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MEMORANDUM TO: Faryar Shirzad  
Assistant Secretary  
for Import Administration

FROM: Bernard T. Carreau  
Deputy Assistant Secretary  
for Import Administration

SUBJECT: Issues and Decision Memorandum: Final Results of the  
Administrative Review of the Countervailing Duty Order (CVD)  
on Cotton Shop Towels from Pakistan - Calendar Year 2000

### Summary

We have analyzed the comments of interested parties in the final results of the above-mentioned administrative review for the period (POR) January 1, 2000, through December 31, 2000. Based on our analysis of these comments, we have not changed our results from the preliminary results of review. Below are the "Methodology and Background Information" and "Analysis of Programs" sections of this memorandum that describe the decisions made in this administrative review with respect to Mehtabi Towel Mills Ltd. (Mehtabi), Quality Linen Supply Corp. (Quality), Fine Fabrico (Fabrico), Ranjha Linen (Ranjha), Iftikhar Corporation (Iftikhar), Faisalabad Cotton Product (Pvt) Ltd. (Faisalabad), Shahi Textiles (Shahi), United Towel Exporters (United), R.I. Weaving (R.I.), Universal Linen (Universal), Ishaq Towel Factory (Ishaq), Jawwad Industries (Jawwad), Silver Textile Factory (Silver), and Sultex Industries (Sultex) (collectively, the respondents), the producers/exporters of subject merchandise covered by this segment of the proceeding. Also below is the "Analysis of Comments" section in which we discuss the issues raised by interested parties. We recommend that you approve the positions we have developed below in this memorandum.

### Methodology and Background Information

#### I. Use of Facts Available

Two of the respondents, Jawwad and Sultex, responded to the Department's initial questionnaire but failed to respond to the supplemental questionnaire with respect to the Sales Tax Rebate Program. Jawwad also did not respond to the Department's initial questionnaire and

supplemental questionnaire with respect to short-term loans received under the Export Financing Scheme (EFS). Therefore, for the preliminary results, we calculated rates for these programs for these two companies using adverse facts available as required under Section 776 of the Act. For a discussion of the use of adverse facts available applied to these two companies, see Cotton Shop Towels From Pakistan: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review, 67 FR 16718 (April 8, 2002) (Preliminary Results). We did not receive any comments from any of the interested parties on this issue. Therefore, in these final results of review, we continue to apply the adverse facts available for Jawwad and Sultex with respect to the Sales Tax Rebate Program and, we continue to apply adverse facts available to Jawward with respect to the EFS Program.

## II. Analysis of Programs

### A. Programs Conferring Subsidies

#### 1. Export Finance Scheme

In the Preliminary Results, we found that this program conferred countervailable subsidies on the subject merchandise. Our analysis of the comments submitted by the interested parties (see Comment 1 below) has not led us to change our findings from the Preliminary Results. In addition, there has been no new information or evidence of changed circumstances that would warrant any reconsideration of these findings. Accordingly, the net subsidies for this program during the POR are the following:

Company	Ad Valorem Rate
Mehtabi	0.15%
Quality	0.15%
Fabrico	0.15%
Ranjha	0.15%
Ifitkhar	0.15%
Faisalabad	0.15%
Shahi	0.00%
United	1.11%
R.I.	1.11%
Universal	1.11%
Ishaq	1.11%

Jawwad	1.11%
Silver	0.00%
Sultex	0.00%

## 2. Sales Tax Rebate Program

In the Preliminary Results, we found that this program conferred countervailable subsidies on the subject merchandise. Our analysis of the comments submitted by the interested parties (see Comment 3 below) has not led us to change our findings from the Preliminary Results. In addition, there has been no new information or evidence of changed circumstances that would warrant any reconsideration of these findings. Accordingly, the net subsidies for this program during the POR are the following:

Company	Ad Valorem Rate
Mehtabi	1.72%
Quality	1.72%
Fabrico	1.72%
Ranjha	1.72%
Iftikhar	1.72%
Faisalabad	1.72%
Shahi	1.72%
United	0.53%
R.I.	0.00%
Universal	0.00%
Ishaq	0.00%
Jawwad	1.72%
Silver	0.05%
Sultex	1.72%

### 3. Customs Duty Rebate Program

In the Preliminary Results, we found that this program conferred countervailable subsidies on the subject merchandise. Our analysis of the comments submitted by the interested parties (see Comment 2 below) has not led us to change our findings from the Preliminary Results. In addition, there has been no new information or evidence of changed circumstances that would warrant any reconsideration of these findings. Accordingly, the net subsidy for this program for each reviewed company, which is 1.70 percent ad valorem, remains unchanged from the Preliminary Results.

#### B. Program Determined Not to Confer A Benefit

##### 1. Income Tax Reduction on Export Income Program

In the Preliminary Results, we found that this program did not confer countervailable subsidies on the subject merchandise during the POR. No comments were received on this program. In addition, there has been no new information or evidence of changed circumstances that would warrant any reconsideration of these findings. Therefore, our finding for this program remains unchanged from the Preliminary Results.

