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Page: 1/20

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INDIA – MEASURES CONCERNING SUGAR AND SUGARCANE

REQUEST FOR CONSULTATIONS BY GUATEMALA

The following communication, dated 15 March 2019, from the delegation of Guatemala to the delegation of India, is circulated to the Dispute Settlement Body in accordance with Article 4.4 of the DSU.

My authorities have instructed me to request consultations with the Government of India pursuant to Article 4 of the Understanding on rules and procedures governing the settlement of disputes ("DSU"), Article 19 of the Agreement on Agriculture, Articles 4 and 30 of the Agreement on Subsidies and Countervailing Measures ("SCM Agreement"), and Article XXII of the General Agreement on Tariffs and Trade 1994 ("GATT 1994") with respect to: (a) domestic support measures maintained by India in favour of producers of sugarcane and sugar, and (b) export subsidies for sugarcane and sugar.

I. Introduction

India maintains various domestic support measures in favour of sugarcane producers and sugar producers, such as: (i) a system of administered prices for sugar cane which operates at the federal level through the Fair and Remunerative Price ("FRP") and, in the case of certain states, at the state level through the State Advised Price ("SAP"); (ii) a minimum selling price for sugar; and (iii) additional measures that provide financial assistance to sugarcane producers which include production subsidies provided to sugar mills to offset sugarcane price arrears, soft loans provided to sugar mills to offset sugarcane price arrears, and subsidies to maintain buffer stocks.

India did not schedule domestic support reduction commitments in Section I of Part IV of its Schedule of Concessions. Article 7.2(b) of the Agreement on Agriculture states that "[w]here no Total AMS commitment exists in Part IV of a Member's Schedule, the Member shall not provide support to agricultural producers in excess of the relevant *de minimis* level set out in paragraph 4 of Article 6". According to Article 6.4(b), the *de minimis* level for developing countries, such as India, is 10 per cent of the total value of production for the basic agricultural product in question. Guatemala considers that India's domestic support measures, as described in section II of this request, are inconsistent with India's obligations under Articles 3.2, 6.3, and Article 7.2(b) of the Agreement on Agriculture as they exceed the *de minimis* level of 10 per cent provided for in Article 6.4(b) of the Agreement on Agriculture.

In addition to domestic support measures, India provides export subsidies for sugarcane and sugar which take the form of subsidies provided to sugar mills contingent on compliance with minimum indicative export quotas ("MIEQs"), as well as subsidies to sugar mills for internal transport, freight, handling and other charges to facilitate export freight support for exports.

India did not schedule export subsidy reduction commitments in Section II of Part IV of its Schedule of Concessions. India, therefore, may not provide export subsidies to sugarcane or sugar. Guatemala considers that India's measures described in section III of this request are thus inconsistent with India's obligations under Articles 3.3, 8, 9.1, and 10.1 of the Agreement on Agriculture and Article 3 of the SCM Agreement.

II. Domestic support measures in favour of producers of sugarcane and sugar

Pursuant to Article 4.4 of the DSU, Guatemala identifies below the measures through which India provides domestic support in favour of producers of sugarcane and sugar, and which are subject to this request for consultations. The measures at issue include the following, as well as any amendments, related, successor, replacement or implementing measures thereto:

1. Federal-level domestic support for sugarcane in the form of a federal administered price, the "Fair and Remunerative Price" ("FRP"), which is fixed by the Federal Government and paid by sugar mills to sugarcane farmers as reflected in, but not limited to, the instruments and documents identified in paragraph 1 of Annex A to this request.
2. State-level domestic support for sugarcane in the form of a state administered price, the "State Advised Price" ("SAP"), which is fixed by some Indian States and paid by sugar mills located in that State to sugarcane farmers in that State as reflected in, but not limited to, the instruments and documents identified in paragraph 2 of Annex A to this request.
3. Federal-level domestic support for sugarcane in the form of a minimum mandatory selling price for sugar that Indian sugar mills are required to charge for the sale of sugar in India as reflected in, but not limited to, the instruments and documents identified in paragraph 3 of Annex A to this request.
4. Federal-level domestic support for sugarcane, in the form of production-based assistance to offset sugarcane price arrears, involving budgetary outlays and/or other measures to support the production of, and the set of prices for, sugarcane and sugar, as a result of, but not limited to, the instruments and documents identified in paragraph 4 of Annex A to this request.
5. Federal-level programs and measures making available subsidised loans to offset sugarcane price arrears to support the production of, and the set of prices for, sugarcane and sugar, as a result of, but not limited to, the instruments and documents identified in paragraph 5 of Annex A to this request.
6. Federal and state-level measures providing financial assistance towards the maintenance of stocks for sugar, including budgetary outlays and/or other measures to offset cost of sugarcane and support sugarcane price, as reflected in but not limited to, the instruments and documents identified in paragraph 6 of Annex A to this request.
7. Other state-level domestic support for sugarcane and sugar including assistance subsidies, production subsidies, low-interest loans, and exemption of purchase taxes as reflected in, but not limited to, the instruments and documents identified in paragraph 7 of Annex A to this request.

III. Export Subsidies for Sugar and Sugarcane

Pursuant to Article 4.4 of the DSU, Guatemala identifies below the measures through which India provides export subsidies for sugarcane and sugar, and which are subject to this request for consultations. The measures at issue include the following, as well as any amendments, related, successor, replacement or implementing measures thereto:

8. Federal-level measures which provide subsidies to sugarcane and sugar producers contingent upon export performance, including, but not limited to, the instruments identified in paragraph 8 of Annex A to this request.
9. State-level export subsidies for sugarcane and sugar, which make the provision of financial support to sugar mills contingent upon export performance including, but not limited to, the instruments and subsidies identified in paragraph 9 of Annex A to this request.
10. Federal-level assistance and export incentives, including but not limited to the instruments identified in paragraph 10 of Annex A to this request.

11. Freight assistance, including under the Sugar Development Fund (SDF) Rules rule 20A,¹ as well as but not limited to the instruments identified in paragraph 11 of Annex A to this request.

IV. Legal basis for Guatemala's complaint

Guatemala considers that the measures identified in paragraphs 1 – 7 above and in paragraphs 1 – 7 of Annex A, appear to be inconsistent with Articles 3.2, 6.3 and 7.2(b) of the Agreement on Agriculture because they provide product-specific domestic support for sugarcane in excess of the 10 per cent *de minimis* level. Guatemala notes that India did not schedule domestic support reduction commitments in Section I of Part IV of its Schedule of Concessions and, therefore, pursuant to Article 6.4 of the Agreement on Agriculture, India's domestic support measures may not exceed the 10 per cent *de minimis* level.

Guatemala considers that the measures identified in paragraphs 8 – 11 above and in paragraphs 8 – 11 of Annex A, provide export subsidies that appear to be inconsistent with Articles 3.3, 8, 9.1, and 10.1 of the Agreement on Agriculture. Guatemala notes that India did not schedule export subsidy reduction commitments in Section II of Part IV of its Schedule of Concessions. Accordingly, India may not provide export subsidies for sugar or sugarcane. The measures identified in paragraphs 8 – 11 above constitute export subsidies that also appear to be inconsistent with India's obligations under Article 3 of the SCM Agreement. Pursuant to Article 4.2 of the SCM Agreement, Guatemala presents a statement of available evidence in Annex B to this request.

