WORKING PAPER NO. 72

EXPORT INCENTIVES IN INDIA WITHIN WTO FRAMEWORK

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JULY, 2001

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Foreword

Under the WTO Agreement on Subsidies and Countervailing Measures (SCM Agreement), India like other low-income countries has been exempted from the prohibition of export subsidies. But this exemption does not prevent other Member countries from imposing countervailing duties if our subsidised exports cause injury to their domestic industry. However, not all export incentives are subsides as per the SCM Agreement. For example, refund/remission of duties/taxes is not a subsidy.

Given the WTO reality and the overall resource constraint faced by the Government of India, what export incentives are affordable and WTO-consistent is a very large question indeed. This study attempts the modest task of examining the status of the existing export promotion schemes within the SCM Agreement. I believe that some of the findings of this paper namely, that the DEPB scheme has been countervailed more for procedural than for substantive reasons or that the export promotion capital goods scheme is consistent with the basic spirit of the Agreement namely, to refund/remission of taxes/duties on export products should make our policy makers think about how best to structure these schemes and take other actions within the overall resource constraint.

I hope that the findings of this study will help enhance our understanding of the SCM Agreement as well as the status of current export promotion schemes within the Agreement. This study is quite timely given that the government is preparing a new Export-Import Policy (2002-07) that will come into force from early next year. I believe that this study will be useful to policy makers and others interested in India's export performance.

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July 2001

1. Introduction

The practice of giving export incentives is near universal, and India is no exception. However, the extent and the form of export incentives vary from country to country depending on the country's economic structure (including its fiscal structure), its overall resource availability, its export potential, and the effectiveness of export incentives in realising its export potential. Within its overall budget constraint, each WTO Member country must decide how best to structure its export incentives that are consistent with the WTO rules and at the same time achieve the objective of export promotion.

Not all export incentives are regarded as subsidies under the WTO Agreement. The Agreement on Subsidies and Countervailing Measures (SCM Agreement), framed in the most recent round, namely Uruguay Round (also the longest round 1986-94) governs the conduct of Member countries with respect to all subsides.[1] The SCM Agreement clearly specifies what export incentives constitute a subsidy and hence subjected to the disciplines of the SCM Agreement. This Agreement is a considerable improvement over the plurilateral Agreement on Subsidies and Countervailing Measures agreed in the Tokyo Round (1973-79). In the SCM Agreement, the

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• I am grateful to Anwarul Hoda for enhancing my understanding of the Agreement on Subsidies. I am also grateful to Isher J. Ahluwalia for giving me an opportunity to work in this research area. The paper has been enriched by the discussions I had with Shankar Acharya, Anil Chaudhary, Bibek Debroy, Sunil Kumar, Ashok Kumar, C.N. Narayanan, H.A.C. Prasad, T.R. Rustogi, Ajay Sahai, Harsh Vardhan Singh, S. Sircar, and T.N. Srinivasan.

[1] The SCM Agreement is for all kinds of subsidies, domestic as well as export subsidies. It applies to all goods, agriculture as well as manufactured goods, but it does not apply to services. However, certain disciplines of the SCM Agreement do not apply to agriculture as disciplines elsewhere apply to subsidies to agriculture. More specifically, in case of domestic support to agriculture, provisions elsewhere set a time limit beyond which the provisions under this agreement come into effect. For export subsidy to agriculture this agreement does not apply. For this, provisions elsewhere specify reduction in export subsidy to agriculture both in terms of budgetary outlays and quantities benefiting from such subsidies. In particular, budgetary outlay to be reduced by 24 percent for developing country Member as against 36 per cent for developed country Member. The reduction on the quantities benefiting from such subsidies to be reduced by 14 percent for developing country Member as against 21 per cent by a developed country Member. These reductions to be calculated over the base level which is the average level of 1986-1990. The period for effecting these reductions was 6 and 9 years for the developed and developing countries.

disciplines over subsidies and countervailing duties were made stronger and clearer, and the term “subsidy” was clearly defined.[2]

An important aspect of the current framework of disciplines on subsidies is that India together with other low-income countries has been exempted from the prohibition on export subsidies for non-agricultural products. However, this exemption does not imply immunity from countervailing duty procedures, should the subsidised products cause material injury to domestic industries in importing countries. Consequently, while Indian exports have benefited from export incentives in some destinations, the importing countries have countervailed against these incentives. Indeed, some export incentives given in India are countervailable in terms of the SCM Agreement.

Over the years as tariffs have been reduced and certain non-tariff barriers have been removed and as competition has increased, there has been increasing tendency to use contingent measures such as Anti Dumping, Countervailing Duty and Safeguard Duty especially by the developed industrialised countries, and more recently also by developing countries. These measures are supposed to advance “fairness” by checking against the “unfairness” in international trade. In practice, however, many Member countries are using these measures against the advancement of fairness.[3]

Countervailing Duty (CVD) is imposed to neutralise the adverse effect of export subsidies on the domestic industry of importing country. Even though the number of CVD cases that were initiated and notified during 1995-1999 (185 cases) show a decline compared to that in 1990-94 (100 cases) due to the strengthening of the

[2] For a good background to the issues involved and conditions under which the SCM Agreement took shape see Sajjanhar 1999.

[3] The specific provisions in respect of Anti-Dumping (AD) and CVD introduced in the relevant laws and administrative rules made it easier to obtain findings of unfair trade. Although in the successive rounds of negotiations have seen tightening of rules and removal of ambiguities there still is a scope for the misuse of these measures or remedies. For example, the current rules do not address the issue of collusion between domestic firm and foreign firms, that permits domestic firms from resorting to “unfair” monopolistic practices within domestic market.

subsidies provisions, the number of CVD cases is expected to increase in future.[4] This is partly on account of the fact that voluntary export restraint is no longer permitted and partly because subsidies for research and development, regional development and better environmental standards that were non-actionable earlier are no longer non-countervailable (see UNCTAD 2000). As on December 31, 2000, CVD measures were in force against 12 Indian exports to different countries. Furthermore, against 7 Indian exports CVD cases have been initiated during July-December, 2000. Tables 1 lists Indian exports against which other Member countries have taken CVD actions.

It is not just the number of cases or products in which CVD actions have been taken but also the manner in which the duties have been calculated that have raised some concern in India. For example, different countries have imposed varying level of duties for the same extent of export subsidisation. This is on account of considerable divergence in the practice of developed countries in their interpretation of the WTO on the countervailability of export incentive measures. In some cases our export incentives are countervailed against for reasons of form rather than substance. In this context it is necessary to examine the WTO status of export promotions measures in India. Such an examination would lead to conclusions on how best to use the present exemptions that the WTO rules give to India from the prohibition of export subsidies on non-agricultural products. Besides, there is also a need for examining the extent to which these export promotion measures actually affect export performance. Such an analysis will also help in devising export promotion schemes that are least actionable within the Agreement and at the same time also promote exports from the country. This study is an attempt in this direction.

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[4] During 1990-99, even though CVD cases are much less in number (300) compared to the number of AD cases (2500), CVD actions are more visible and are likely to attract more attention than AD cases because the focus of CVD actions are government policies whose scope is much wider than that of AD actions taken against a firm in response to its pricing strategy.

In this study we analyse all the current export incentives or export promotion schemes of the Government of India (GOI) and examine the status of each of these incentives or measures within the SCM Agreement. The central question that has been the motivation behind this study is, given the WTO reality and the SCM Agreement, what kind of incentives/schemes will be best suited to attaining the export promotion objective. This study is a first step in answering this central question. In this study, however, we how confine ourselves to doing a qualitative analysis of the existing export promotions schemes only. The quantitative aspect of incentives/schemes and the international practices will be attempted as a sequel to this study. A good understanding of India's foreign trade and of the link between export promotion measures and export performance is inescapable in answering the broader question we have posed to ourselves.

The paper is organised as follows: in section 2 we study the SCM Agreement, including the special and differential status accorded to countries like India, and offer some suggestions for the improvement of the Agreement. In section 3 we examine the analytics of export subsidies and countervailing duties under competitive market conditions. Those not interested in the analytics section can easily skip this section without the loss of continuity or without affecting their understanding of the Agreement. GOI gives various incentives to the exporters through several agencies/organisations and under various Acts. Section 4 we examine each of these incentives given by the Ministry of Commerce, Ministry of Finance and the Reserve Bank of India (RBI) with the view to understanding the status of each export incentive within the SCM Agreement. Section 5 concludes the paper with some general remarks.

2. WTO Agreement on Subsidies and Countervailing Measures (SCM)[5]

Export incentives play an important role in encouraging exports from a country. Almost every country provides incentives to its exporters. However, not all types of

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[5] For information in this section we've relied on, among other sources, the WTO Web site: www.wto.org

export incentives are actionable under the SCM Agreement. To analyse what kind of export subsidy is actionable and what is not, a good understanding of the main provisions of the Agreement is an absolute must. We study the main provisions of the Agreement below.

The Agreement on Subsidies and Countervailing Measures (SCM Agreement) that has been tightened under the Uruguay Round, addresses two distinct but related issues. These issues relate to (A) the *multilateral disciplines* (set of rules) on the provision of subsidies that a Member nation must follow, and (B) the *countervailing measures* to neutralise the adverse effect of subsidised imports. Multilateral disciplines are enforced through invocation of the WTO Dispute Settlement Mechanism (DSM). More precisely, certain subsidies are prohibited and certain other types of subsidies can be challenged if they cause adverse effects to the interests of other Members.

(A) Multilateral Discipline on Subsidies[6]

The SCM Agreement under WTO defines what constitutes a *subsidy*. A measure is defined to be a subsidy if it contains the following three elements (a) it is a financial contribution (b) the contribution is by a government or any public body within the territory of a Member and (c) the contribution confers a benefit.

