill of Entry that the goods are imported for the purpose of SRO-818/89. At the time of re-export, the exporter has to declare on the Bill of Export that the materials were imported for the purpose of SRO-818/89 and to give particulars of import documents. Under Customs General Order (CGO) No: 5/1991 dt: 3.6.91, the import is to be released within 24 hours.
- After re-export, evidence of re-export within the stipulated period has to be given to the Customs upon which the Bank Guarantee / Indemnity Bond is discharged, within 7 days of export under CGO-5/91.
- Transfer of ownership of temporarily imported goods may be allowed by Customs, at their discretion, subject to transfer of Bank Guarantee / Indemnity Bond, but only in cases where the imported goods have undergone the manufacturing process to reach an intermediary product stage.
- If temporarily imported goods are used in addition to duty-paid materials, and duty drawback is admissible on the export of finished products, the FOB value of export is reduced by the value of the duty-free imported goods, for the purpose of calculation of duty drawback amount.

[Back to Top](#)

Import of accessories for textile/leather garments, and leather goods (SRO-954/98)
Under SRO-954(I)/98 dated 7.9.98(App:9.2), imports of accessories, specified in Schedule I to SRO-

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954/98 are allowed free of Customs duty and Sales Tax, for export of garments including leather garments, flat goods, ladies hand bags and soft luggage items, subject to the following conditions:

- Customs duty/Sales Tax exemption under SRO-954/98, is available only to the extent of 5% of the FOB value of exports, to be declared by the exporter on each Shipping Bill, giving particulars of import documents and the total FOB value of re-exported goods so far.
- Application for exemption is made to the Customs giving full particulars of the goods and the purpose of import. Only one point of entry for such imports is available as per the declaration of the importer.
- An Indemnity Bond alongwith post dated cheque, equal to the amount of Customs duty and Sales Tax is furnished to the Customs, binding the importer to re-export the finished goods within a period of one and a half year. Failure to export within the stipulated period attracts enforcement of the Indemnity Bond / post-dated cheque.
- On importation, the importer has to declare on the Bill of Entry that the goods are imported for the purpose of SRO-954/98. At the time of re-export, the exporter has to declare on the Bill of Export that the materials were imported for the purpose of SRO-954/98 and gives particulars of import documents.
- After re-export, evidence of re-export within the stipulated period has to be given to the Customs upon which the Indemnity Bond is discharged.
- Transfer of ownership of temporarily imported goods may be allowed by Customs, at their discretion, subject to transfer of Indemnity Bond.
- If temporarily imported goods are used in addition to duty-paid materials, and duty drawback is admissible on the export of finished products, the FOB value of export is reduced by the value of the duty-free imported goods, for the purpose of calculation of duty drawback amount.

[Back to Top](#)

Some important variations between the Temporary Importation Scheme under SRO-818/89 and the import of specified accessories under SRO-954/98 need to be noted as under:

- SRO-954/98 provides exclusively for duty-free import of accessories, only for textile and leather garments and leather goods, and not the other export industries specified in SRO-818/89.
- Imports of accessories under SRO-954/98 are limited to 5% of the FOB value of the finished goods exported. There is no such limit under SRO-818/89.
- SRO-954/98 provides only for Indemnity Bond/post dated cheque, instead of the option of Bank Guarantee / Indemnity Bond under SRO-818/89.
- SRO-954/98 allows a period of one and a half year for re-export as distinguished from SRO-818/89 which allows the period of one year extendable by six months on merits of each case.
- The condition of the imported goods being identifiable at the time of re-export provided in SRO-818/89 is not applicable under SRO-954/98, but all the importable accessories are actually identifiable at the time of re-export.
- Other conditions and procedures, including the admissibility of duty drawbacks on export of finished goods, are nearly the same under both SRO-818/89 and SRO-954/98.
- Duty-free imports under both SRO-818/89 and SRO-954/98 can be made with or without having a Customs Manufacturing Bond.