Guatemala reserves the right to raise additional claims and measures, and to address additional legal and factual issues under the provisions of the covered agreements during the course of the consultations.

Guatemala looks forward to receiving India's reply to the present request to fix a mutually convenient date for consultations, with a view toward resolving this dispute.

¹ Reflected in Ministry of Consumer Affairs, Food and Public Distribution, Department of Food & Public Distribution, Sugar Development Fund (Second Amendment) Rules 2007, Notification G.S.R. 697(E) of 7 November 2007.

ANNEX A**LIST OF INSTRUMENTS AND DOCUMENTS CONTAINING
THE MEASURES AT ISSUE**

1. Federal-level domestic support for sugarcane in the form of a federal administered price, the "Fair and Remunerative Price" ("FRP"), which is fixed by the Federal Government and paid by sugar mills to sugarcane farmers as reflected in, but not limited to, the following instruments and documents:
 - a) Sections 3 and 7 of the *Essential Commodities Act*, 1955, as amended;
 - b) Sections 3, 3A, 4, 4A, 5 and 11 of the *Sugarcane (Control) Order*, 1966, as amended;
 - c) Communications fixing the FRP for sugarcane, including but not limited to:
 - i. Ministry of Consumer Affairs, Food & Public Distribution, *Communication "Cabinet approves determination of Fair and Remunerative Price payable by Sugar Mills for 2018-2019 sugar Season"* of 18 July 2018 announcing the FRP for sugarcane to be paid by sugar mills for sugar season 2018-2019;²
 - ii. Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution, *Communication No. 3(3)/2016-SP.II of 1 June 2017*, announcing the FRP for sugarcane to be paid by sugar mills for sugar season 2017-2018;
 - iii. Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution, *Communication No. 3(7)/2015-SP.I of 12 April 2016*, announcing the FRP for sugarcane to be paid by sugar mills for sugar season 2016-2017;
 - iv. Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution, *Communication No. 3(1)/2014-SP.II of 2 February 2015*, announcing the FRP for sugarcane to be paid by sugar mills for sugar season 2015-2016;
 - v. Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution, *Communication No. 3(3)/2013-SP.II of 14 February 2014*, announcing the FRP for sugarcane to be paid by sugar mills for sugar season 2014-2015; and
 - vi. All other federal government communications, instruments, documents, successor instruments and documents, and any amendments thereto that provide for a FRP for sugarcane for sugar seasons 2014-2015, 2015-2016, 2016-2017; 2017-2018, 2018-2019 and subsequent sugar seasons.
 - d) All Notifications fixing the FRP to be paid for sugarcane on a mill-specific basis, including but not limited to:
 - i. Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution, *Notification G.S.R. 1205(E) of 27 September 2017*, fixing the FRP for sugarcane on a mill-specific basis for sugar season 2016-2017;

² See Press Information Bureau, Government of India, Cabinet Committee on Economic Affairs, "Cabinet approves comprehensive policy to deal with excess sugar production in the country", 26 September 2018, available at <http://www.pib.nic.in/Pressreleaseshare.aspx?PRID=1539078>, (last visited 11 March 2019).

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- ii. Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution, *Notification G.S.R. 1204(E) of 27 September 2017*, fixing the FRP for sugarcane on a mill-specific basis for sugar season 2015-2016;
 - iii. Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution, *Notification G.S.R. 142(E) of 17 February 2017*, fixing the FRP for sugarcane on a mill-specific basis for sugar season 2015-2016;
 - iv. Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution, *Notification G.S.R. 932(E) of 30 September 2016*, fixing the FRP for sugarcane on a mill-specific basis for sugar season 2015-2016;
 - v. Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution *Notification G.S.R. 195(E) of 28 February 2018*, fixing the FRP for sugarcane on a mill-specific basis for sugar season 2014-2015;
 - vi. Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution, *Notification G.S.R. 752(E) of 1 October 2015*, fixing the FRP for sugarcane on a mill-specific basis for sugar season 2014-2015; and
 - vii. All other Notifications and other instruments or documents, including successor instruments and documents, and any amendments thereto, fixing the FRP for sugarcane on a mill-specific basis for sugar seasons 2014-2015, 2015-2016, 2016-2017, 2017-2018, 2018-2019 and subsequent sugar seasons.
2. State-level domestic support for sugarcane in the form of a state administered price, the "State Advised Price" ("SAP"), which is fixed by some Indian States and paid by sugar mills located in that State to sugarcane farmers in that State as reflected in, but not limited to, the following instruments and documents:
- a) Andhra Pradesh:
 - i. The SAP for Andhra Pradesh for sugar season 2016-2017;³
 - ii. The SAP for Andhra Pradesh for sugar season 2015-2016;⁴ and
 - iii. The SAP for Andhra Pradesh for sugar season 2014-2015.⁵
 - b) Bihar:
 - i. The *Bihar Sugarcane (Regulation of Supply and Purchase) Act*, 1981, as amended;
 - ii. The State Advised Price in Bihar for sugar season 2017-2018;⁶
 - iii. The State Advised Price in Bihar for sugar season 2016-2017;⁷

³ See Commission for Agricultural Costs and Prices (CACP), Department of Agriculture, Cooperation and Farmers Welfare, Ministry of Agriculture and Farmers Welfare, Government of India, Price Policy for Sugarcane 2018-2019 sugar season of August 2017, available at: <http://cacp.dacnet.nic.in/ViewQuestionare.aspx?Input=2&DocId=1&PageId=41&KeyId=622>, p. 57 (last visited 28 February 2019).

⁴ Ibid.

⁵ Ibid.

⁶ See Commission for Agricultural Costs and Prices (CACP), Department of Agriculture, Cooperation and Farmers Welfare, Ministry of Agriculture and Farmers Welfare, Government of India, Price Policy for Sugarcane 2018-2019 sugar season of August 2017, available at:

<http://cacp.dacnet.nic.in/ViewQuestionare.aspx?Input=2&DocId=1&PageId=41&KeyId=622>, p. 57 (last visited 11 March 2019).

⁷ Ibid.

- iv. The State Advised Price in Bihar for sugar season 2015-2016;⁸ and
- v. The State Advised Price in Bihar for sugar season 2014-2015.⁹
- c) Gujarat: all State-level legal or administrative instruments, acts or otherwise of the State of Gujarat that provide, regulate or amend SAPs for sugarcane that are higher than the FRP for sugarcane during sugar seasons 2014-2015, 2015-2016, 2016-2017, 2017-2018, 2018-2019 and subsequent sugar seasons.
- d) Haryana:
 - i. The *Punjab Sugarcane (Regulation of Purchase and Supply) Act*, 1953, as amended, as it applies to the State of Haryana;
 - ii. The *Haryana Sugarcane (Regulation of Supply and Purchase) Rules*, 1992, as amended;
 - iii. The State Advised Price in Haryana for sugar season 2018-2019;¹⁰
 - iv. The State Advised Price in Haryana for sugar season 2017-2018;¹¹
 - v. The State Advised Price in Haryana for sugar season 2016-2017;¹²
 - vi. The State Advised Price in Haryana for sugar season 2015-2016;¹³ and
 - vii. The State Advised Price in Haryana for sugar season 2014-2015.¹⁴
- e) Karnataka:
 - i. The *Karnataka Sugarcane (Regulation of Purchase and Supply) Act*, 2013, as amended; and
 - ii. All State-level legal or administrative instruments, acts or otherwise of the State of Karnataka that provide, regulate or amend SAPs for sugarcane that are higher than the FRP for sugarcane during sugar seasons 2014-2015, 2015-2016, 2016-2017, 2017-2018, 2018-2019 and subsequent sugar seasons.
- f) Madhya Pradesh: all State-level legal or administrative instruments, acts or otherwise of the State of Madhya Pradesh that provide, regulate or amend SAPs for sugarcane that are higher than the FRP for sugarcane during sugar seasons 2014-2015, 2015-2016, 2016-2017, 2017-2018, 2018-2019 and subsequent sugar seasons.
- g) Maharashtra:
 - i. The *Essential Commodities (Maharashtra Amendment) Act*, 1975, as amended;