A financial contribution could take the form of direct transfers or of income or price support. Direct transfers could take the form of grants, loans, and equity infusion or could also be in the potential sense when government provides for loan guarantees. Government is deemed to have made financial contribution if revenue otherwise due to government is not collected. For example, fiscal incentives such as tax credits or where government provides for goods and services other than general infrastructure,

[6] Refer to Figure 1 for an overview of the general subsidy disciplines.

or purchases goods on favourable terms.[7] A government may either itself carry out these functions or may entrust these to any private agency. The Agreement provides examples of a number of measures that represent a financial contribution. It is important to note that remission or drawback of duties on the inputs used in the production of exports is *not* considered a financial contribution, and so also government's financial contribution for general infrastructure such as rail, roads, ports etc. Hence these do not qualify as subsidy. However, *excess* of remission or drawback is considered to be a financial contribution, and as we shall see later, is also considered a subsidy. The Agreement categorically mentions:

> *"…the exemption of an exported product from duties or taxes borne by the like product when destined for domestic consumption, or the remission of such duties or taxes in amounts not in excess of those which have accrued, shall not be deemed to be a subsidy."*

A financial contribution by itself does not necessarily constitute a subsidy. The financial contribution must confer *benefit* to the recipient.[8] Often, it is not easy to determine whether a financial contribution confers a benefit as the Agreement provides only a partial guide to whether a benefit is to be considered with reference to a commercial benchmark or with reference to the cost to the government. In the context of countervailing duties, the Agreement mentions that the benefit is to be assessed with reference to commercial benchmarks.

A government provision of equity capital is considered a benefit if an investment decision is considered inconsistent with the usual investment practice of private investors. Similarly, a government loan or a loan guarantee is considered a benefit if the amount a firm actually pays is less than the amount that the firm would have paid

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[7] Government purchase of goods on favourable terms applies to those goods that are meant for resale or for commercial purposes. Rules on government procurement of goods for its own consumption are governed by the Agreement on Government Procurement to which India is not a signatory.

[8] Non-financial privileges that confer benefits on its recipient do not constitute a subsidy, for example, temporary relaxation of anti-pollution laws on a firm in financial trouble.

if the same facility were to be availed on a commercial basis from the market. *Prime facie* all government financial contributions would seem to confer some benefit to its recipient. What could be an example where government financial contribution does not confer any benefit to the recipient? Government provision of equity capital, for example, does not confer any benefit if the decision made is consistent with the usual investment practice of private investor in the territory of that Member.

Even if a measure is shown to be a subsidy, it cannot be subjected to SCM Agreement disciplines unless it is provided *specifically* to an enterprise or industry or group of enterprises or industries. Subsidies that are provided *specifically* to an enterprise distort the allocation of resources within an economy. On the contrary, subsidies that are widely available are presumed to be non-distortionary. Thus subsidies that are *specific* alone are subjected to the SCM Agreement disciplines.

Specificity has been defined in terms of an enterprise, industry, geographical region, prohibited subsidies (that favour exports over domestic sales), and where a subsidy is although non-specific but there are overriding reasons to believe the subsidy to be specific. However, schemes where objective criteria or conditions are laid down governing the eligibility for a subsidy, specificity is deemed not to exist.[9]

All subsidies have been categorised into the following three types:

(a) Prohibited Subsidies

Two types of subsidies are prohibited for most countries. These are subsidies that are contingent upon *export performance* (or export subsidies), or upon the *use of domestic over imported goods (local content subsidy).* Such subsidies are designed to affect trade, and are therefore likely to cause adverse effects to the interests of other Members.

[9] Objective criteria or conditions mean "criteria or conditions which are neutral, which do not favour certain enterprises over others, and which are economic in nature and horizontal in application, such as number of employees or size of enterprise.

Subsidies contingent on export performance are prohibited. For example, export related exemption, remission or deferral of *direct taxes* or excess exemption, remission or deferral of indirect taxes or import duties are contingent on export performance and hence prohibited. Similarly, currency retention schemes or practices which involve a bonus on exports. Internal transport and freight charges on export shipments provided or mandated by government on terms more favourable than for domestic shipments is yet another example of prohibited subsidies. The Agreement provides for an illustrative list of prohibited export subsidies.[10] The second category of prohibited subsidy also called import substitution, is that which favours the use of domestic over imported goods. Under the Agreement, countries in general are prohibited from giving export subsidies and/or local content subsidy. What if a Member country gives prohibited subsidises? If it does, it can be taken to the Dispute Settlement Mechanism by any Member country without any proof of its adverse effect.[11]

Special & Differential Treatment (S&DT) with respect to Subsidies Discipline

A role that a subsidy can play in the economic development of a developing country is recognised in the SCM Agreement. Accordingly, developing country Members have been given *special* and *differential treatment*.[12] Exemption from the prohibition on export subsidies is an example of differential treatment to Annex VII countries.[13] Developing country Members with per-capita income greater then US$ 1000, have been given 8 years period to phase out their export subsidy. Indian being in the list of Annex VII, is exempted from the prohibition of export subsidies. However, this

[10] However, no inference can be drawn that a particular practice that does not fit in the description given in the illustrative list is not an export subsidy. But the list specifically refers to measures not constituting export subsidy and therefore such measures cannot be prohibited under the Agreement.

[11] This is in sharp contrast to actionable subsidy where proof of adverse effect is needed to seek remedy.

[12] This treatment is in terms of differing levels of obligations and transition periods with regard to the implementation of the Agreement. This treatment is with respect to both subsidies disciplines and countervailing duties.

[13] The SCM Agreement distinguishes between two categories of developing countries: (a) least-developed Member countries (LDCs) (b) certain Members identified in Annex VII (b) of the Agreement until such time as their GNP per capita reaches USD 1,000 per year. Categories (a) and (b) are collectively referred to as “Annex VII countries”.

exemption does not provide immunity against Member country imposing countervailing duties (see sub-section below on imposition of countervailing duties). At the same time, Annex VII Member country must phase out all export subsidy to a particular product if the Member's export of that product reaches 3.25 per cent share of the world trade in that product for 2 consecutive years.[14] In such cases, a Member is assumed to have export competitiveness in that product.[15]

The second category of prohibited subsidy (import substitution or local content subsidy) did not apply to developing country Members for a period of 5-years ending on December 31, 1999. For the least developing country Members the exemption period is 8-years. India being a developing country Member has crossed 5-year exemption from prohibition on import substitution. India is now prohibited from giving such subsidies.

(b) Actionable Subsidies

Most domestic subsidies come under the category of actionable subsidy if they are specific to an enterprise or group of enterprises. These subsidies although not prohibited can be challenged, either through multilateral dispute settlement or through countervailing action, if such subsidies cause adverse effects to the interests of another Member.

Adverse effect can be caused in three possible ways: (i) Injury (ii) nullification or impairment, and (iii) serious prejudice.

[14] In finding out the share in world trade of a particular product, share of all products listed in that section (as per Harmonised System (HS) of classification) is added and section-wise share is calculated. However, once export of a product by a Member country becomes internationally competitive, it continues to be treated so even if in the subsequent period its share in world exports of that product falls below the threshold level.

[15] In case of India, the share of most of its exports falls below this threshold level. Gem & Jewellery, textiles and possibly leather & leather products, are the only three product categories in which the share could be close to the threshold level.

If subsidised imports cause **injury** to domestic industry of the complaining Member, the Member can seek remedy against the subsidy. Injury could be current material injury in which case it must be based on evidence involving an objective examination of both volume of subsidised imports and its effect on the price. Injury could also be in terms of the threat of material injury in which case it must be based on facts and not merely on possibility. Finally, injury could also be in terms of material retardation of the establishment of a domestic industry.

Subsidies that cause injury can be challenged both at a unilateral and at a multilateral level. Countervailing action is a unilateral remedy whereas the Dispute Settlement Mechanism provides for a multilateral remedy. In case of injury, both these remedies could be invoked in parallel but only one form of relief is eventually available.

The second possible cause of adverse effect is **nullification or impairment** of benefits, that arises where improved access to market from a bound tariff reduction is undercut by subsidisation in that market.

Serious Prejudice is the final cause of adverse effect that arises where a subsidy leads to (a) displacement or impedance of the complaining Member's exports, either in the market of the subsidising Member or in a third country market (b) significant price undercutting or price suppression or (c) an increase in the subsidising Member's world market share in a subsidised primary product or commodity.

Both nullification/impairment and serious prejudice can form the basis for a complaint related to harm to a Member's exporting interests and can be challenged at the multilateral level, that is, at the Dispute Settlement Mechanism only.

However, disciplines pertaining to serious prejudice do not apply to developing country Members now.[16] Regarding actionable subsidies granted or maintained by a developing country Member, action can now be taken only if there is nullification or impairment of tariff concessions or injury to a domestic industry in the market of an importing Member. It is important to note that in the context of export subsidy, which is the subject of this paper, it is injury caused to domestic industry of an importing country Member that matters. Nullification/impairment of tariff concessions pertains to production subsidy, which is not the focus of this study.

(c) Non-actionable subsidies

The SCM Agreement identifies three specific subsidies, which are non-actionable and therefore cannot be challenged multilaterally or be subject to countervailing action. These subsidies relate to research subsidies, assistance to disadvantaged regions, and environmental subsidies. These subsidies are either unlikely to cause adverse effects or are considered to be of some merit and thus not to be discouraged. However, five-year period under which the subsidies were to be reviewed and further decision taken, lapsed on Jan. 1, 2000. So these subsidies are no longer permitted until further decision is taken on it. So, now only non-specific subsidies are non-actionable.