#### III. Programs Determined To Be Not Used

- A. Rebate of Excise Duty
- B. Export Credit Insurance
- C. Import Duty Rebates

#### IV. Total Ad Valorem Rate

The net subsidy rates are as follows:

Company	Ad Valorem Rate
Mehtabi	3.57%
Quality	3.57%
Fabrico	3.57%
Ranjha	3.57%
Ifitkhar	3.57%
Faisalabad	3.57%

Shahi	2.23%
United	2.81%
R.I.	2.81%
Universal	2.81%
Ishaq	2.81%
Jawwad	4.53%
Silver	1.75%
Sultex	3.42%

V. Analysis of Comments

Comment 1 - Export Finance Scheme

The Government of Pakistan (GOP) maintains that the Export Finance Scheme (EFS) is not a subsidy given specifically for exports of shop towels to the United States, but rather EFS assistance is applied to all exporters for exports to all countries. Because EFS assistance is provided equally to all exports, the GOP maintains this program is not countervailable. Moreover, the GOP asserts that export finance rates are pegged at 1.5 percent above the Treasury Bill rates and therefore these rates are linked with the market rates.

Department's Position: Section 771(5A)(B) of the Act provides that an export subsidy is a subsidy that is, in law or in fact, contingent upon export performance, alone or as 1 of 2 or more conditions. The fact that all exporters in the country can use this program does not change the fact that the use of this program is based upon export performance. In addition, in the investigation, (see Cotton Shop Towels from Pakistan: Final Affirmative Countervailing Duty Determination, 49 FR 1408, 1410 (January 11, 1984)) and subsequent reviews, we found that under EFS, the GOP permits short-term export financing to be provided at interest rates lower than those otherwise charged on short-term loans in Pakistan. According to the July 16, 2001 questionnaire response, EFS assistance is only available to exporters upon providing timely evidence of export. In cases in which there is a default in the export shipment or timely evidence of export is not provided, fines are assessed which increase the loan rates. Furthermore, the fact that the GOP bases the interest rates charged under this program on the Treasury Bill rates does not mean that a benefit has not been provided to the cotton shop towel exporters. Section 771(5)(E) of the Act provides that a benefit is conferred where the government provides loans to the exporters at rates below which the exporters would have paid on commercial loans that the exporter would have actually obtained on the market. During the POR, we found that respondents were provided financing under this program at interest rates between 7 percent and 8

percent, which was below the national average commercial rate for short-term credit of 13 percent, the rates commercially available for respondents as reported by the GOP. See Preliminary Results 67 FR 16718,16720 (April 8, 2002). As a consequence, respondents received EFS financing at lower interest rates than they would have paid on comparable commercial loans which is the standard under section 771(5)(E)(ii) of the Act. Thus, EFS short-term export financing is countervailable, because lower rate financing provided under the program is contingent upon export performance. Therefore, we find that EFS financing provided countervailable benefits to cotton shop towel exporters during the POR.

Comment 2 - Customs Duty Rebate Program

The GOP contends that the Customs duty drawback rate on the export value of shop towels, 1.70 percent, is based on the drawback rate for grey fabric which is the lowest rate for textile products. Furthermore, the GOP states that there is no separate worksheet prepared to show the duty drawback calculation for shop towels. One respondent, Shahi, also maintains that this rate is based on the calculation of the incidence of Customs duties paid on the imported inputs. Several other respondents (Ishaq, Universal, R.I., and United) argue that the return of Customs duties upon export is not a rebate, but rather a refund recovered on imported inputs that is subsequently “refunded back” when shop towels are exported. These respondents argue that the refund of Customs duties upon the export of cotton shop towels is an “international practice” and is therefore, not countervailable.

Department’s Position: The July 16, 2001 questionnaire response from the GOP and all respondents indicates that on exports of cotton shop towels there is a Customs duty drawback of 1.70 percent. In the investigation and subsequent reviews, we found the Customs Rebate Program countervailable because the GOP failed to establish the requisite linkage and comparison between Customs duties paid and rebates provided. In this review, the GOP did not provide new information to establish the required linkage between the rebates given and the indirect tax incurred as required under section 351.519 of the Department’s regulations. Because respondents are not able to provide the total amount of Customs duties paid on imported chemicals used in the production of cotton shop towels, we are unable to compare the Customs duties paid on these inputs to the Customs duty rebate received upon the export of cotton shop towels. Accordingly, we are not able to ascertain whether Customs duty rebates paid on exported cotton shop towels is more or less than the Customs duties paid on the imported inputs. Therefore, we determine that the GOP pays these rebates without regard to specific taxes incurred in the production of shop towels and that the full amount of these rebates is countervailable because these rebates are contingent upon export performance. See Preliminary Results of Countervailing Duty Administrative Review: Cotton Shop Towels from Pakistan, 58 FR 32104 (June 8, 1993) and Final Results of Countervailing Duty Administrative Review: Cotton Shop Towels from Pakistan, 58 FR 48038 (September 14, 1993).