⁸ Ibid.⁹ Ibid.¹⁰ See "Haryana Government raises the price by ten rupees per quintal on all varieties of sugarcane", *Patrika*, 28 December 2018, available at <https://www.patrika.com/bhiwani-news/raised-the-price-per-quintal-on-all-varieties-of-sugarcane-in-haryana-3896824/> (last visited 1 March 2019).¹¹ See "Sugar mills start crushing sugarcane", *Haryanaabtak* 3 November 2017, available at <http://haryanaabtak.com/featured/palwal-haryana-03-november-report/> (last visited 11 March 2019).¹² See Commission for Agricultural Costs and Prices (CACP), Department of Agriculture, Cooperation and Farmers Welfare, Ministry of Agriculture and Farmers Welfare, Government of India, Price Policy for Sugarcane 2018-2019 sugar season of August 2017, available at:<http://cACP.dacnet.nic.in/ViewQuestionare.aspx?Input=2&DocId=1&PageId=41&KeyId=622>, p. 57 (last visited 11 March 2019).¹³ Ibid.¹⁴ Ibid.

- ii. The *Maharashtra Regulation of Sugarcane Price (Supplied to Factories) Act*, 2013, as amended; and
 - iii. All State-level legal or administrative instruments, acts or otherwise of the State of Maharashtra that provide, regulate or amend SAPs for sugarcane that are higher than the FRP for sugarcane during sugar seasons 2014-2015, 2015-2016, 2016-2017, 2017-2018, 2018-2019 and subsequent sugar seasons.
- h) Punjab:
- i. The *Punjab Sugarcane (Regulation of Purchase and Supply) Act*, 1953, as amended;
 - ii. The *Punjab Sugarcane (Regulation of Purchase and Supply) Rules*, 1958, as amended;
 - iii. The State Advised Price in Punjab for the 2016-2017 season;¹⁵
 - iv. The State Advised Price in Punjab for the 2015-2016 season;¹⁶ and
 - v. The State Advised Price in Punjab for the 2014-2015 season.¹⁷
- i) Tamil Nadu:
- i. The *Tamil Nadu Sugarcane (Regulation of Purchase Price) Act*, 2018;
 - ii. Department of the Government of Tamil Nadu, Agriculture (S1) Department, *Order G.O.(Ms). No. 228 of 11 September 2018*, providing the date of entry into force of the Tamil Nadu Sugarcane (Regulation of Purchase Price) Act, 2018;
 - iii. Department of the Government of Tamil Nadu, Agriculture (S1) Department, *Order G.O.(Ms). No. 20 of 5 January 2017*, announcing the State Advised Price for sugarcane to be paid by sugar mills in Tamil Nadu for sugar season 2016-2017;
 - iv. Department of the Government of Tamil Nadu, Agriculture (S1) Department, *Order G.O.(Ms). No. 20 of 11 January 2016*, announcing the State Advised Price for sugarcane to be paid by sugar mills in Tamil Nadu for sugar season 2015-2016; and
 - v. Department of the Government of Tamil Nadu, Agriculture (S1) Department, *Order G.O.(Ms). No. 15 of 14 January 2015*, announcing the State Advised Price for sugarcane to be paid by sugar mills in Tamil Nadu for sugar season 2014-2015.
- j) Telangana:
- i. The State Advised Price in Telangana for the 2015-2016 season;¹⁸ and

¹⁵ See Commission for Agricultural Costs and Prices (CACP), Department of Agriculture, Cooperation and Farmers Welfare, Ministry of Agriculture and Farmers Welfare, Government of India, Price Policy for Sugarcane 2018-2019 sugar season of August 2017, available at: <http://cacp.dacnet.nic.in/ViewQuestionare.aspx?Input=2&DocId=1&PageId=41&KeyId=622>, p. 57 (last visited 11 March 2019).

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ See Commission for Agricultural Costs and Prices (CACP), Department of Agriculture, Cooperation and Farmers Welfare, Ministry of Agriculture and Farmers Welfare, Government of India, Price Policy for Sugarcane 2018-2019 sugar season of August 2017, available at: <http://cacp.dacnet.nic.in/ViewQuestionare.aspx?Input=2&DocId=1&PageId=41&KeyId=622>, p. 58 (last visited 11 March 2019).

- ii. The State Advised Price in Telangana for the 2014-2015 season.¹⁹
- k) Uttarakhand:
 - i. The State Advised Price in Uttarakhand for sugar season 2018-2019;²⁰
 - ii. The State Advised Price in Uttarakhand for sugar season 2017-2018;²¹
 - iii. The State Advised Price in Uttarakhand for sugar season 2016-2017;²²
 - iv. The State Advised Price in Uttarakhand for sugar season 2015-2016;²³ and
 - v. The State Advised Price in Uttarakhand for sugar season 2014-2015.²⁴
- l) Uttar Pradesh:
 - i. The *Uttar Pradesh Sugarcane (Regulation of Supply & Purchase) Act, 1953*, as amended;
 - ii. The State Advised Price in Uttar Pradesh for the 2018-2019 season;²⁵
 - iii. Government of Uttar Pradesh, Sugar Industry Section-3, *Notification No. 2489/46-3-17-3(48)/98-99 of 26 October 2017*, establishing a SAP for the sugar season 2017-2018;
 - iv. The State Advised Price in Uttar Pradesh for sugar season 2016-2017;²⁶
 - v. The State Advised Price in Uttar Pradesh for sugar season 2015-2016;²⁷ and
 - vi. The State Advised Price in Uttar Pradesh for sugar season 2014-2015.²⁸
 - vii. All State-level legal or administrative instruments, acts, or otherwise of the above-mentioned Indian States or of any other Indian State that provide, regulate or amend SAPs for sugarcane that are higher than the FRP for sugarcane during sugar seasons 2014-2015, 2015-2016, 2016-2017, 2017-2018, 2018-2019 and subsequent sugar seasons.

¹⁹ Ibid.

²⁰ See "Good news for farmers, sugarcane can be sold at Rs 327 per quintal in 2018-19", Amarujala, 21 December 2018, available at <https://www.amarujala.com/dehradun/sugarcane-purchase-price-increased-in-uttarakhand-for-farmers> (last visited 1 March 2019).

²¹ Ibid.

²² See Commission for Agricultural Costs and Prices (CACP), Department of Agriculture, Cooperation and Farmers Welfare, Ministry of Agriculture and Farmers Welfare, Government of India, Price Policy for Sugarcane 2018-19 sugar season of August 2017, available at: <http://cacp.dacnet.nic.in/ViewQuestionare.aspx?Input=2&DocId=1&PageId=41&KeyId=622>, p. 58 (last visited 11 March 2019).