What kind of subsidies are non-specific and hence are non-actionable? Subsidies that cannot be identified as being given specifically to any industry or an enterprise or to a group of industries or enterprises or are defined geographically could be given by the government. The basic idea here is that such subsidies should not be seen as

[16] That was not the case earlier. For the 5-year period ending December 31, 1999, the Agreement sub-categorised actionable subsidies which were presumed from their mere existence as causing serious prejudice. This was done to spare the countries of the burden of demonstrating the adverse effects on account of subsidisation, which is a complex and fact-intensive exercise. However, for developing countries this presumption was not made, and demonstration of positive evidence was required for such actionable subsidies. Since the 5-year period has ended no such rule relating to the sub-categorised actionable subsidies is valid now.

being given to any particular product. For example, investment subsidies and tax subsidies given to small-scale industries, defined in terms of its investment in plant and machinery, could be given without inviting any CVD action because the term "small-scale industry" is objectively defined (on objective criteria, refer to footnote 9 on page 7).

(B) Countervailing Measures[17]

Countervailing measures are a unilateral remedy applied by a Member only after investigating the case in accordance with the criteria laid down in the SCM Agreement. To be able to impose countervailing duty the Member country must establish the following three substantive aspects: (a) that the imports are subsidised (b) that an injury is caused to the domestic industry and (c) that there exists a causal link between the subsidised imports and the injury. There is well laid out procedure to be followed in the conduct of countervailing investigations and the imposition of countervailing measures. Failure to respect either the substantive or procedural requirements can be taken to dispute settlement and can form the basis for the invalidation of the measure.

All countervailing duties normally have a life of not more than 5 years. If there is a change in the extent of subsidy or in the injury to domestic industry, a case can be made for the review of CVDs within reasonable period of time. If no review takes place within five years all CVDs must automatically terminate, and any case for the imposition of CVDs has to be made afresh.

Special and Differential Treatment (S&DT) with respect to CVDs

Developing country Members whose exports are subject to countervailing duty investigations are given special and preferential treatment. An investigation regarding a product originating in a developing country Member are immediately terminated if:

[17] Refer to Figure 2 for an overview of the remedy routes with respect to subsidies.

(a) The subsidy level does not exceed *de minimis* level which is 2 or 3 per cent instead of 1 per cent, as is the case with the developed country Member. For Annex VII Members, of which India is one, the *de minimis* level is 3 per cent;

(b) The volume of subsidised exports represents less than 4 per cent of the total imports of the like product in the importing Member country, unless imports from developing country Members, whose individual shares of total imports represent less than 4 per cent, collectively account for more than 9 per cent of total imports of the like product in the importing Member.

A question that asserts itself here is what does this S&DT with respect to both subsidies discipline and CVDs translates in terms of benefits given to developing countries. So long as the subsidised exports from developing countries are small in the sense of the share of subsidised exports in total world exports of the product (i.e., the export product is not internationally competitive) not exceeding certain minimum percentage, developing countries can continue giving export subsidies. However, no action can be taken against subsidised exports so long as the subsidy is below *de minimis* level (both in value and volume terms). If the subsidy is higher than the *de minimis* limit not all subsidised exports may lead to injury to domestic industry of the importing Member country. Since demonstration of injury is needed for the imposition of CVDs, where there is no injury no CVDs can be imposed against subsidised exports from developing countries. Furthermore, even if there is injury (from exports subsidised beyond *de minimis* level) not all countries may be keen on initiating the action. In all such cases developing countries may benefit on account of S&DT.

Suggestions for the Improvement of the Agreement

The Agreement in its current form allows for remission/drawback of taxes/duties only on the inputs used in production of exports, and not on the capital goods used in export production. This treatment is inequitious to the interest of developing countries that have raised tariffs on the import of capital goods in general. Developing countries impose tariffs not just for granting protection to its domestic industry but also for raising revenue since there are limitations in raising revenue through other taxes. Currently, remission of duties on the import of capital goods used for export production is countervailed by importing Member countries.

That trade should be driven by country's comparative, natural advantage, and not by artificial props given on the exports or by difference in the fiscal regimes, has long been recognised in the literature on trade policy. For this reason, and also for the avoidance of double incidence of tax on export products, an international practice has developed that treats all indirect taxes to the *destination principle* and all direct taxes to the *origin principle*. That is, all indirect taxes on export products are to be levied by the country importing such products, and the exporting country levies direct taxes on exporters' income. This has been the spirit behind the subsidy provisions of the GATT 1947 too.

The guiding principle behind the SCM Agreement has been to allow for trade in commodities that are free of "duties" or "taxes." The SCM Agreement therefore permits certain kinds of incentives given to exporters while prohibiting others. For example, drawback/refund of duties and taxes paid on inputs used in production of exports is permitted under GATT whereas tax exemption of income from exports is not. Since tariff on import of capital goods represents indirect tax, the drawback/refund provisions should also be applicable to capital goods used in export production. One might argue that capital goods are not physically incorporated into exports the way other inputs are. But then not all inputs such as energy, fuels and oil and even the catalysts are physically incorporated but drawback on these inputs (consumed in the production) is allowed precisely because the idea is neutralise the incidence of all duty/taxes paid in the production of exports.

The second problem with the agreement relates to the way in which CVDs are calculated. For example, some countries when calculating CVD only examine the excess drawback that is given under a remission/drawback scheme. In other words, CVDs are imposed only on the excess remission/drawback. They take cognisance of the fact that some drawback on inputs is due to exporters anyway. Therefore, even if the drawback scheme is not strictly as per the Agreement, some countries recognise the fact that part of drawback is on account of the duties paid on the input used by the exporters. However, some countries take a very legalistic position and countervail the scheme by full benefits given to exporters under that scheme, disregarding the fact that part of the drawback was on account of the duties paid by the exporters.

Similarly, in calculating CVD against government contribution of equity, what is the "average useful life" of assets of a public sector enterprise created with the contribution by a government?[18] Similarly, how an industry fund created with contribution by firms (both private and public) is to be treated if the fund is used to give soft loans to its member contributors? Does the countervailability of the soft credit disbursed out of such fund depend on fund's ownership? Or should the control of such funds be used as the criteria? In fact, several such instances can be cited where the agreement itself doesn't provide any guide on how to go about calculating CVDs or on use of benchmarks. These gaps need to be plugged while some other provisions of the Agreement need to be fine-tuned.

Besides these specific suggestions, there are some suggestions relating to the existing provisions of the Agreement. Before listing these, it is important to note that the two foundational principles of the trading system are the Most Favoured Nation Treatment (treating all Member nations equally) and National Treatment (treating foreigners and locals equally). In the application of these twin principles no distinction is made between the developed Member and the developing Member countries. These rules apply uniformly to both sets of countries. However, where the distinction

[18] According to US laws, the "average useful life" of an asset is considered to be 15 years. In case of Steel Authority of India (SAIL), since the last government injection of equity was in 1984-85, the question of government equity contribution did not arise in calculation of CVDs imposed against exports by SAIL. Similar would be the case with the government owned Export Credit Guarantee Corporation (ECGC).

is made between the two is in the timeframe allowed to developing Members with respect to the implementation and bindings of the rules.

Changes to the existing provisions of the Agreement that the developing countries like India would like to have are: (a) raising de minimis level for initiating countervailing action (b) excluding developing country from the Annex only after its GNP has been above the level for a continuous period of three years and not just a one-time attainment at present (similarly true, in defining international competitiveness of a product) (c) CVDs to be restricted only to the amount by which the subsidy exceeds the de minimis level. (For other suggestions see GOI 1999).[19]

3. Analytics of Export Subsidy and Countervailing Duty

Export incentives, as opposed to the incentives for production for domestic market, are those that explicitly link payments to export trade. Incentives or subsidies that are given to all domestic producers (and not just to exporters) are considered to be less trade distortionary than those given specifically to exporters.[20] All export subsidies can broadly be classified in two groups: pure (non-neutral) and compensatory (neutral) export subsidies. Pure subsidies are meant to give exporters an advantage over competitors in the international market whereas compensatory subsidies are meant to neutralise government-imposed handicaps. For example, providing credit to exporters at lower than market rate is a pure subsidy whereas duty refund or drawback by the government to exporters is in the nature of compensatory subsidy. Compensatory subsidy is given to remove the double incidence of tax on export products.

Several arguments are given in defence of pure subsidies from a developing country perspective. For example, it is well know that many developing countries have anti-

[19] See Sajjanhar (1999) for agenda on subsidies for developing countries.

[20] Also, in comparison to tariffs which distort both production and consumption, export subsidies distort production only and hence are considered to be less distortionary. Likewise, export subsidy is more trade distortionary than export subsidy since only part of the production subsidy goes towards exports.

export bias in the form of higher import tariffs[21], overvalued exchanged rates, and lack of easy access to imported inputs for manufacture of exports. All these measures tend to make domestic market more attractive than export market to domestic producers. Export subsidy is considered a mechanism for neutralising this bias. Besides a call for removing anti-export bias, export subsidy is also justified on grounds of infant industry. An industry is considered infant when there exists tremendous scope for learning-by-doing, making it viable in the long run and/or when there are considerable spillover effects whose benefits cannot be internalised by the industry. Relatively recent justification for such subsidy comes from achieving export expansion and diversification that helps a country cope better with external trade shocks.

However, these justifications have sought to be rejected on both theoretical and empirical grounds by the proponents of free trade who do not deny the existence of distortions in developing economies but favour removing of these distortions per se rather than mitigating their effects through subsidies (see Panagariya 1999b). However, those who favour subsidy route, believe that the domestic distortions created over a long period of time cannot be removed so soon. Till such time, they argue that developing countries be allowed to use export subsidies for mitigating the adverse effect of distortions.