Comment 3 - Sales Tax Rebate Program

The GOP and the respondents argue that there is no linkage between the sales tax collected

and the sales tax refunded to the exporters. Several respondents (Mehtabi, Fabrico, Iftikhar, Ranjha, Quality, and Faisalabad) contend that assistance provided under this program is not a refund, but is an input adjustment. These respondents assert that the 15 percent sales tax collected on cotton yarn is only for documentation purposes and this sales tax is adjusted after the finished product has been sold domestically or exported. These respondents maintain that the result of this practice is that sales tax is not charged on exports which is in accordance with international practice in the value added tax (VAT) mode system. Therefore, the respondents contend the sales tax rebate is not countervailable.

Another respondent, Shahi, asserts that the sales tax collected on cotton yarn is paid on an invoice-by-invoice basis. Shahi contends that its sales tax rebated is not paid on the f.o.b. value of total exports, but rather is paid on total sales. Accordingly, Shahi argues that the Department should recalculate the benefit for the sales tax rebate program based on total sales rather than total exports. Furthermore, the GOP and several respondents (Mehtabi, Fabrico, Iftikhar, Ranjha, Quality, and Faisalabad) contend that the sales tax refund system, which was based on a percentage of the export value, was abolished in 1996. These respondents provide Government Circular No. 3(145) Rebate/96 dated September 22, 1996, as support for their statement that the sales tax refund program was terminated.

Department's Position: The documentation that the GOP and respondents claim shows the termination of this program was provided with the comments in their case brief in response to the Preliminary Results of this administrative review. The Department did not receive this information prior to the preliminary results. However, regardless of whether this program may have been terminated prior to the POR, several respondents subject to review reported that they received assistance under this program during the POR. Therefore, we continue to find that certain of the respondents (Mehtabi, Fabrico, Iftikhar, Ranjha, Quality, Faisalabad, Shahi, Jawwad, Silver, and Sultex) have benefitted from this program during the POR.

In addition, the July 16, 2001 questionnaire response indicates that the sales tax rebate is based on export performance. These sales tax rebates are earned on a sale-by-sale basis, and a firm can precisely calculate the amount of rebate it will receive for each export sale at the moment the sale is made. Because exporters of cotton shop towels received a tax rebate on export earnings, we found the Sales Tax Rebate program countervailable. Furthermore, the GOP acknowledges that it pays these rebates without regard to specific taxes incurred in the production of shop towels. Therefore, we determine that the full amount of these rebates are countervailable because the rebate is contingent on export performance and the appropriate bases for the calculation of the subsidy benefit is total export sales.

#### Comment 4 - EFS Benefits Attributed to Cross-Owned Companies

Several respondents (Fabrico, Iftikhar, Ranjha, Quality, and Faisalabad) argue that they did not receive any assistance under the EFS program. These respondents contend that the Department has disregarded their claim that they received no export financing based on the misunderstanding that their individual companies are owned by a member of the same family. One of the family members owns Mehtabi (a company that did receive EFS assistance during the POR). These respondents reassert that each of these companies, Mehtabi, Fabrico, Iftikhar,

Ranhja, Quality, and Faisalabad, are each individually owned by a member of the same family, however, each company is independent. These companies maintain that each company has independent production, supply of input, export operations, accounts, income tax returns and export finance. These respondents argue that their companies are not cross-owned with Mehtabi and therefore, the alleged subsidy for the EFS program should be excluded from their calculations.

Department's Position: In accordance with section 351.525(b)(6)(vi) of the Department's regulations, cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. In this review and the previous review, we found that the respondent group of companies belongs to a family-owned company-group (i.e., the same family owns companies A, B, and C) in which all of the family companies produce and export cotton shop towels. See Cotton Shop Towels From Pakistan: Preliminary Results and Partial Recission of Countervailing Duty Administrative Review 66 FR 18444 (April 9, 2001) and Cotton Shop Towels From Pakistan: Final Results of Countervailing Duty Administrative Review, 66 FR 42514 (August 13, 2001). Moreover, several companies in this company-group share the same physical facilities, administrative services and marketing services. For example, the July 16, 2001 and February 15, 2002 questionnaire responses indicate that Mehtabi, Fabrico, Ranhja, and Iftikhar have the same address, telephone, and fax contact information. Based on the fact that these family-owned and controlled companies all produce and export the subject merchandise, we are attributing loans under the export financing scheme to the total sales of exports to the United States of that group of family-related firms. This attribution of Mehtabi's EFS assistance to its group of family-owned and controlled companies conforms with section 351.525(b)(6)(ii) of the Department's regulations, which explicitly states that if two (or more) corporations with cross-ownership produce the subject merchandise, the Secretary will attribute the subsidies received by either or both corporations to the products produced by both corporations.

Recommendation:

Based on our analysis of the comments received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of the review with the net subsidy rates listed above.

\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

\_\_\_\_\_  
Faryar Shirzad  
Assistant Secretary  
for Import Administration

\_\_\_\_\_  
Date