²³ Ibid.

²⁴ Ibid.

²⁵ See "UP govt decides not to raise cane price; SAP stays at Rs 315 a quintal", Business Standard, 30 November 2018, available at https://www.business-standard.com/article/economy-policy/up-govt-decides-not-to-raise-cane-price-sap-stays-at-rs-315-a-quintal-118113000853_1.html (last visited 11 March 2019).

²⁶ See Commission for Agricultural Costs and Prices (CACP), Department of Agriculture, Cooperation and Farmers Welfare, Ministry of Agriculture and Farmers Welfare, Government of India, Price Policy for Sugarcane 2018-2019 sugar season of August 2017, available at: <http://cacp.dacnet.nic.in/ViewQuestionare.aspx?Input=2&DocId=1&PageId=41&KeyId=622>, p. 58 (last visited 11 March 2019).

²⁷ Ibid.

²⁸ Ibid.

3. Federal-level domestic support for sugarcane in the form of a minimum mandatory selling price for sugar that Indian sugar mills are required to charge for the sale of sugar in India as reflected in, but not limited to, the following instruments and documents:
 - a) Section 3 of the *Essential Commodities Act*, 1955, as amended;
 - b) *Sugar Price (Control) Order*, 1966, as amended;
 - c) Sections 3 and 7 of the *Sugar Price (Control) Order*, 2018, as amended;
 - d) All instruments, acts or otherwise that fix a minimum price for the sale of sugar in India, including, but not limited to:
 - i. Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution, *Order S.O.874(E) of 14 February 2019*, fixing a minimum selling price for sugar; and
 - ii. Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution, *Order S.O.2346(E) of 7 June 2018*, fixing a minimum selling price for sugar.
 - e) All instruments, acts, or otherwise that provide, regulate or amend a minimum selling price for sugar for sugar seasons 2014-2015, 2015-2016, 2016-2017, 2017-2018, 2018-2019 and subsequent sugar seasons.
4. Federal-level domestic support for sugarcane, in the form of production-based assistance to offset sugarcane price arrears, involving budgetary outlays and/or other measures to support the production of, and the set of prices for, sugarcane and sugar, as a result of, but not limited to, the following instruments and documents:
 - a) "Scheme for Assistance to Sugar Mills" for the 2018-2019 sugar season, Notification No. 1(14)/2018-S.P.-I of the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution of 5 October 2018;
 - b) "Scheme for Assistance to Sugar Mills" for the 2017-2018 sugar season (INR 55/ton (INR 5.5/qrtl), Notification No. 1(5)/2018-S.P.-I of the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution of 9 May 2018, and Notification No. 1(5)/2018-S.P.-I of 16 August 2018;²⁹
 - c) Production subsidy for the 2016-2017 sugar season to sugar mills to offset cost of cane and support cane price;³⁰
 - d) Production Subsidy Scheme for the 2015-2016 sugar season, Notification No.20(43)/2015-S.P.-1 of the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution, of 2 December 2015,

²⁹ Reflected in Ministry of Consumer Affairs Press Release, "Sugar Industry", 31 July 2018: "Provided Assistance to sugar mills @Rs.5.50/quintal of cane crushed for sugar season 2017-18 to offset the cost of cane amounting to about Rs.1540 crore".

³⁰ Reflected in Ministry of Consumer Affairs, Food and Public Distribution, Budget allocation to 31 March 2016, "Production Subsidy to Sugar Mills to offset cost of cane and facilitate timely payment of cane price dues of farmers. (Subsidy) (New Scheme) Financial Year 2016-17: Budget Estimates [INR] 950.01 [in crores]"; Ministry of Consumer Affairs, Food and Public Distribution, Notes on Demands for Grants 2016-17, Demand No. 17, Budget 2016-17, "Production Subsidy to Sugar Mills to offset cost of cane and facilitate timely payment of cane price dues of farmers, Plan: 950.01 [in crores of Rupees]", under Major Head 2408; and Outcome Budget 2016-17, Department of Food and Public Distribution, 6.10 "Production Subsidy to Sugar Mills to offset cost of cane and facilitate timely payment of cane price dues of farmers, [INR] 950.01 [crore], "The production subsidy @ [INR] 4.5 per quintal of cane crushed will be provided for estimated 255 million MT of cane. This will help sugar mills to reduce the financial burden and help farmers to clear the cane dues in time", pp. 21, 110.

providing cash grants of INR 45/ton (INR 4.5/ql) of cane crushed to pay farmers, via the Sugar Development Fund (SDF);³¹

- e) Production Subsidy Scheme for the 2014-2015 sugar season providing cash grants to pay farmers paid directly to farmers on behalf of mills.
 - f) All other instruments, successor instruments and any amendments thereto providing for production-based assistance to sugar or sugarcane for the 2014-2015, 2015-2016, 2016-2017 2017-2018, 2018-2019 seasons and subsequent seasons.
5. Federal-level programs and measures making available subsidised loans to offset sugarcane price arrears to support the production of, and the set of prices for, sugarcane and sugar, as a result of, but not limited to, the following instruments and documents:
- a) Federal-level Soft Loan for 2014-2015, making loans available to sugar mills to facilitate clearance of cane price arrears and support the cane price, with subvention of interest by the Government of India up to 10 per cent, with a 1-year moratorium,³² including through:
 - i. Notification No. 1(5)/2015-S.P. -I of the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution of 23 June 2015;
 - ii. Notification No. 1(7)/2015-S.P. -I of the Ministry of Consumer Affairs, Food and Public Distribution, Department of Food & Public Distribution of 1 August 2015;
 - iii. Notification No. 1(7)/2015-S.P. -I of the Ministry of Consumer Affairs, Food and Public Distribution, Department of Food & Public Distribution of 5 October 2015;
 - b) "Scheme for Extending Financial Assistance to Sugar Undertakings, 2014", Notification No. 20-90/2013-SP.-II of the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution of 3 January 2014;
 - c) Any loans granted at subsidised rates under Sections 4 and 5 of the Sugar Development Fund Act, 1982, as amended, and the Sugar Development Fund Rules, 1983, as amended.
 - d) All other instruments, successor instruments and any amendment thereto at the federal level that provide for loans to sugar or sugarcane producers at subsidized rates to offset cane price arrears, for the 2014-2015, 2015-2016, 2016-2017, 2017-2018, 2018-2019 seasons and subsequent seasons.
6. Federal and state-level measures providing financial assistance towards the maintenance of stocks for sugar, including budgetary outlays and/or other measures to offset cost of sugarcane and support sugarcane price, as reflected in but not limited to, the following instruments and documents:

³¹ Including disbursements made to September 2016 and beyond, referred to on Department of Food & Public Distribution web site, "Production subsidy: Since the production subsidy scheme was withdrawn before time, the Central Government has decided to disburse the performance based production subsidy for cane crushed during 2015-16 sugar season till the tenancy of the scheme vide notification dated 12.09.2016. Under the scheme, so far Rs. 520 crores have been disbursed as production subsidy to 213 sugar mills...", available at <https://dfpd.gov.in/sugar.htm> (last visited 11 March 2019). See also Notification 20(43)/2015-S.P.-1 of the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution, of 19 May 2016.