Export subsidies are given on the belief that such subsidies help in export promotion. These subsidies take several forms. Most often the effect of export subsidies are expected to work through price channel. As we saw in the previous section, export subsidies are now subject to the discipline of SCM Agreement. Accordingly, export subsidies are either prohibited or invite countervailing duties if they cause adverse effects to the interest of other Member countries.

[21] Protection to domestic industry is not the only reason for higher import tariffs in developing countries. In view of difficulty in raising revenue from other taxes, import tariffs are also an important source of revenue to government.

In what follows in this section we study the analytics of export subsidy and countervailing measures. We analyse the stylised effects of export subsidy and of countervailing duty first from an importing country viewpoint and then from the viewpoint of exporting country.

In the figure above, *DD* and *SS* are demand and supply curves of a particular commodity in the importing country. Starting from an equilibrium point E, domestic demand at price *P1*, is met partly by domestic production (*Y1*) and partly through imports (*Y2-Y1*). This is prior to any export subsidy given by exporting country. Now consider a case where a subsidy of *S* per unit is given by the exporting country on its exporting commodity. This subsidy by depressing the price (from *P1* to *P2*) in the importing country reduces its home production of the commodity (to *Y3*) and increases its imports (*Y4-Y3*).[22] Even though, the subsidy hurts domestic producers of the commodity in importing country, the country on the whole gains from the subsidised imports. Social welfare (defined as sum of consumers' and producers' surplus[23]) is commonly used measure to capture this gain or loss. In the above figure, producers' lose from the subsidy (the loss is represented by area *a*), whereas consumers gain from it (the gains are represented by area *a+b+c+d*). On the whole, the importing country gains from the subsidy (the gains are represented by area *b+c+d*).

Because the subsidy hurts the domestic producers, it is likely to be countervailed by the importing country government. Supposing countervailing duty (CVD) equal to per unit subsidy is imposed by the country on its imports. This shifts back the price to *P1*, leaving the domestic production and imports at pre-subsidy levels. Notice that impostiion of CVD reduces the net gains to the importing country from export subsidy

[22] An assumption made here is either that all countries exporting the commodity are subsidising their exports or that all imports are made from one country only.

[23] Consumers' surplus (CS) is measured by the area under the demand curve that goes all the way up to the equilibrium price. Producers' surplus (PS), on the other hand, is measured by the area above the supply curve up to the equilibrium price. In the definition of Social welfare, equal weights are assigned to both CS and PS. The objective of trade policy assumed here is to maximise social welfare.

equal to the area *c.* Also, this now accrues to the government (and not directly to the consumers in the form of price reduction) of the importing country. So, export subsidy, even after it is countervailed, benefits the importing country, though this benefit is lower compared to the case where no CVD is imposed. Imposition of CVD, also has a distributional consequences. CVD corrects for the injury due to export subsidy to the domestic producers of importing country, but the gains from export subsidy accrue to government instead of accruing it to the consumers directly.

Now let's turn to the effects of export subsidy and CVD on the exporting country. Here there are two cases to consider. One, in which the exports from a country are too small to influence world price of that commodity, and two where an export subsidy reduces international price of that commodity.

In the above figure, supposing that *E'* denotes equilibrium point, where at price *Pw*, the country sells *X1* units of the commodity in the domestic market and exports *X2-X1* units. Starting from this point, supposing that the country gives export subsidies of S on every unit of its exports. Now if the exporting country is a small exporter, the subsidy would not alter international price but the price that its exporters get would be *Pd*. At this price, domestic sale of the commodity would reduce to *X3* and exports would increase to *X4-X3*. In the exporting country, the loss to consumers is given by area *f+g,* whereas gain to producers is given by area *f+g+h*. Loss of revenue to the government on account of subsidy is represented by area *g+h+i.* Net loss, therefore, to the exporting country is *g+i.*

In the second case where export subsidy leads to reduction in world prices, is shown by downward shift in price to Ps. This happens when all exporting countries provide export subsidies, reducing world price of exports. In this case the subsidy amount (represented by *(X6-X5)*S*) gets transferred to the importing country. This is the obverse of the importing country case considered above. If the government in the importing country imposes CVD to neutralise the effect of this subsidy, it ends up collecting revenue to the tune of subsidy amount.

To sum up, this analysis brings out several points. One, exporting country lose and the importing country gains from export subsidy. The benefit from the subsidy is lower if the importing country imposes CVD, in which case its government collects revenue equal to the subsidy amount. The exporting country is a net loser, in both cases, that is, whether it is a small or a major exporting country. In case of small exporting country, export subsidy does increase its exports. But if all exporting country subsidise their exports, it only lowers international price of the commodity without increasing exports, and the subsidy amount gets transferred to the importing country.[24] This fact highlights the need for co-ordinated lowering of subsidies among the countries whose exports are competing for the same markets.[25]

As mentioned above, import-substitution policies pursued by developing countries like India created anti-export bias. In the figure above, this can be characterised by a situation where international price is given by *Pd*, and the price facing domestic exporters is given by Pw. The lower price facing the exporters is on account of anti-export bias. Supposing, government gives export subsidy to correct for this bias so that the price line faced by the exporters is the same as international price. Now, it is easy to see that this would work only when this subsidy doesn't affect the international price. That is, when it is only a small or fringe exporter. However, if all developing countries exporting to a common market subsidise their exports, it would only depress international price without increasing their exports.

4. GOI Export Promotion Measures

Like many governments elsewhere, GOI too has been giving several export incentives to Indian exporters to promote exports from the country. In the past GOI

[24] A point often made in defence of export subsidy by developing country is on account of its limited ability to subsidise its exports.

[25] Excluded from this analysis are the dynamic effects that may be present or when the competition is imperfect.

devised several export promotion measures to correct for the anti-export bias that existed in the economy on account of import-substitution policy. These export promotion schemes increased both in number and scope beginning early 1960s and by 1990, to quote from Pursell and Sharma (1996) "at least one variant of just about every known scheme was on the books and in principle available." Such schemes provided both direct and indirect subsidies and included Cash Compensatory Support, Replenishment import licence, tax exemption of export income, subsidised export credit and export credit insurance, bonded warehouses, support for export marketing and so on.[26] In what follows in this section we analyse major export promotion measures or export incentives currently given by GOI.[27]

Export incentives are given by GOI through several institutions/agencies and under various Acts. Export incentives are primarily given by Ministry of Commerce through its Directorate General of Foreign Trade (DGFT), and through Ministry of Finance. One possible way of classifying export incentives is in terms of agency/ministry that provides such incentives. Another way could be in terms of location of units i.e., incentives to exporting units inside or outside domestic tariff area. In this paper we adopt the former classification i.e., by agency providing export incentives.

Incentives through Directorate General of Foreign Trade (DGFT)

Most of the export incentives are given through DGFT (of the Ministry of Commerce) under Foreign Trade (Development and Regulation) Act 1992 (effective from 7 August 1992) which also repealed the Imports and Exports Control Act of 1947. The Foreign Trade Act authorises the Central government to issue notifications regarding

[26] Pursell and Sharma (1996) note that while the existence of the schemes was probably a necessary condition for some of the manufactured exports, these nowhere nearly compensated for the overall anti-export bias of the trade regime. For example, during the 11 years 1980-81 to 1990-91 it has been estimated that the trade policy induced Rupee overvaluation was about 30 per cent, while an average value of the principal export incentives relative to the fob value of manufactured exports amounted to only 8 per cent. Excluded from the calculation of these figures are transaction costs, delays and corruption involved in using various schemes. Tondon (1983) has a good analysis of GOI export promotion schemes till 1980.

[27] We analyse current export promotion schemes as per their intent and letter and not the way these operate in practice which could be different if there is abuse of such schemes.

export and import policy. These are summarised in Export and Import policy document issued every five years and updated every year through the annual amendments. Below is the list of major incentives given by DGFT to exporters:

(a) Export Promotion Capital Goods (EPCG) Scheme:
(b) Duty Exemption/Duty Remission Schemes
(c) Schemes for EOUs/EPZs/SEZs/EHTPs/STPs
(d) Export Promotion Schemes for Diamond Gem & Jewellery

We take up each of these in turn below:

(a) EPCG Scheme:

The apparent rationale behind this scheme seems to permit technological up-gradation while respecting the need to preserving scarce foreign exchange resources.

About the Scheme: The scheme, first introduced on April 1, 1990 and amended from time to time, allows for the import of capital goods at concessional customs duty. Under this scheme an exporting producer (i.e., every manufacturer who exports) or merchant/exporter (i.e., traders) who is tied to a producer, is eligible for the scheme. For availing of the scheme, a company is required to provide the details of the type and the value of capital goods to be imported. Depending on the level of export commitment the company is willing to take, the company is allowed to import the capital good at concessional customs duty of 5%. The export obligation is 5 times the CIF value of the capital good on FOB basis or 4 times CIF value of capital goods on Net Foreign Exchange Earnings (NFE) basis. The export obligation is to be fulfilled over 8-year period. In order to meet the export obligation, goods exported must have been produced with the imported capital goods.

Since April 2000 the threshold limit for eligibility has been removed, and the two alternate routes (with different export obligations) to avail the scheme that existed prior to this have been merged into a single window scheme with a uniform customs duty of 5 per cent.

Status of the scheme within the Agreement: The scheme is countervailable for following reasons. Remission/refund of duties and taxes is allowed only for the inputs used in the production of exports and not on the capital goods. Under the scheme, reduced customs duty on import of capital goods amounts to foregoing revenue otherwise due to the GOI and thereby conferring a benefit on the recipient. Therefore it is a subsidy as defined under the SCM Agreement. The scheme, although not based on past export performance, does link the concession to the FOB value of exports that a firm is willing to undertake. The scheme is thus specific and hence countervailable.