[Back to Top](#)

Duty-free import of certain garment accessories by members of Garment Associations (SRO-224/94) Certain materials required for production of textile garments, not covered in SRO-954/98, nor under SRO-818/89, are importable without payment of Customs duty under SRO-224(I)/94 dated 5.3.94 (App:9.3). This SRO particularly covers the import of lining and furlinning materials, among other items. Under this SRO, the importer has to be a member of one of the five Garment associations, the following

- Pakistan Cotton Fashion Apparel Manufacturers and Exporters Association.
- Pakistan Readymade Garments Manufacturers and Exporters Association.
- Pakistan Hosiery Manufacturers Association.
- Pakistan Knitwear and Sweaters Exporters Association.
- Pakistan Art Silk Fabrics and Garments Exporters Association.

[Back to Top](#)

The materials importable under SRO-224/94 are listed in Table I of SRO-224/94(App:9.3), and can be imported subject to the following conditions

- The manufacturer-cum-exporter has to attach with each Bill of Entry a certificate by the concerned Association to the effect that he is registered as exporter and makes a declaration on the Bill of Entry giving full particulars of the imported goods and their use.
- An Indemnity Bond is to be provided covering the leviable Customs duties alongwith a certificate by the President or the Secretary of the concerned Association to the effect that if he fails to re-export the finished goods, within one year, the Association itself will be responsible for payment of the duty involved.

3/12/2017

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- If the importer is not in a position to provide Indemnity Bond, a Bank Guarantee or a post-dated cheque, certified by the concerned bank, is to be furnished to the extent of duties involved.
- If the importer intends to make regular imports under SRO-224/94, he may furnish a standing Bank Guarantee for imports to be effected during the whole financial year, instead of Indemnity Bond in individual cases of imports.
- The importer has to intimate to the Customs Station from which the goods were imported, full particulars of exports, separately accounting for the goods not exported, with copies of relevant Shipping Bills and Bills of Lading.
- The Customs Station concerned maintains an import-wise account in the prescribed register.
- At the time of export, the manufacturer-cum-exporter declares on each Bill of Export, the quantity of goods imported and their particulars.
- Wastage is allowed upto 3% of the quantity imported.
- Indemnity Bond is discharged on providing full account of the quantities imported, within the stipulated period.
- The importer-cum-manufacturer is not entitled for duty drawbacks on exports of the finished goods.

[Back to Top](#)

Duty reduction on imports of materials for export of leather made-ups (SRO-1332/90)

A number of raw materials, accessories and components are importable free of duties, for the purpose of export production, into Customs Manufacturing Bonds or under No Duty - No Drawback Rules or under Temporary Importation Schemes (SRO-818/89 and SRO-954/98). For certain items required in export production of leather made-ups and footwear that are not covered under the aforementioned modalities, and to facilitate those manufacturer-cum-exporters who do not operate Customs Manufacturing Bonds, SRO-1332(I)/90 dated 26.12.90 (App:9.4) allows import of accessories and parts of footwear, at a reduced Customs duty of 10%. The items covered are listed in the Table to SRO-1332/90 (App:9.4) and can be imported subject to the following conditions:-

- The manufacturer-cum-exporter has to declare on the Bill of Entry that he is an exporter of leather made-ups and to give full particulars of the imported goods and their use.
- The benefit of duty reduction is also available for goods consigned by an overseas person without cover of Letter of Credit.
- An Indemnity Bond is to be furnished by the manufacturer-cum-exporter, to the effect that if he fails to re-export the goods within one year, or a further period not exceeding six months as may be allowed by the Customs, the Indemnity Bond will be enforced. As an alternative to Indemnity Bond, a Bank Guarantee for the duties involved can also be provided.
- The manufacturer-cum-exporter has to keep an account of the goods imported, received, consumed and exported.
- The Customs Station from where the goods are imported, have to be informed about the export of finished products within the stipulated period.
- At the time of export, on each Bill of Export, the quantity of goods imported and used in the leather made-ups being exported, has to be declared.
- Wastage of imported goods is allowed upto 3% of the quantity imported.

[Back to Top](#)

Duty-free Raw Materials for Leather Goods

SRO-1319(I)/96 dt 24.11.96 (App:9.5) allows duty-free clearance of the following raw materials, into manufacturing bonds, for manufacture of leather goods wholly for export:

- Raw and pickled hides and skins(ii)Wet blue hides and skins
- Finished leather; and
- Accessories, components and trimmings for leather manufacturers.