³² Reflected in "Direct subsidy to sugarcane growers", Cabinet Committee on Economic Affairs (CCEA) Press Release, 18 November 2015, "To further help the industry clear cane dues arrears, the Government has disbursed soft loans to the extent of Rs. 4,047 crore. To ensure that farmers are paid their dues expeditiously, the financial assistance has been passed on directly to the cane growers by the banks after obtaining the list from the mills. Furthermore, the Government has provided one year moratorium on this loan, and will bear the interest subvention cost to the extent of Rs. 600 crore for the said period."

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- a) Sugar (Control) Order 1966, clause 5, directing quantities that may be held by dealers of sugar;
 - b) Order F. No. 5-1/2018-Sugar Control of Ministry of Consumer Affairs, Food & Public Distribution of 31 January 2019;
 - c) Notification No. 1(6)/2018-SP-I of the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution of 31 December 2018 notifying a change to the Scheme for Creation and Maintenance of Buffer Stock;
 - d) Order F. No. 5-1/2018-Sugar Control of Ministry of Consumer Affairs, Food & Public Distribution of 28 December 2018;
 - e) Order F. No. 5-1/2018-Sugar Control of Ministry of Consumer Affairs, Food & Public Distribution of 30 November 2018;
 - f) Order F. No. 5-1/2018-Sugar Control of Ministry of Consumer Affairs, Food & Public Distribution of 31 October 2018;
 - g) Order F. No. 5-1/2018-Sugar Control of Ministry of Consumer Affairs, Food & Public Distribution of 28 September 2018;
 - h) Order F. No. 5-1/2018-Sugar Control of Ministry of Consumer Affairs, Food & Public Distribution of 31 August 2018;
 - i) Order F. No. 5-1/2018-Sugar Control of Ministry of Consumer Affairs, Food & Public Distribution of 30 July 2018;
 - j) Order of Ministry of Consumer Affairs, Food & Public Distribution of 29 June 2018, allocating of 30 Lakh MT (3 million metric tons) of buffer stock;
 - k) Notification No. 1(6)/2018-SP-I of the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution of 15 June 2018;
 - l) Order F. No. 5-1/2018-Sugar Control of Ministry of Consumer Affairs, Food & Public Distribution of 7 June 2018;
 - m) Order F. No. 1(2)/2018-S.P.-1 Ministry of Consumer Affairs, Food & Public Distribution of 8 February 2018;
 - n) Order G.S.R.1069(E), F. No. 1(6)/2016-S.P.-1 of Ministry of Consumer Affairs, Food & Public Distribution of 28 August 2017;
 - o) Order S.O.3348(E) of the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution of 28 October 2016;
 - p) Order F. No. 1(6)/2016-S.P.-1 of Ministry of Consumer Affairs, Food & Public Distribution of 8 September 2016;
 - q) Order G.S.R. 471(E) of Ministry of Consumer Affairs, Food & Public Distribution of 29 April 2016;
 - r) Various forms of assistance subsidies, subsidised loans and other subsidies specifically provided to producers of sugarcane and sugar for the maintenance of buffer stocks by the Indian states of Andhra Pradesh, Bihar, Gujarat, Haryana, Karnataka, Madhya Pradesh, Maharashtra, Punjab, Tamil Nadu, Telangana, Uttar Pradesh, and Uttarakhand; and
 - s) All other instruments, including all successor instruments and any amendments thereto, providing product-specific domestic support for sugarcane through non-

exempt direct payments or any other subsidy not exempted from reduction commitments whether provided by the federal government or any of the individual states, for the 2014-2015, 2015-2016, 2016-2017, 2017-2018, 2018-2019 seasons and subsequent seasons.

7. Other state-level domestic support for sugarcane and sugar including assistance subsidies, production subsidies, low-interest loans, and exemption of purchase taxes as reflected in, but not limited to, the following instruments and documents:

a) Bihar:

- i. The *Chief Ministers Sugarcane Development Scheme in the State of Bihar* which provides subsidies for the purchase and transportation of registered seed of sugarcane for sugar season 2017-2018;
- ii. Department of Industrial Unit, Government of Bihar, *Notification of 17 May 2018*, reducing the rate of commission to be paid by sugar mills on the purchase of sugarcane for sugar season 2017-2018;
- iii. Department of Industrial Unit, Government of Bihar, *Notification of 17 May 2018*, exempting sugar mills from payments of certain taxes for sugar season 2017-2018; and
- iv. Department of Industrial Unit, Government of Bihar, *Notification of 2 August 2017*, reducing the rate of commission to be paid by sugar mills on the purchase of sugarcane for sugar season 2016-2017.

b) Gujarat:

- i. Government of Gujarat, *Scheme-1-180618 of the Sugar Regulatory Authority*, providing for liquidity support to sugar cooperatives for sugar season 2018-2019;
- ii. Government of Gujarat, *Scheme-3-180618 of the Sugar Regulatory Authority*, providing funds to sugar mills for sugar season 2018-2019; and
- iii. Government of Gujarat, *Scheme-4-180618 of the Sugar Regulatory Authority*, providing for a liquidity support loan to sugar mills for sugar season 2018-2019.

c) Haryana: Haryana financial assistance (subsidy and soft loans) of INR 16 per quintal.³³

d) Maharashtra:

- i. Government of Maharashtra, Finance Department, *Notification No. SCPT-1117/CR-03/Taxation-3 of 19 April 2017*, exempting sugar factories from payments of certain taxes for sugar season 2016-2017;
- ii. Government of Maharashtra, Department of Agriculture, *Notification of 16 November 2016*, providing for a soft loan scheme for sugarcane farmers in the State of Maharashtra;

³³ "State subsidies for farmers to improve mills' liquidity, clear cane dues", Business Standard, 19 October 2018, available at https://www.business-standard.com/article/economy-policy/state-subsidies-to-improve-mills-liquidity-clear-cane-dues-118101900698_1.html (last visited 11 March 2019), and "State subsidies to improve mills' liquidity & clear cane dues: Report", Daily Pioneer, 20 October 2018, available at <https://www.dailypioneer.com/2018/business/state-subsidies-to-improve-mills---liquidity---clear-cane-dues-report.html> (last visited 11 March 2019).

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- iii. Funds provided by the State of Maharashtra in connection with drip and micro irrigation of sugarcane, including but not limited to:
 - Government of Maharashtra, Department of Agriculture, *Notification of 12 September 2018*;
 - Government of Maharashtra, Department of Agriculture, *Notification of 31 July 2018*;
 - Government of Maharashtra, Department of Agriculture, *Notification of 24 July 2017*; and
 - Government of Maharashtra, Department of Agriculture, *Notification of 6 October 2016*.
 - e) Tamil Nadu:
 - i. Government of Tamil Nadu, Agriculture (S1) Department, *Order G.O.(Ms). No.230 of 17 September 2018*, providing for payments to offset the difference between the SAP and the federal FRP for sugar season 2017-2018 season; and
 - ii. Government of Tamil Nadu, Agriculture (S1) Department, *Order G.O.(Ms). No.191 of 24 July 2018*, providing for payments to offset the difference between the SAP and the federal FRP for sugar season 2017-2018.
 - f) Uttar Pradesh:
 - i. Government of Uttar Pradesh, Sugar Industrial Unit, *Notification of 21 March 2018*, providing for funds for drip irrigation during the 2016-2017 season;
 - ii. Below-market loans to farmers in Uttar Pradesh, announced 26 September 2018;³⁴
 - iii. Production subsidy for sugar mills in Uttar Pradesh of INR 4.5 per quintal.³⁵
 - iv. Government of Uttar Pradesh, Cane Development & Sugar Industry, *Notification of 15 November 2017*, waiving the guarantee fee payable by certain sugar mills on government guarantees;
 - v. Government of Uttar Pradesh, Sugar Industrial Unit, *Notification of 24 September 2015*, providing for a scheme for easing dues on sugarcane farmers for sugar season 2014-2015; and
 - vi. Waiver of interest and/or penalties on late payment by millers to farmers for sugarcane.³⁶
 - vii. Any funds provided by Indian States and the Federal Government in relation to sugarcane under the Krishonnati Yojana Scheme;³⁷ and