(b) Duty Exemption/Duty Remission Schemes:

While duty exemption scheme enables import of inputs required for export production, the duty remission scheme enables post export replenishment/ remission of duty on inputs used in the export product.

DGFT currently has three duty exemption/duty remission schemes. Table 2 shows the popularity of these schemes. These are (i) Advance Licence (ii) Duty Free Replenishment Certificate, and (iii) Duty Exemption Passbook Scheme.

(i) Advance Licence: Advance Licence is issued under Duty Exemption Scheme to allow import of inputs which are physically incorporated in the export product. Import of raw material is on the basis of quantity based advance licence. The quantity of raw materials is determined on the basis of government provided Standard Input-Output Norms (SIONs).[28] These norms specify the proportion of inputs used in the

[28] Standard Input-Output Norms (SIONs) used to be recommended earlier by Director General of Technical Development (DGTD) which was disbanded with the announcement of the new policy. The Directorate General of Foreign Trade (DGFT) now fixes SIONs in the inter-ministerial meeting of the Technical Authority, Ministry of Finance, Audit, and Administrative Ministries. However, in working out the norms, data supplied by exporters and export promotion councils is also taken into account. SIONs

production of final product. Both the quantity and the value of inputs allowed to be imported are specified in the licence as well as the overall value of the licence depending on the value of exports commitment that an exporter undertakes. If the quantity for a particular description cannot be imported in the specified value then its value can be adjusted within the overall value fixed in the licence.

Advance Licence can be issued for physical exports, intermediate supplies or deemed exports. Advance Licence is issued for duty free import of inputs and is subject to actual user condition. Such licences (other than Advance Licence for deemed exports) are exempted from payment of Basic Customs Duty, Additional Customs Duty, Anti Dumping Duty and Safeguard Duty, if any.[29] (For deemed exports, however, Advance Licence is exempted from Basic Customs Duty, and Additional Customs Duty only.) These licences are issued to manufacturer exporter (main contractor in case of deemed exports) or merchant exporter with the endorsement of the supporting manufacturer(s). In case of Advance Licence for Intermediate Supply, such licence is issued to a manufacturer-exporter for the import of inputs required in the manufacture of goods to be supplied to the ultimate exporter/deemed exporter holding another Advance Licence.

Under advance licence, neither the licence nor the materials imported with the licence is transferable even after completion of export obligation. Issue of such licences requires a positive value addition.

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are fixed in quantity terms and are based on the (physical) quantity of inputs used in the production of different commodities. In a few cases these norms are fixed in value terms.

[29] *(a) Basic Customs duty*, expressed as a percentage of the assessable value, is the duty given in the schedule to the Customs Tariff Act, 1975. (b) *Additional duty* is equivalent to the excise duty on similar articles produced or manufactured in the country. This is applied on the value of goods, the basic duty and special customs duty. (c) *Special additional duty* (SAD) is sales tax equivalent on imports. All duties of customs, that is, basic and additional duties (also Surcharge if any) are included in the value for levy of SAD. Besides these duties, a Surcharge *on Basic Customs duty* (generally 10 per cent of the applicable basic duty and applies on assessable value) was introduced in 1999 but the same was withdrawn in 2001.

Status of the scheme within the Agreement: Advance Licence is an exemption/suspension scheme under which import of inputs to be physically incorporated in the production of exports, is allowed. The 'actual user condition' is applied and it is a quantitative and NOT a value-based scheme. Import of inputs is determined on the basis of Standard Input/Output Norms. Even though SION sets notional costing based on what are considered to be the values of inputs used to manufacture a particular product, the norms are set cautiously. Only positive value addition is required. The licence is non-transferable. The licence is valid for a period of 18 months whereas the Agreement allows two-year period for the import of inputs under such licences. The scheme is permitted within the general provisions of the Agreement, and as such, is not countervailable.

(ii) Duty Free Replenishment Certificate (DFRC): Both Duty Free Replenishment Certificate (DFRC) and Duty Entitlement Passbook (DEPB) Scheme are duty remission schemes. These schemes allow drawback of import charges on inputs used in the export product.

Under DFRC, merchant-exporter or manufacturer-exporter obtains, after completion of exports, transferable duty free replenishment certificate for importing inputs used in the export products as per SIONs. The scheme was introduced in April 2000 and allows imports of inputs used in the manufacture of goods without payment of Basic Customs Duty, Special Additional Duty (and also Surcharge, if any). However, such inputs shall be subject to the payment of Additional Customs Duty equal to the Excise Duty, and Anti-dumping /Safeguard duty at the time of import (since a certificate or the material imported against it is freely transferable).

DFRC are issued only in respect of export products covered under the SIONs as notified by DGFT. DFRC is issued for import of inputs, as per SION, having same quality, technical characteristics and specifications as those used in the end product and as indicated in the shipping bills. The validity of such licences is 18 months.

DFRC or the material imported against it is freely transferable. Minimum value addition of 33% is required under DFRC Scheme.

Status of the scheme within the Agreement: Even though DFRC allows only for the import of inputs used in the production of exports and to that extent represents a substitution drawback, it is permitted (under Annex I(i), Annex II and III of the SCM Agreement) and hence is non-countervailable. DFRC or the imports made thereunder can be freely sold in the domestic market (possibly at some premium) or used in a way conferring benefits in excess of drawback of import charges. One could argue that the question of premium doesn't arise because the imports permitted under the certificate are not restricted. Although the Agreement does allow for substitution drawback, it is not clear whether or not the certificate or goods allowed thereunder can be transferred. To the extent the scheme leads to excess drawback it is countervailable.

Excess drawback in the scheme is a subsidy because it is a financial contribution by the GOI in the form of duties foregone (to the extent of excess remission) on imports that confer benefit to the holder of certificate. Moreover, since the scheme is contingent on export performance it is specific under Article 3.1(a). Furthermore, the Minimum Value Addition condition can be interpreted, as favouring the use of domestic over foreign inputs under Article 3.1(b) that is no longer permitted. The MOC notes that the minimum value addition is with respect to the use of factors of production and not on the use of domestic goods as mentioned in the Agreement. Therefore, the minimum value addition condition cannot be considered as favouring use of domestic goods over imported goods. Since the scheme was introduced in April 2000, it has not yet been scrutinised or tested under CVD investigations. However, MOC is confident that the scheme will pass the test.

(iii) Duty Entitlement Passbook Scheme (DEPB): The Pass Book Scheme came into force on May 30, 1995 and remained in force till March 31, 1997. After the Pass Book Scheme was terminated, DEPB came into effect from on April 7, 1997. DEPB is of two types: on pre-export basis and post-export basis. Since there were very few takers of the DEPB on pre-export basis the scheme was withdrawn subsequently. Now of these two schemes, the scheme on post-export basis only is allowed.

DEPB is an optional facility given to exporters who are not interested in going through the licensing route. The DEPB is meant to neutralise the incidence of customs duty on the import content of the export product. The neutralisation is effected by way of grant of duty credit against the export product. This credit can be utilised for payment of customs duty on imported goods. The scheme is available to exporting producers or merchant-exporters.

Under the Scheme, an exporter may apply for credit, depending on the value of exports. The credit is available against such export products and at such rates as specified by the DGFT for import of raw materials, intermediates, components, parts, packaging material etc.[30] The entitlement rate is a certain percentage of FOB value of exports. Currently, DEPB rates are announced for over 2,000 items. For items on which DEPB rates are more than 15 percent, value caps are fixed on the basis of average export price. The DEPB is valid for a period of 12 months from the date of issue, and the DEPB or the items imported against it are freely transferable. The exports made under the DEPB Scheme are not entitled for drawback.

Status of the scheme within the Agreement: In this scheme no actual user condition applies. The credit obtained under the scheme, even if the credit is in accordance with SION, can be used to offset customs duties due on imports of any goods (excluding those on negative list). There is no restriction on the use of imported goods in the production of exported goods. The imported goods can be either sold in the domestic market or can be used in any other way. Furthermore, licences and thus credit are freely transferable.

[30] Using SIONs, the average value of imported inputs is calculated based on bills of entry of exporters, which are cross-checked with the custom houses. Once the average value of inputs is determined, incidence of customs duties on inputs is calculated. The incidence of customs in effect becomes DEPB rates which are expressed on FOB basis.

The spirit of the SCM Agreement is not in the linking of inputs to the production of exports but the fact of refunding of taxes/duties levied on inputs actually used in production of exports. Going by this spirit, the scheme is to be deemed countervailable only if there is any excess remission/refund of duties and taxes. Given this, the basis of countervailability of the DEPB scheme is to be found in the manner in which DEPB rates are calculated. In calculating the rates, all the inputs used in export production are assumed to be imported. Therefore, DEPB rates are calculated with the view to refund the incidence of customs on all the inputs (assumed to be imported) used in export production. Refund under the DEPB scheme is bound to be different from the actual incidence of taxes/duties paid exporters since in practice exporters may be using, in part or in full, indigenous inputs. The extent to which the exporters use indigenous inputs, the scheme may be considered a subsidy whereby instead of refunding excise on the indigenous inputs refund of the customs duties is made. However, where exporters import all their inputs the scheme cannot be considered countervailable. Therefore it is not the scheme per se that is countervailable but the use made of it by exporters.

