

## **WTO Panel's Ruling against India - Export Subsidies**

### **Why in news?**

World Trade Organisation's (WTO) dispute settlement panel ruled against India in a trade dispute over its subsidies to exporters under various schemes.

### **What was the charge against India?**

- The US in March 2018 challenged export subsidies provided by India under five sets of schemes:
  - i. Export-Oriented Units, Electronics Hardware Technology Park and Bio-Technology Park (EOU/EHTP/BTP) Schemes
  - ii. Export Promotion Capital Goods (EPCG) Scheme
  - iii. Special Economic Zones (SEZ) Scheme
  - iv. Duty-Free Imports for Exporters Scheme (DFIS)
  - v. Merchandise Exports from India Scheme (MEIS)
- The US had alleged that these schemes violated certain provisions of WTO's Subsidies and Countervailing Measures (SCM) Agreement.
- The SCM Agreement prohibits subsidies that are dependent on export performance.
- According to the agreement, India was only exempt from this provision until its GNP per capita per annum reached \$1,000. [Click [here](#) to know more]
- The export subsidies under most of the challenged schemes, except for MEIS, consist of exemptions and deductions from customs duties and other taxes.
- The subsidies under MEIS consist of government-issued notes ("scrips").
- [Scrips can be used to pay for certain liabilities vis-a-vis the government and are freely transferable]
- The US argued these subsidies were a detriment to American workers and manufacturers.
- When consultations with India did not work out, the US in May 2018 requested that a dispute settlement panel be set up.

### **What was India's defence?**

- The SCM Agreement allows for special and differential treatment of certain developing countries.
- The agreement carves out exemptions from or remission of duties or taxes on

an exported product under certain conditions.

- India argued that certain provisions under this agreement excluded it from the provisions prohibiting export subsidies.
- It also argued that all the challenged schemes, except the SEZ scheme, adhered to a provision of the SCM Agreement.

### **What is the rationale for ruling against India?**

- The panel found the US had “demonstrated the existence of prohibited export subsidies” that were inconsistent with SCM Agreement provisions.
- India had foregone revenue through exemptions and deductions from duties and other taxes to the benefit of exporters in most schemes.
- In the case of MEIS, the US was able to establish that exporters benefited from a direct transfer of funds through the provision of scrips.
- MEIS, because of its design, structure and operation, did not meet the conditions for the exemptions from these prohibitions as well.
- The US had established that most of the measures under the other four schemes were “contingent in law upon export performance”.
- With its present GNP numbers, India is undisputedly no longer excluded from the application of the WTO prohibition on its export subsidies.
- WTO also concluded that “no further transition period” was available to the country to stop these subsidies.
- It is also to be noted here that not all the US’ arguments were accepted by the panel.
- It rejected some of its claims regarding -
  - i. certain customs duty exemptions provided under the DFIS scheme
  - ii. excise duty exemptions under the EOU/EHTP/BTP schemes
- WTO recommended that India withdraw certain “prohibited subsidies” -
  - i. under the DFIS scheme within 90 days from the adoption of its report
  - ii. under the EOU/EHTP/BTP, EPCG and MEIS schemes within 120 days from the adoption of its report
  - iii. under the SEZ scheme within 180 days from the adoption of its report

### **What will the impact be?**

- If the panel’s ruling is adopted, the decision is expected to put at risk export subsidies claimed to be worth over \$7 billion annually.
- These, notably, benefited producers of steel products, pharmaceuticals, chemicals, information technology products, and, textiles and apparel.
- While there will be no retrospective impact, India would have to stop providing the subsidies in this form.

## What are the other alternatives?

- Some experts say India can tweak the schemes to support exports while making them more WTO-compliant.
- E.g. India can provide tax concessions (like concessions on GST) on parts and components used in the production of the exported product
- By this way, it can continue to support exports.
- The government has already begun work on making some of the debated schemes more WTO-compliant.
- In September 2019, it announced the Remission of Duties or Taxes on Export Product to replace the MEIS as a more WTO-compliant scheme.
- The overall duty foregone under this scheme is expected to be “more or less the same” as MEIS (around Rs 40,000 crore-45,000 crore annually).

## What next?

- India plans to appeal the WTO report on some aspects of law and legal interpretation.
- This is to be done before the panel’s report is adopted within 60 days of it being circulated with all members.
- The US is expected to push for early adoption.
- However, if India’s notice to appeal the report is submitted before this, it stands a chance of challenging the ruling.
- On the other hand, the [dispute panel’s appellate mechanism](#) is expected to become dysfunctional after December 11 2019.
- [Two of the three remaining members of the body will retire on that date.]
- In that case, India may not be obligated to implement the panel’s current ruling.
- This is because, if its appeal is submitted on time, it will join a set of 10 other appeals in other WTO dispute cases that have been filed since July 2018.
- So, until those appeals are cleared and India’s own appeal is resolved, the country will be under no legal compulsion to make the changes recommended in the panel’s current report.

**Source: Indian Express**