³⁴ See "Sweet & Sour: UP offers Rs 4000 crore loan, subsidy to clear cane dues", Financial Express, 26 September 2018, available at <https://www.financialexpress.com/industry/sweet-sour-up-offers-rs-4000-crore-loan-subsidy-to-clear-cane-dues/1326772/> (last visited 11 March 2019).

³⁵ See "Sweet & Sour: UP offers Rs 4000 crore loan, subsidy to clear cane dues", Financial Express, 26 September 2018, available at <https://www.financialexpress.com/industry/sweet-sour-up-offers-rs-4000-crore-loan-subsidy-to-clear-cane-dues/1326772/> (last visited 11 March 2019).

³⁶ See "Akhilesh Yadav government waives sugarcane mill owners dues", The Indian Express, 4 October 2016, available at: <https://indianexpress.com/article/india/india-newsindia/akhilesh-yadav-government-waives-sugarcane-mill-owners-dues-3064292/> (last visited 11 March 2019).

³⁷ Including, but not limited to, the following: Notifications issued by the Department of Agriculture, Government of Maharashtra dated 17.03.2016, 16.07.2016, 14.10.2016, 03.02.2017, 17.02.2017, 16.03.2017,

- viii. All other Federal-level or State-level instruments, including all subsequent instruments, and any amendments thereto, providing product-specific domestic support for sugarcane through non-exempt direct payments or any other subsidy not exempted from reduction commitments whether provided by the Federal government or any of the individual States during sugar seasons 2014-2015, 2015-2016, 2016-2017, 2017-2018, 2018-2019 and subsequent seasons.
8. Federal-level measures which provide subsidies to sugarcane and sugar producers contingent upon export performance, as reflected in, but not limited to, the following instruments:
- a) Minimum Indicative Export Quotas ("MIEQ") that operate in conjunction with the other measures identified in this paragraph to require mills to export certain quantities of sugar as a condition for the grant or maintenance of a subsidy. The instruments establishing the MIEQ arrangements require that sugar mills which fail to export the MIEQ allocated to them shall be deemed to be violating the directives of the Government issued under clause 5 of the Sugar (Control) Order, 1966. Instruments establishing or evidencing MIEQ arrangements include, but are not limited to, the following:
- i. Notification No. 1(4)/2018-SP-I of the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution of 24 December 2018;
 - ii. Notification No. 1(4)/2018-SP-I of the Ministry of Consumer Affairs, Food and Public Distribution, Department of Food and Public Distribution, communication to sugar mills of 12 October 2018;
 - iii. Notification No. 1(4)/2018-SP-I of the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution of 28 September 2018, which allocates factory-wise minimum indicative export quotas for the 2018-2019 season;
 - iv. Notification No. 1(4)/2018-SP-I of the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution of 23 September 2018 concerning the allocation of minimum indicative export quotas for the 2018-2019 season;
 - v. Notification No. 1(4)/2018-SP-I of the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution of 23 August 2018, which makes certain amendments to Notification No. 1(4)/2018-SP-I of 9 May 2018;
 - vi. Notification No. 1(4)/2018-SP-I of the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution of 9 May 2018, which revises the allocation of minimum indicative export quotas for the 2017-2018 season;
 - vii. Notification No. 1(4)/2018-SP-I of the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution of 28 March 2018, which allocates factory-wise minimum indicative export quotas for the 2017-2018 season;

30.03.2017, 06.05.2017, 26.09.2017, 26.10.2017, 27.10.2017, 09.11.2017, 15.11.2017, 12.02.2018, 20.02.2018, 12.03.2018, 15.03.2018, 28.03.2018, 26.06.2018, 24.01.2018; Order dated 24.08.2016 by the Department of Agriculture, Government of Tamil Nadu. See also "Rs 33,000 crore boost to agriculture: Here's how Modi plans to double farmers' income by 2022", Financial Express, 3 May 2018, available at: <https://www.financialexpress.com/economy/rs-33000-crore-boost-to-agriculture-heres-how-modi-plans-to-double-farmers-income-by-2022/1154180/> (last visited 11 March 2019).

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- viii. Cabinet Committee on Economic Affairs (CCEA) Press Release of 18 November 2015;
 - ix. Order F. No. 1(10)/2015-SP-1 of Ministry of Consumer Affairs, Food and Public Distribution, Department of Food and Public Distribution, communication to sugar mills, of 18 September 2015;
 - b) "Scheme for Assistance to Sugar Mills", reflected in:
 - i. for the sugar season 2018-2019, Notification No. 1(14)/2018-S.P.-I of the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution of 5 October 2018;
 - ii. Notification No. 1(5)/2018-S.P.-I of the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution of 16 August 2018;
 - iii. for the season 2017-2018, Notification No. 1(5)/2018-S.P.-I of the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution of 9 May 2018;
 - c) Production Subsidy Scheme for the sugar season 2015-2016, Notification No. 1(5)/2018-S.P.-I of the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution, providing cash grants of INR 45/ton (INR 4.5/qrtl) of cane crushed to pay farmers, via the Sugar Development Fund (SDF), of 2 December 2015;³⁸
 - d) "Scheme for Creation and Maintenance of Buffer Stock", reflected in:
 - i. Notification No. 1(6)/2018-SP-I of the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution of 31 December 2018 notifying a change to the Scheme for Creation and Maintenance of Buffer Stock so that sugar mills must fully comply with directives, (including relating to the MIEQ);
 - ii. Order No. 1(6)/2018-SP-I of the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution, of 29 June 2018 allocating 30 Lakh MT (3 million metric tons) of buffer stock;
 - iii. Notification No. 1(6)/2018-SP-I of the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution of 15 June 2018;
 - e) Duty-free Import Authorisation (DFIA) for raw sugar imported in the 2019–20 and 2020–21 sugar seasons, for mills which have exported white/refined sugar during the 2017–18 sugar season,³⁹ reflected in:
 - i. Notification No. 57/2015-2020 of the Ministry of Commerce and Industry, Department of Commerce, Directorate General of Foreign Trade of 28 March 2018;

³⁸ Reflected in Gazette of India Extraordinary Part-1, section-1, Notification No. 20(43)/2015-S.P.-1 Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution dated 2 December 2015; and including disbursements made to September 2016 and beyond, referred to on Department of Food & Public Distribution web site, "Production subsidy: ^{Since} the production subsidy scheme was withdrawn before time, the Central Government has decided to disburse the performance based production subsidy for cane crushed during 2015-16 sugar season till the tenancy of the scheme vide notification dated 12.09.2016. Under the scheme, so far Rs. 520 crores have been disbursed as production subsidy to 213 sugar mills...", available at <https://dfpd.gov.in/sugar.htm> (last visited 11 March 2019).