However, if one interprets the agreement in a legalistic way, the DEPB on post export basis is not a drawback, or substitution drawback scheme within the meaning of Annex I (i) and Annex II and III of the SCM Agreement. Interpreting the agreement in a very legalistic way, the US and the European Union have examined the scheme and considered is it to be a non-bona fide drawback or substitution drawback. Therefore, the entire benefit given to exporters (and not any supposed excess remissions) under DEPB scheme has been countervailed by the US and the European Union in their definitive rulings. However, Canada has adopted a different position and has treated only the excess of remission as countervailable and not the total remission under the scheme. Anyhow, DEPB is expected to be phased out by March 2002. Thereafter it will be subsumed into one of the drawback schemes.

(c) Schemes for EOUs/EPZs /SEZs/EHTPs/STPs:

There are schemes for export production units that are isolated from domestic production units such as EOUs and EPZs. For the purpose of customs and excise these units are considered as outside domestic tariff area. These units or units located in these zones produce primarily for export market. However, they are allowed to sell certain percentage of their product in domestic tariff region as well after payment of excise, subject to their fulfilment of their export obligation. The export obligation is in terms of minimum Net Foreign Exchange Earning as a percentage of Exports and Export performance.

The difference in schemes for these zones/units/parks is in terms of their export obligation, sale in domestic tariff area, and other procedural details. Broadly, benefits accorded to units located in EOU/EPZs/SEZs/EHTPs/STPs are (a) suspension of collection of duties due on purchases of capital goods used in production of exports during the period of bonding (b) exemption of customs duties due on purchases of raw materials and consumables (c) exemption from excise duty on indigenous goods, and (d) reimbursement of central sales taxes.

For giving greater benefits to the exporting units and simplifying the procedures, government in its EXIM Policy 2000-01 announced setting up of SEZs. Units in these zones are to be treated as foreign territory for trade operations, duties and tariff. However, the units in EPZs will have to comply with all Indian labour laws. Four EPZs have already been converted into SEZs.

Status of the scheme within the Agreement: Annex II allows for (b), (c), and (d) but not for (a). The suspension of duties on import of capital goods within EOUs/EPZs/SEZs/EHTPs/STPs without the payment of customs, is countervailable within the Agreement even if the duty is only deferred during the period of bonding as has been argued by GOI. Even if the duty is payable at a rate proportionate to the depreciated value of capital goods when the capital goods are de-bonded or sold, some duty is still foregone to the extent proportional to the accrued depreciated value. The duty foregone represents financial contribution by the GOI, conferring benefit to the units within the defined regions. Moreover, if and when to de-bond the capital good is a commercial decision taken by a company. Therefore, import of capital goods duty free within these regions constitutes a subsidy and since it is contingent on export performance within the meaning of Article 3.1(a) of the SCM Agreement, and is therefore specific and hence is countervailable. Furthermore, typically, sale by these units in domestic tariff area is subject to payment of lower excise/customs. Although, this particular feature has not been countervailed in the CVD cases brought against Indian exports, this can potentially be considered a subsidy and hence countervailable. The same is true of concessional rent charged for industrial plots in these zones.

(d) Export Promotion Schemes for Diamond Gem & Jewellery:

Prior to April 1, 2001, import of raw diamonds was on the restricted list, meaning that import of diamonds meant for exports was allowed at zero percent duty to diamond exporters. However, this situation changed thereafter. Raw diamonds are no longer a restricted item. Anybody can imports raw diamonds after paying 5 per cent customs. However, for export purposes a license is issued to exporters which entitles them to import raw diamonds without paying any customs. Similarly, for the import of gold and other precious metal. Customs for the import of gold is 250 rupees per 10 gms.

Since the scheme only entitles exporters to import of raw diamonds and other precious metals without paying any duty, there is no question of subsidy and hence no problem of countervailability of the scheme.

Till the last amendment to EXIM Policy, incentives in the form of **Special Import Licence (SIL)** used to be given to exporters for import of goods that are otherwise restricted, by paying normal customs duties. SIL benefit was provided to recognised export and trading houses on the basis of their export performance as well as to direct exporters who exported goods worth Rs. 5 crore and above or who exported average of Rs. 2 crores of goods during the preceding three years. Recognised export and trading houses were entitled for a SIL ranging between 6 per cent and 12 per cent of FOB basis or 7.5 and 15 per cent on NFE basis. Other exporters were provided SIL at the rate of 4 per cent. SIL are freely transferable.

With the EXIM Policy changes made during March 31, 2000 the quantitative restrictions (QRs) on imports on 714 of the 1,429 items hitherto regulated were lifted. The QRs on the remaining items in the list were phased out from April 1, 2001. Of the 715 items for which QRs were still applicable during 2000-01, 444 were in the restricted list, 230 were under Special Import Licence (SIL), and 41 were canalised.

SIL is dead with the removal of all QRs by April 1, 2001. No SIL was issued after March 31, 2000. However, imports under SIL issued prior to this date were allowed to continue till March 31, 2001 beyond which all the licences became invalid. Even though SIL no longer exists, CVDs can be imposed against exports that availed of SIL issued before March 2000 if the investigation period falls before March 2000.

Status of the scheme within the Agreement: SIL is countervailable as permission on import of products otherwise not freely importable confers benefits in the form of providing opportunity for generating economic rent to the holder of licence. These licences could be freely sold at a premium. So in this sense it is financial benefit conferred by the government. Moreover, granting of SIL was contingent on export performance within the meaning of Article 3.1(a) of the SCM Agreement, and is therefore specific and hence is countervailable.

Incentives through Ministry of Finance (MOF)

The Duty Drawback Scheme, the Income Tax Exemption Scheme, and loan Guarantees are provided to exporters by the MOF. We analyse each of these below:

Duty Drawback Scheme:

Exporters or processors, who are unable to avail of various schemes like EOUs/EPZs or to obtain refund of duties paid on inputs, can avail duty drawback. Under Duty Drawback excise duty and customs duty paid on inputs is refunded to the exporter of finished products. Section 75 of the Customs Act (CA) 1962 allows for the reimbursement to exporters of the duties of Customs and Central excise borne by imported and indigenous raw materials used in the production of exports. State levies and octroi, however, are not included in this. The Central Board of Excise and Customs administers the Duty Drawback Scheme under Section 75 of the CA, 1962 and Section 37 of the Central Excise and Salt Act, 1944. Under these Acts, Central government has made "Customs and Central Excise Duties Drawback Rules, 1995" have been made. Duty Drawbacks are made on the basis of either All Industry Rates or Brand Rates.

All Industry rates are fixed for broad categories of products and these rates represent average incidence of duty.[31] These rates are revised annually after taking into account the changes made in the budget and the data furnished by Export Promotion Councils. These rates are standard rates revised every year 90 days after (i.e., June 1st) the general budget is announced which is normally on February 28.

Brand Rate of Drawback is determined on the actual input utilisation basis depending on the data furnished by an exporter manufacturer (and not on the basis of SION) and its verification. These rates are decided on a case by case basis and are therefore exporter-and-shipment specific. The brand rates are fixed for products for

[31] Based on SIONs average value of inputs used in the production of exports is worked out using prices of inputs given by exporters, custom houses, and markets. Given the average value of inputs, incidence of duties (both customs and excise) is calculated. The duty incidence then becomes Duty Drawback Rate. This rate is expressed in either (a) quantity terms, for example, rate per kilogram or per unit or (b) as percentage of FOB value of exports or both (a) and (b) when the rate is expressed in quantity terms with a value cap.

which there are no industry rates or for which the All Industry Rates provides substantially lower benefits than actual incidence of duty.

Status of the scheme within the Agreement: Brand Rate Drawback is non countervailable since it is based on the actual utilisation data provided by an exporter and this data is subject to verification. However, All Industry Rates which are essentially average rates, can often be too much off the actual duties paid by a particular manufacturer exporter, especially the efficient manufacturers. Hence All Industry Rates can be countervailable if it is shown that the manufacturer exporters have received excess drawback based on All Industry Rates. Hence All Industry rates can be problematic under the WTO.

Income Tax Exemption (under Sections 80HHC, 10A, 10B):

MOF tax exempts export profits. The Income Tax Act 1961 is the legal basis under which the Income tax exemption scheme operates. The Act is amended yearly by the Finance Act. Under the Act, profits from exports are exempted from income tax. The sections of the Income Tax Act under which export income from manufactures is exempted are section 10A, 10B, and 80HHC. Under section 10A profits that a firm in Export Processing Zone makes is exempted from income tax. Similarly, section 10B exempts Export Oriented Units from paying income tax on its profits. Any firm in Domestic Tariff Area (DTA) exporting goods can claim exemption from income tax on the profits it makes from exports under the section 80 HHC.

However, the GOI has announced the gradual phasing out of the income tax benefit given to the exporters. Accordingly section 80HHC has been amended so as to phase out the deduction over a five-year period. Under the phase out plan each year beginning 2000-01 income on which tax exemption is allowed (80 per cent in 2000-2001, 60 per cent in 2001-2002 and so on) will decrease by 20 percentage points, making profits fully taxable (in five year period) by 2004-2005. However, on the request from exporters to backloading of the phase out so that the burden of income tax falls towards the end of the five year phase out period, the plan has been revised. According to the revised plan, percentage of export income will now be taxed as per the following schedule:

Phase Out Period[32]	**Percentage of Export Income that will be Taxed**
2000-2001	20
2001-2002	30
2002-2003	50
2003-2004	70
2004-2005	100

Similarly, exemption of export profits under section 10A is given to units in FTZ/EPZs/EHTPs/STPs that export at least 75 per cent of total turnover. Such units are not allowed to carry forward allowances on account of depreciation, investments etc beyond holiday period. The phase out plan is as follows: units set up before April 1, 2000 will be allowed 100 percent deductions for the unexpired period of 10 consecutive assessment years. For units set up after April 1, 2000, income exemption is to be allowed for first 5 years. Export income on which tax exemption is allowed is as given in the above table (that is, 80 per cent in the first year, 70 per cent in the second year and so on). By the end of 5th no income exemption is to be allowed. No income tax benefit will be allowed to units that come up after April 1, 2005.

