

World Trade Organization Panel issues report to withdraw export benefits issued by India under various export schemes pursuant to complaint filed by United States



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The United States (US) requested consultation in March 2018 with India on alleged export subsidy measures of India pursuant to the Agreement on Subsidies and Countervailing Measures (SCM Agreement). The consultation however failed to resolve the dispute and as per the Understanding on Rules and Procedures governing Settlement of Disputes and SCM Agreement, the matter was referred to a World Trade Organization (WTO) panel.

The WTO panel has issued its report on October 31, 2019 on various export incentive schemes provided by India. In the report, the WTO panel has concluded that the below mentioned measures are inconsistent with the SCM Agreement:

- a) Exemptions from customs duties on importation under the Export Oriented Units (EOU)/ Electronics Hardware Technology Park (EHTP) / Bio-Technology Parks (BTP) Schemes, Export Promotion Capital Goods (EPCG) Scheme and Duty-Free Imports for Exporters Scheme (DFIS)
- b) Exemptions from customs duties on importation and exportation, the exemption from IGST on importation, and the deductions from taxable income, all provided under the Special Economic Zones (SEZ) Scheme
- c) The duty credit scrips awarded under Merchandise Exports from India (MEIS)

Further, the WTO panel has rejected the US claim that the exemption from central excise duty on domestically procured goods under the EOU/EHTP/BTP Schemes and the exemptions from customs duties on importation under the DFIS, are non-compliant with the SCM agreement.

The WTO panel has the following recommendations for India:

- a) To withdraw the prohibited subsidies under the EOU/EHTP/BTP Schemes, EPCG Scheme and MEIS, within 120 days
- b) To withdraw the prohibited subsidies under DFIS within 90 days
- c) To withdraw the prohibited subsidies under the SEZ Scheme within 180 days

It is reported that the Government may file an appeal to the appellate body against these findings.

In the coming months, the Ministry of Commerce is planning to bring the Remission of Duties or Taxes on Export Product Scheme which is expected to replace MEIS. The new Foreign Trade Policy: 2020–25 including remission scheme needs to be in line with WTO norms.

Companies availing benefits under the above schemes need to keep track on future developments as any changes to these schemes would directly impact fiscal calculations and existing operating procedures related to export focused manufacturing.



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