³⁹ Notification No. 57/2015-2020 of the Ministry of Commerce and Industry, Department of Commerce, Directorate General of Foreign Trade of 28 March 2018, referring to SION SI.No- E52.

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- f) Federal- and State-level export subsidies related to the transportation of sugar including, but not limited to:
- i. Notification No. 1(14)/2018-S.P.-I of the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution of 5 October 2018, providing for a transport subsidy for exports of sugar, as amended;
 - ii. Circular No. TM/A/15-22/33 of the Mumbai Port Trust of 18 December 2018, providing for concessional rates for demurrage on exports of sugar;
- g) Low interest loans and grants to mills to pay the difference between the FRP and the SAP;
- h) All other instruments, including all successor instruments and any amendments thereto, providing federal-level subsidies contingent on export performance to sugar mills.
9. State-level export subsidies for sugar and sugarcane, which make the provision of financial support to sugar mills contingent upon export performance including, but not limited to, instruments which provide for:
- a) Any subsidies contingent on export provided to producers of sugarcane and sugar by the Indian states of Andhra Pradesh, Bihar, Gujarat, Haryana, Karnataka, Madhya Pradesh, Maharashtra, Punjab, Tamil Nadu, Telangana, Uttar Pradesh, and Uttarakhand; including production-based cash grants, interest waivers, share capital contribution, loans extended from state exchequer, default guarantee on loans, and deferral of purchase tax, debt restructuring and exemption of exported sugar from local taxes and fees;⁴⁰
 - b) All other instruments, including all successor instruments and any amendments thereto, providing state-level subsidies contingent on export performance to sugar mills.
10. Federal-level assistance and export incentives, including under Sugar Rules / Sugar Development Fund (SDF) Rules rule 20B⁴¹ as amended (also referred to as the Raw Sugar Export Incentive Scheme),⁴² including, but not limited to the following:
- a) Sugar Development Fund (Amendment) Rules, 2015, Notification GSR 127 (E)., F. No. 20(90)/2013-SP-I, Ministry of Consumer Affairs, Food & Public Distribution, of 27 February 2015, amending Rule 20B of the Sugar Development Fund Rules 1983;⁴³
 - b) Export Incentive of INR 4,000 per ton (approximately 21 per cent of the world raw sugar price) for an additional 1.4 million tons above earlier seasons (19 February 2015);⁴⁴
 - c) Export Incentive of INR 3,371 per ton (August – September 2014);

⁴⁰ Similar to exported sugar exemption from local taxes and fees imposed on domestic sugar to value of INR 950 per ton (2006 – 2008).

⁴¹ Sugar Development Fund (Amendment) Rules, 2014, rule 20B, inserted 28 February 2014.

⁴² Reflected in Ministry of Consumer Affairs, Food and Public Distribution, Department of Food and Public Distribution 'Sugar and Sugarcane Policy', "Provided financial assistance through 'raw sugar export incentive scheme' Rs. 425 crore was disbursed under the scheme", available at <https://dfpd.gov.in/sugar-sugarcane-policy.htm> (last visited 11 March 2019).

⁴³ Providing at sub-rule (4): "the incentive shall be at the rate of rupees three thousand three hundred per metric tonne for April-May, 2014, rupee three thousand three hundred per metric tonne for June-July, 2014, and rupees three thousand three hundred seventy one per metric tonne for August-September, 2014 and the incentive shall be rupees four thousand per metric tonne for the current sugar season 2014-15 (October, 2014-September, 2015)."

⁴⁴ Cabinet Committee on Economic Affairs (CCEA) Press Release, 18 November 2015.

- d) Export Incentive of INR 2,277 per ton (April – May 2014);
 - e) Export Incentive of INR 3,300 per ton (3 March – 31 July 2014) (indicating eligibility would be contingent on production and export of sugar);⁴⁵
 - f) Sugar Development Fund (Amendment) Rules, 2014, Notification GSR 128 (E)., F. No. 20(90)/2013-SP-I, Ministry of Consumer Affairs, Food & Public Distribution, of 28 February 2014, inserting rule 20B of the Sugar Development Fund Rules 1983;⁴⁶
 - g) All other instruments, including all successor instruments and any amendments thereto, providing for export incentives for sugar.
11. Freight assistance, including under the Sugar Development Fund (SDF) Rules rule 20A,⁴⁷ as well as but not limited to the following:
- a) Federal-level freight assistance, including the "Scheme for defraying expenditure towards internal transport, freight, handling and other charges on export", reflected in:
 - i. Notification F. No. 1(14)/2018-SP-I of Ministry of Consumer Affairs, Food and Public Distribution, Department of Food and Public Distribution of 5 October 2018, providing INR 1,000/ton for mills located within 100 kilometres (km) from ports; INR 2,500/ton for mills beyond 100km from the port in coastal states; and INR 3,000/ton for mills in other than coastal states or actual expenditure, whichever is lower. It appears this is to be credited directly to the farmers on behalf of mills, to support the cane price;⁴⁸
 - ii. Communication F. No. 1-3/2018-Trade of the Ministry of Consumer Affairs, Food and Public Distribution, Department of Food and Public Distribution of 19 November 2018, clarifying notification F. No. 1(14)/2018-SP-I of 5 October 2018;
 - b) State-level freight assistance, including state transportation payments for internal or international transport or freight, and measures in addition to federal SDF subsidy.⁴⁹

⁴⁵ Cabinet Committee on Economic Affairs (CCEA) Press Release, 18 November 2015, "To improve liquidity of sugar mills and facilitate payment of cane dues arrears, the Government had increased the export incentive on raw sugar from Rs 3300/MT to Rs. 4000/MT in the sugar season 2014-15."

⁴⁶ Providing "the incentive shall be at the rate of Rupees three thousand three hundred per metric tonne for February and March, 2014 and, thereafter, be recalculated every two months after taking into account the average exchange rate of Rupee vis-à-vis USD..."

⁴⁷ Reflected in Ministry of Consumer Affairs, Food and Public Distribution, Department of Food & Public Distribution, Sugar Development Fund (Second Amendment) Rules 2007, *Notification G.S.R. 697(E)* of 7 November 2007.

⁴⁸ Referred to in "Cabinet approves comprehensive policy to deal with excess sugar production in the country", Cabinet Committee of Economic Affairs (CCEA) Press Release, 26 September 2018.

⁴⁹ Similar to Government of Maharashtra Resolution No. SSK1007/C.R.194/25-C, 27 July 2007.