Exemption of export profits under section 10B is given to EOUs that export at least 75 per cent of total turnover (from 1995-96). The phase out plan is the same as that given to those in section 10A.

[32] The year mentioned in the table is Previous Year and not the Assessment Year. Assessment Year is the year in which income is assessed whereas Previous Year is the financial year in which income is earned.

Loan Guarantees:

The Ministry of Finance provides loan guarantees primarily to public sector industries on ad hoc basis. This loan guarantee is not necessarily on the basis of either export performance or on the use of domestic over imported goods. For example, Steel Authority of India (SAIL) received loan guarantees on several of its outstanding long-term foreign loans from the government and the State Bank of India.

Status of the scheme within the Agreement: Typically, a public sector unit receiving government loan guarantee secures loan on favourable terms than what it would in the absence of such guarantee. Therefore, the unit stands to benefit from the government provided loan guarantee to the extent of the difference between the actual amount and the amount it would have paid in the absence of government loan guarantee. Moreover, such benefit is limited to public sector companies selected by the government on ad hoc basis and not widely available based on any economic criteria, the benefit is specific. It is also a financial contribution by the government as per Article 1 (a) (i) of the Agreement. Hence the program is countervailable under Annex I(j) of the Agreement. In the example given above, therefore, the US countervailed SAIL exports of Cut-to-Length Carbon-Quality Steel Plate.

Trade Finance by Commercial Banks:

The Reserve Bank of India (RBI) under Sections 21 and 35A of the Banking Regulation Act, 1949 directs the commercial banks to provide export credit both at pre-shipment and post-shipment stage. Pre-shipment credit, also known as packaging credit, is advanced by commercial banks to the exporters for the purchase of raw-material or the finished products upon the presentation of confirmed export order or letter of credit. The credit helps exporters meet a specific export obligation. Pre-shipping credit could be either in domestic currency or in foreign currency. Post-shipment finance, in contrast, is granted to an exporter after shipment of goods. This advance could be either against the shipping bills or against duty drawback. Also, the advance could be denominated either in rupees or in foreign currency, except that when the pre-shipping finance is in foreign currency then the post-shipment finance also is in the same currency. Post-shipment credit helps an exporter tide over the waiting period between shipping of goods and the receipt of payment.

The RBI specifies the maximum rate that commercial banks can charge on export credit in rupee terms. The RBI in turn rediscounts part of the outstanding export credit that the commercial banks extend to the exporters. Till recently, the RBI prescribed specific interest rate that banks could charge on pre-shipment credit, and a ceiling rate on post-shipment credit. However, this has been changed in the credit policy for 2001-2002 announced by the RBI. The RBI has now linked both these rates to the Prime Lending Rates (PLRs) of banks. The rate that a bank can now charge on pre-shipment credit upto 180 days (which was early fixed at 10 per cent) cannot exceed the PLR of that bank minus 1.5 percentage points. Likewise the rate on pre-shipment credit beyond 180 days and up to 270 days (which was earlier fixed at 13 per cent) now cannot exceed PLR plus 1.5 percentage points. Beyond the 270th day, banks are free to charge appropriate commercial rate.[33] Similarly is true of post-shipment credit which is given on demand bills and usance bills. This rate on demand bills (which earlier could not exceed 10 percent) now cannot exceed PLR minus 1.5 percentage points. On usuance bills this rate on credit upto 90 days (which earlier could not exceed 10 percent) now cannot exceed PLR minus 1.5 percentage points, and on credit beyond 90 days and up to 6 months the rate (which could not exceed 12 percent) now cannot exceed PLR plus 1.5 percentage points.[34]

In case of export credit in foreign currency, the RBI allows the banks to charge internationally competitive rate, linked to London Inter-Bank Offer Rate (LIBOR). The RBI puts a cap on the spread around this internationally competitive rate that the banks can charge. According to the credit policy of 2001-2002, pre-shipment credit upto 180 days can be availed by the exporters at a revised (lower) ceiling rate of

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[33] If shipment does not takes place within 360 days of the disbursement of the loan, then banks are free to charge interest applicable to “Export Credit Not otherwise Specified” from day one of the advance.

[34] These rates came into force with effect from May 5, 2001.

LIBOR plus 1.0 (which was earlier LIBOR plus 1.5) percentage points. For credit beyond 180 days and upto 360 days 2 percentage points get added to the rate charged for initial 180-day period. For post-shipment credit in foreign currency, ceiling rate for credit on demand bill (for transit period) is LIBOR+1 percent. On Usuance bills (for total period i.e., usuance period, transit period, and grace period) upto 6 months from the date of shipment the rate cannot exceed LIBOR+1 per cent. However, the rate charged on export bills (demand or usuance) realised after due date but upto date of crystalisation is 2 percentage points over the rate charged on the usuance bills. On export credit not otherwise specified banks are free to charge any rate.[35]

Status of the scheme within the Agreement: In the past, CVD actions against exports from India have found the schemes of pre-shipment and post-shipment credit as countervailable. A government subsidises export credit under Annex I (k) of the Agreement if the rate at which export credit is granted by a lending agency is below the rate at which it secures funds or credit. In India, since bulk of export credit is extended by commercial banks that source their funds through public deposits the comparison of the two rates (rate charged on export credit and rate paid on deposits) can give some idea if the rate is indeed subsidised. Although the gap between the two rates is positive (i.e., export credit rate is higher than the deposit rate), this gap does not consider the fact that of high cost of raising funds by the banks on account of non-performing assets holding, reserve requirements, directed lending and transaction costs as also pointed out by Hajra (1999). It is likely to be the case that when these factors are considered the rate charged by the banks, is subsidised. In some CVD investigations, for example one on the SAIL exports of Cut-to-Length Carbon-Quality Steel Plate to the US, the interest rate charged to the exporters is compared with the rate on normal commercial credit.[36] For this the prime lending rate is the best benchmark. Since the interest rate on both pre-and post-shipment credit

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[35] The rates on export credit in foreign currency came into force with effect from April 19, 2001.

[36] That is, credit of similar nature given for commercial purposes to the non-export borrowers. For calculating this, the rate charged by public sector banks to public enterprises is not considered.

were lower than on the PLR (ie., the rate on the comparable commercial loans), both the schemes were countervailed by the US.

The credit policy for 2001-2002, explicitly links rate that can be charged on export credit to PLR. (PLR is the best benchmark for measuring the extent of export subsidy on this count). Export credit at least for the period up to 180 days in case of pre-shipment credit and up to 90 days in case of post-shipment credit clearly entails subsidy to the extent of the difference between the actual rate charged and the PLR, and hence countervailable. The fact of the RBI rediscounting certain percentage of the outstanding export credit advanced by banks only shifts the burden of this subsidy to the RBI, but does not alter the fact of the subsidy on export credit.[37]

On the export credit in international currency, the RBI allows banks to charge LIBOR with the spread of up to 1.0 per cent. Now if the banks were to raise funds from the international market, these banks may be charged different rates depending on their creditworthiness. It could be the case that the rates that the banks would pay if they were to raise it from international market, may be higher than the rate they charge to exporters. The creditworthiness, of course, varies from bank to bank and therefore the extent of subsidy may also vary from bank to bank.

In the past, the government has been **tax exempting interest income** on export credit. This tax is charged on the interest income of banks and financial institutions under Interest Tax Act of 1974. This tax was reintroduced in 1994 by the government and was 3 per cent on the interest rate with the rounding up to the next 0.25.[38] Because of the rounding up of the tax there was some problem and so the government changed the interest tax rate to 2 per cent with zero rounding up from April 1, 1997. The banks and financial institutions passed this interest burden on the

[37] The existing facility of refinancing outstanding export credit eligible on an incremental basis over a base date has been changed in the credit policy 2001-02. The refinancing will be on the basis of total outstanding export credit eligible for refinance.

[38] For example, if the interest rate charged by banks on credit is 12 per cent then 3 per cent interest tax on the interest rate is 0.36. However, instead of charging interest tax of 0.36 per cent government used to round it up to the next 0.25 number i.e., to 0.50 per cent.

borrowers. However, interest on the credit given to exporters was always exempted from the interest tax. This tax was abolished in the budget 2000-01.

Status of the scheme within the Agreement: This is countervailable program under the Annex I(k) of the Agreement since export credit was given on preferential terms compared to domestic borrowers. Even though the program has ceased to exist, if the investigation period for which CVD is being considered happens to be the period when the scheme was in existence, it would included in CVD calculations if the exporter availed of the scheme.

Export Credit Guarantee:

Export Credit Guarantee Corporation of India (ECGC) limited is the only agency that provides credit guarantee to India exports. Formed in July 1957 as Export Risks Insurance Corporation, it was converted into Export Credit & Guarantee Corporation Limited in 1964 and later to ECGC in 1983. ECGC is fully owned by GOI, and functions under the Ministry of Commerce.

Broadly, ECGC provides four types of services or schemes. (a) standard protection to exporters against payment risks involved in exports on short-term credit (b) specific protection to Indian firms against payment risks involved in exports on deferred terms of payment, services rendered to foreign clients, and turnkey projects taken abroad (c) financial guarantee to Indian banks to protect them against risks in extending financial support to exporters both at pre and post-shipment, and (d) special covers such as Transfer guarantee, insurance for buyer’s credit, overseas investment insurance, and exchange risk fluctuation. Schemes (a) and (b) are for the exporters whereas (c) and (d) are for the banks. Schemes (a) and (c) are for a short term whereas those under (b) and (d) are for long-term.