[Back to Top](#)

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Pakistan
Tax Guide
2015/16

A country's tax regime is always a key factor for any business considering moving into new markets. What is the corporate tax rate? Are there any incentives for overseas businesses? Are there double tax treaties in place? How will foreign source income be taxed?

Since 1994, the PKF network of independent member firms, administered by PKF International Limited, has produced the PKF Worldwide Tax Guide (WWTG) to provide international businesses with the answers to these key tax questions.

As you will appreciate, the production of the WWTG is a huge team effort and we would like to thank all tax experts within PKF member firms who gave up their time to contribute the vital information on their country's taxes that forms the heart of this publication.

The PKF Worldwide Tax Guide 2015/16 (WWTG) is an annual publication that provides an overview of the taxation and business regulation regimes of the world's most significant trading countries. In compiling this publication, member firms of the PKF network have based their summaries on information current on 1 January 2015, while also noting imminent changes where necessary.

On a country-by-country basis, each summary such as this one, addresses the major taxes applicable to business; how taxable income is determined; sundry other related taxation and business issues; and the country's personal tax regime. The final section of each country summary sets out the Double Tax Treaty and Non-Treaty rates of tax withholding relating to the payment of dividends, interest, royalties and other related payments.

While the WWTG should not to be regarded as offering a complete explanation of the taxation issues in each country, we hope readers will use the publication as their first point of reference and then use the services of their local PKF member firm to provide specific information and advice.

Services provided by member firms include:

- Assurance & Advisory;
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- Corporate Finance;
- Management Consultancy;
- IT Consultancy;
- Insolvency - Corporate and Personal;
- Taxation;
- Forensic Accounting; and,
- Hotel Consultancy.

In addition to the printed version of the WWTG, individual country taxation guides such as this are available in PDF format which can be downloaded from the PKF website at www.pkf.com

- The tax authorities have the power in respect of a transaction between associates to distribute, apportion, or allocate income, deductions, or tax credits between such associates to reflect the income that would have been realized in an arm's-length transaction.

COMPANY TAX

The corporate tax rate for tax year 2015 has been reduced to 33%. However, this relief in tax rate is not available to banking companies, which will continue to be taxed at 35%. The tax rates are summarized as follows:

- Small company: 25%
- Modaraba: 25%
- Banking Company: 35%
- All other companies: 33%

The term 'public company' implies a company listed on any stock exchange in Pakistan or one in which not less than 50% of the shares are held by the federal government or a public trust.

The final tax regime (FTR) for resident taxpayers, a presumptive tax scheme where taxes are withheld at the source on the sale of goods and execution of contracts or collected at the time of import (for other than industrial raw materials), is considered a final tax liability in respect of income arising from the sale, contract, or import. In the case of exports, tax collected at the time of realisation of foreign-exchange proceeds is treated as final tax for that income.

The FTR is also applicable to non-resident taxpayers, at their option. However, it is only applicable in cases of receipts on account of the execution of a contract for construction, assembly, or installation, including a contract for the supply of management activities in relation to such project as well as certain contracts for services and contract for advertisement services rendered by television satellite channels.

Taxation of a permanent establishment (PE) of a non-resident

The following principles shall apply in computing taxable income of a PE:

- It is a distinct and separate entity dealing independently with the non-resident of which it is a PE.
- In addition to business expenditure, executive and administrative expenditure, whether incurred in Pakistan or elsewhere, will be allowed as deductions.
- Head office expenditure, including rent, salaries, travelling, and any other expenditure that may be prescribed, shall be allowed as a deduction in proportion to the turnover of the PE in the same proportion as the non-resident's total head office expenditure bears to its worldwide turnover.
- Royalties, compensation for services (including management services), and interest on loans (except in banking business) payable or receivable to or from PE's head office shall be considered in computing taxable income of PE.

- No deduction will be allowed for any interest paid on loans acquired by a non-resident to finance the operations of a PE (or for the insurance premium in respect of such loans).