ANNEX B**STATEMENT OF AVAILABLE EVIDENCE UNDER
ARTICLE 4.2 OF THE SCM AGREEMENT**

1. Notification No. 1(4)/2018-SP-I of the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution of 24 December 2018;
2. Notification No. 1(4)/2018-SP-I of the Ministry of Consumer Affairs, Food and Public Distribution, Department of Food and Public Distribution, communication to sugar mills of 12 October 2018;
3. Notification No. 1(4)/2018-SP-I of the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution of 28 September 2018, which allocates factory-wise minimum indicative export quotas for the 2018-2019 season;
4. Notification No. 1(4)/2018-SP-I of the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution of 23 September 2018 concerning the allocation of minimum indicative export quotas for the 2018-2019 season;
5. Notification No. 1(4)/2018-SP-I of the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution of 23 August 2018, which makes certain amendments to Notification No. 1(4)/2018-SP-I of 9 May 2018;
6. Notification No. 1(4)/2018-SP-I of the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution of 9 May 2018, which revises the allocation of minimum indicative export quotas for the 2017-2018 season;
7. Notification No. 1(4)/2018-SP-I of the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution of 28 March 2018, which allocates factory-wise minimum indicative export quotas for the 2017-2018 season;
8. Cabinet Committee on Economic Affairs (CCEA) Press Release of 18 November 2015;
9. Order F. No. 1(10)/2015-SP-1 of Ministry of Consumer Affairs, Food and Public Distribution, Department of Food and Public Distribution, communication to sugar mills, of 18 September 2015;
10. Notification No. 1(14)/2018-S.P.-I of the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution of 5 October 2018;
11. Notification No. 1(5)/2018-S.P.-I of the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution of 16 August 2018;
12. Notification No. 1(5)/2018-S.P.-I of the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution of 9 May 2018;
13. Notification No. 1(5)/2018-S.P.-I of the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution, providing cash grants of INR 45/ton (INR 4.5/qttl) of cane crushed to pay farmers, via the Sugar Development Fund (SDF), of 2 December 2015;⁵⁰
14. Notification No. 1(6)/2018-SP-I of the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution of 31 December 2018 notifying a change to the Scheme

⁵⁰ Reflected in Gazette of India Extraordinary Part-1, section-1, Notification No. 20(43)/2015-S.P.-1 Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution dated 2 December 2015; and including disbursements made to September 2016 and beyond, referred to on Department of Food & Public Distribution web site, "Production subsidy: Since the production subsidy scheme was withdrawn before time, the Central Government has decided to disburse the performance based production subsidy for cane crushed during 2015-16 sugar season till the tenancy of the scheme vide notification dated 12.09.2016. Under the scheme, so far Rs. 520 crores have been disbursed as production subsidy to 213 sugar mills...", available at <https://dfpd.gov.in/sugar.htm> (last visited 11 March 2019).

for Creation and Maintenance of Buffer Stock so that sugar mills must fully comply with directives, (including relating to the MIEQ);

15. Order No. 1(6)/2018-SP-I of the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution, of 29 June 2018 allocating 30 Lakh MT (3 million metric tons) of buffer stock;
16. Notification No. 1(6)/2018-SP-I of the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution of 15 June 2018;
17. Notification No. 57/2015-2020 of the Ministry of Commerce and Industry, Department of Commerce, Directorate General of Foreign Trade of 28 March 2018;
18. Notification No. 1(14)/2018-S.P.-I of the Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution of 5 October 2018, providing for a transport subsidy for exports of sugar, as amended;
19. Circular No. TM/A/15-22/33 of the Mumbai Port Trust of 18 December 2018, providing for concessional rates for demurrage on exports of sugar;
20. Sugar Development Fund (Amendment) Rules, 2015, Notification GSR 127 (E)., F. No. 20(90)/2013-SP-I, Ministry of Consumer Affairs, Food & Public Distribution, of 27 February 2015, amending Rule 20B of the Sugar Development Fund Rules 1983;⁵¹
21. Export Incentive of INR 4,000 per ton (approximately 21 per cent of the world raw sugar price) for an additional 1.4 million tons above earlier seasons (19 February 2015);⁵²
22. Export Incentive of INR 3,371 per ton (August – September 2014);
23. Export Incentive of INR 2,277 per ton (April – May 2014);
24. Export Incentive of INR 3,300 per ton (3 March – 31 July 2014) (indicating eligibility would be contingent on production and export of sugar);⁵³
25. Sugar Development Fund (Amendment) Rules, 2014, Notification GSR 128 (E)., F. No. 20(90)/2013-SP-I, Ministry of Consumer Affairs, Food & Public Distribution, of 28 February 2014, inserting rule 20B of the Sugar Development Fund Rules 1983;⁵⁴
26. Notification F. No. 1(14)/2018-SP-I of Ministry of Consumer Affairs, Food and Public Distribution, Department of Food and Public Distribution of 5 October 2018, providing INR 1,000/ton for mills located within 100 kilometers (km) from ports; INR 2,500/ton for mills beyond 100km from the port in coastal states; and INR 3,000/ton for mills in other than coastal states or actual expenditure, whichever is lower. It appears this is to be credited directly to the farmers on behalf of mills, to support the cane price;⁵⁵

⁵¹ Providing at sub-rule (4): "the incentive shall be at the rate of rupees three thousand three hundred per metric tonne for April-May, 2014, rupee three thousand three hundred per metric tonne for June-July, 2014, and rupees three thousand three hundred seventy one per metric tonne for August-September, 2014 and the incentive shall be rupees four thousand per metric tonne for the current sugar season 2014-15 (October, 2014-September, 2015)."

⁵² Cabinet Committee on Economic Affairs (CCEA) Press Release, 18 November 2015.

⁵³ Cabinet Committee on Economic Affairs (CCEA) Press Release, 18 November 2015, "To improve liquidity of sugar mills and facilitate payment of cane dues arrears, the Government had increased the export incentive on raw sugar from Rs 3300/MT to Rs. 4000/MT in the sugar season 2014-15."

⁵⁴ Providing "the incentive shall be at the rate of Rupees three thousand three hundred per metric tonne for February and March, 2014 and, thereafter, be recalculated every two months after taking into account the average exchange rate of Rupee vis-à-vis USD..."

⁵⁵ Referred to in "Cabinet approves comprehensive policy to deal with excess sugar production in the country", Cabinet Committee of Economic Affairs (CCEA) Press Release, 26 September 2018.

27. Communication F. No. 1-3/2018-Trade of the Ministry of Consumer Affairs, Food and Public Distribution, Department of Food and Public Distribution of 19 November 2018, clarifying notification F. No. 1(14)/2018-SP-I of 5 October 2018;
 28. Ministry of Consumer Affairs, Food and Public Distribution, Department of Food and Public Distribution 'Sugar and Sugarcane Policy', at <https://dfpd.gov.in/sugar-sugarcane-policy.htm>.
 29. 'Price Policy for Sugarcane (2018-19 sugar season)', Commission for Agricultural Costs and Prices, Department of Agriculture, Cooperation and Farmers Welfare, Ministry of Agriculture and Farmers Welfare, Government of India, August 2017, at <http://cacp.dacnet.nic.in/ViewQuestionare.aspx?Input=2&DocId=1&PageId=41&KeyId=622>.
 30. 'Price Policy for Sugarcane (2017-18 sugar season)', Commission for Agricultural Costs and Prices, Department of Agriculture, Cooperation and Farmers Welfare, Ministry of Agriculture and Farmers Welfare, Government of India, August 2016, at <http://cacp.dacnet.nic.in/ViewQuestionare.aspx?Input=2&DocId=1&PageId=41&KeyId=595>.
 31. 'Price Policy for Sugarcane (2016-17 sugar season)', Commission for Agricultural Costs and Prices, Department of Agriculture and Cooperation, Ministry of Agriculture, Government of India, August 2015, at <http://cacp.dacnet.nic.in/ViewQuestionare.aspx?Input=2&DocId=1&PageId=41&KeyId=576>
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