According to Annex I (j) of the Agreement, subsidy occurs where premium rate at which credit guarantee is given is inadequate to cover long-term operating costs and losses. Long-term financial picture of ECGC shows the viability of ECGC operations. Total premium collected by ECGC from 1957 to March 2000 has been Rs. 2118.38 crs. Added to this, are the recoveries of Rs. 348.8 crs. made during the same period. The premium plus recoveries are higher than the claims of Rs. 1928.24 crs. paid by ECGC over the same period. ECGC has thus been maintaining its financial viability. It's profit during 1997-98, 1998-99 and 1999-2000 has been Rs. 4.24 crore, 23.14 crs., and 33.3 crs. respectively. ECGC has been making positive profits overall on its operations. However, there is an element of cross-subsidy across the 4 schemes mention above. In particular, schemes (a) and (c) mentioned above are profit making on yearly basis for the last 6 years that have been considered. It is appropriate to examine these two schemes on a yearly basis since these are essentially short term in nature. However, schemes (b) and (d) being long term in nature have been loss making on yearly basis as well as on a long term basis. The SCM Agreement is not very clear on the issue of cross-subsidy across the schemes. The same has so far not been taken up in the countervailing duties imposed on India's exports, but it maybe considered countervailable by a Member country.

Export insurance:

Insurance on an export consignment depends on the nature of export contract, that is, whether the contract is CIF or FOB. If it is CIF, in which case insurance is bought by the exporter himself, exporters in India have to buy insurance from one of the subsidiaries of General Insurance Corporation of India only. However, this scenario is all set to change with the entry of private insurance players in the Indian insurance market that has recently been opened to competition from private players.

Status of the scheme within the Agreement: According to Annex I (j) of the Agreement, subsidy occurs where premium rate at which insurance is given is inadequate to cover long-term operating costs and losses. Premium on export consignment although decided by the insurance company itself could be cross-subsidised. In fact, export insurance provided by the four subsidiaries falls under Marine business, which also includes insurance of inland movement of goods. Marine as a whole is a loss making for all the four subsidiaries. This loss is made good by profits from the Fire business. Since the break-up of data is not available it is difficult to calculate the subsidy element. But there is likely to be some subsidy component. Insurance premium has been de-tariffied, and the premium has fallen below the cost due to excessive competition among the subsidiaries. The issue of cross-subsidy across the schemes which has so far not been taken up in the countervailing duties imposed on India's exports, can be considered countervailable by a Member country.

5. Conclusion

Except for the local content (or import substitution) subsidy, developing countries like India have been exempted from the prohibition on export subsidy, which means that India can continue giving export subsidies. However, exemption from prohibited subsides does not accord immunity from the countervailing duty actions if the subsidised exports adversely affects domestic industry of the importing Member countries. In this paper we examine the status of various export promotion schemes of government of India (GOI) within the SCM Agreement. Clearly, some of the GOI schemes such as income tax exemption of export profits are subsidies as per the provisions of the SCM Agreement and hence countervailable. This scheme is on its way out as the phase out plan for the scheme has already been announced. However, some other export promotion schemes such as Duty Entitlement Passbook Scheme (DEPB) have been countervailed by some of our trading partners, more for its form than for its spirit. There is some thinking within the government that the scheme can be made non-countervailable by effecting necessary changes in its form. Schemes such as Export Promotion Capital Goods Scheme which are also countervailable under the current provision of the SCM Agreement, must not be countervailed if one were to strictly go by the basic idea behind the SCM Agreement, that is, of allowing trade of "tax free" commodities. For this reason refund of customs duty on capital goods (as is true of inputs) used in production of exports should also be allowed under the SCM Agreement.

There is no denying the fact that Indian exporters face many impediments such as higher electricity tariffs, higher interest rates, un-refunded taxes at state level, inflexible labour laws, lack of physical infrastructure, inefficient systems and practices. All these impediments by raising up transaction costs of exports tend to make India's exports uncompetitive in international markets. The best option in such a situation is to remove these impediments *per se* rather than neutralising their adverse effect through subsidies.

Having said that, there may be some role of export subsidies partly because our tariff rates are still high by international standards (making production for domestic market more lucrative), partly to counter the negative effect of subsidised exports from our trading partners, and finally to help exports where we have potential comparative advantage, particularly since exchange rate depreciation is politically unpalatable. Indeed, India needs to restructure its export incentives. Given the WTO reality and the SCM Agreement, India needs to be strategic in devising its export incentives some of which could given across the board to all exporters with some exclusions, while other incentives could be given selectively to industries where the country has a comparative advantage.

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Table 1:

CVD Measures in Force (as on Dec. 31, 2000) Against Indian Exports by WTO Members

Member Countries	Products
Canada	Memorials Hot-rolled Carbon Steel Plate Stainless Steel Round Bar
EEC	Antibiotics (broad spectrum) Flat Rolled Products of Iron or Non-alloy Steel (hot rolled coils) Polyethylene Terephthalate (PET) PET Film Stainless Steel Bars Stainless Steel Wire (= or > 1mm diameter) Stainless Steel Wire (< 1 mm diameter)
USA	Certain Cut-to-Length Carbon Quality Steel Sulfanilic Acid

Source: Reports of Countervailing Duty Actions downloaded from WTO website

CVD cases against Indian Exports Initiated during 1 July-31 December 2000 that are under Investigations

Member Countries	Products
Canada	Corrosion-resistant Steel Sheet
USA	Certain Hot-Rolled Carbon Steel Flat Products Iron Metal Castings
South Africa	Suspension PVC Acetaminophenol Footwear Wire Ropes

Source: Semi-Annual Reports of CVD Actions downloaded from WTO website

Table 2:

Remission/Refund of Duties (Figures in Rs. crores)

Types of Schemes*	1998-99	1999-2000
Advance Licence (AL)	10802	13630
Duty Entitlement Pass Book Scheme (DEPB)	3580	4739
Duty Drawback Scheme	4376	4485
Total Remission/Refund	**18758**	**22854**

Source: AL and DEPB figures are as reported by DGFT. Figures of Duty Drawback are taken from Revenue Budget 1999-00 and 2000-01, and includes Customs Drawback and Excise Refund (negligible amount) and Excise Drawback

*DFRC being a new scheme no data on it is available as yet. The scheme is apparently not as popular as other schemes.

Table 3:

Bird's eye view of the status of export promotion schemes within SCM Agreement of the WTO

Export Promotion Schemes	Status within SCM Agreement	Remarks

Export Promotion Capital Goods Scheme (EPCG)	Countervailable	Drawback on inputs allowed under SCM Agreement but not on the imported capital goods
Advance Licence (AL)	Non-countervailable	Permitted drawback under the SCM Agreement. Actual User condition Apply, License is non-transferable.
Duty Free Replenishment Certificate (DFRC)	May be Countervailable	Permitted substitution drawback but could lead to the possibility of premium
Duty Entitlement Pass Book Scheme (DEPB)	May be Countervailable	If not all inputs on which refund of duties is claimed are imported (ie., some of the inputs used are indigenous)
Schemes for EOU/EPZs/HTP	Countervailable	Import of duty free capital goods not permitted under SCM Agreement
Duty Drawback Scheme a) All Industry Rate b) Brand Rate	 Countervailable Non-countervailable	All Industry rates being average rates could be different from the actual incidence of duties borne by exporters, leading to higher drawback at least to efficient exporters. Brand rate of drawback is based on actual utilisation and hence is non-countervailable.
Income Tax Exemption 80 HHC (Exporters in DTA) 10A (FTZ/EPZs/EHTPs/STPs) 10B (EOUs)	 Countervailable Countervailable Countervailable	GOI has announced phase out of the tax exemption of export income.
Loan Guarantees	Countervailable	This is given on ad hoc basis.
Export Credit (in domestic currency) **Pre-shipment Credit** Upto 180 days Beyond 180 days and upto 270 days	 Countervailable Maybe Countervailable	For pre-shipment export credit upto 180 day, the ceiling rate is below Prime Lending Rate (PLR), which is considered to be the benchmark rate for the calculation of CVDs. Credit rate fixed for pre-shipment credit beyond 180 days and upto 270 days is likely to be lower than that charged on normal commercial credit. For post-shipment credit against Demand bills and Usance bill (upto 90

Post-shipment Credit Demand Bills Usance Bills Upto 90 days Beyond 90 days and upto 6 months	Countervailable Countervailable Maybe Countervailable	days), the ceiling rate is below PLR. Credit rate fixed for post-shipment credit beyond 90 days and upto 6 months is likely to be lower than that charged on normal commercial credit.
Export Credit (in foreign currency) **Pre-shipment Credit** Upto 180 days Beyond 180 days **Post-shipment Credit** Demand Bills for transit period Usuance Bills (for total period comprising usuance period, transit period, and grace period) upto 6 months from the shipment date Export Bills realised after due date but upto date of crystalisation	Countervailable Countervailable Countervailable Countervailable Countervailable	For pre-shipment credit upto 180 days in foreign currency the ceiling rate (LIBOR+1 per cent) is lower than that charged on normal commercial credit. For credit beyond 180 days the ceiling rate of LIBOR+1 percent+2 percent) is lower than that charged on normal commercial credit. Since the rate on post-shipment credit is lower than that charged on normal commercial credit.
Export Credit Guarantee	May be Countervailable	EPCG is a profit-making corporation. However, its profit making schemes cross-subsidise the loss schemes.
Exporters’ Insurance	Maybe Countervailable	Subsidiaries of General Corporation of India are profit making entities. However, marine insurance under insurance to exporters is provided is cross-subsidised by profits on types of insurance.