Filers and Non-Filers

The Finance Act, 2014 has introduced separate enhanced rates for withholding and collection of tax for 'non-filers' under the following heads:

1. Tax withholding on payment of Dividend;
2. Tax withholding on payment of Profit on Debt;
3. Tax withholding on Cash withdrawals;
4. Collection of Advance tax on registration or transfer of registration of private motor vehicles;
5. Collection of Advance tax on motor vehicles;
6. Collection of Advance tax from seller of immovable property;
7. Collection of Advance tax from purchaser of immovable property;
8. Collection of Advance tax on sale of specified products to distributors, dealers and wholesalers.

For the above purpose, new definitions of 'filer' and 'non-filer' have been inserted in section 2 of the Ordinance. A 'Filer' has been defined as a taxpayer whose name appears on the 'active taxpayers list' or is a holder of taxpayer card, whereas all other persons are defined to be treated as 'non-filers'.

BRANCH PROFITS TAX

The rates of tax for a branch of a company incorporated outside Pakistan are the same as those applicable on resident companies, other than banking companies (i.e. 35%, except for tax year 2015 where 33% is applicable). Tax at the rate of 10% is levied on the transfer of profits to the head office, with an exception for companies engaged in the oil and gas exploration and production business.

Payments to a branch in Pakistan of a non-resident are subject to deduction of tax at source on the same basis as a resident in the case of sale of goods, rendering of professional services, and execution of contracts. In other circumstances, a reduced/0% withholding tax (WHT) certificate can be obtained from the Commissioner of Income Tax.

Pakistan has signed agreements for avoidance of double taxation with over 60 countries.

MINIMUM TAX

Where the tax payable by a company is less than 1% of the turnover, except where the company is in a loss position before charging depreciation and other inadmissible expenses, the company is required to pay a minimum tax equivalent to 1% of the turnover.

Tax paid in excess of normal tax liability can be carried forward for adjustment against tax liability of a subsequent tax year. However, such tax can only be adjusted against tax liability of the five tax years immediately succeeding the tax year for which the amount was paid.

6/12/2017

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PAKISTAN

Budget 2016-17: FBR to retain DTRE and manufacturing bonds schemes

SOHAIL SARFRAZ MAY 1ST, 2016 ISLAMABAD

The Federal Board of Revenue (FBR) will retain certain concessionary and exemption regime for export-oriented sectors like Duties and Tax Remission for Export (DTRE) scheme and Manufacturing Bonds Scheme in upcoming budget (2016-17). Sources told *Business Recorder* here on Saturday that the FBR has started an exercise for withdrawal of exemption and concessionary Statutory Regulatory Orders (SROs). The government is expected to withdraw around Rs 130 billion worth concessionary SROs of customs duty, sales tax, income tax and Federal Excise Duty in budget (2016-17).

Sources said that the FBR has decided to withdraw concessions/exemptions of income tax, sales tax and customs duty granted through SROs amounting to 0.3 percent of Gross Domestic Product (GDP) in budget. In fiscal year 2014-15 Rs 105 billion worth of SROs and exemptions were withdrawn while in 2015-16 this amount stood at Rs 120 billion. However, export-related concessionary regime would not be withdrawn in the budget (2016-17). In this regard, the duty drawback schemes, DTRE scheme and Manufacturing Bonds Scheme, etc, would remain intact. However, other concessionary SROs of Customs Duty would be withdrawn or modified in the

6/12/2017

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DTRE, 'Manufacturing Bonds Scheme' and others to provide a sole uniform procedure for import of duty-free items to be used in the finished products meant for export by the manufacturers-cum-exporters. However, the merger of all temporary importation schemes was not considered as a feasible idea at that time. Different schemes have separate procedures for temporary importation of goods to be consumed in the production of export products. DTRE scheme has different procedure as compared to duty free imports made by the 'Manufacturing Bonds scheme' or 'temporary importation schemes' notified vide SRO 492(I)/2009.

Under the temporary importation scheme, the federal government has exempted whole of the customs duty and sales tax on temporary importation of goods for subsequent export as specified. This facility shall be available to exporters also registered as manufacturers and fulfilment of laid down conditions. These temporary importation schemes would remain intact to facilitate exports of the country, sources added.

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