

# TAX FLASH NEWS

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## India files appeal against the WTO panel report

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India on 19 November 2019, has filed an appeal against the WTO panel report dated 31 October 2019, where it was held that five of India's Export promotion schemes had violated WTO Agreements.

### Background

In March 2018, USA had initiated dispute before the WTO panel, alleging that though India had crossed the prescribed per capita Gross National Income of USD1000 per annum, it continues to provide export subsidies which are prohibited under the Subsidies and Countervailing Measures Agreement (SCM Agreement).

Confirming the allegation, the WTO dispute panel had in its report dated 31st October 2019, recommended withdrawal of the export schemes within the prescribed periods.

The schemes that have been held to be non-compliant are -

- Exemptions from customs duties on importation under the EOU/EHTP/BTP
- Exemptions from customs duties on importation under the EPCG Scheme
- Exemptions from customs duties on importation and exportation, the exemption from IGST on importation, and the deductions from taxable income under the SEZ Scheme
- Exemptions from customs duties on importation under DFIS under certain conditions (numbered 10, 21, 36, 60(ii), 61 in Tariff Notification 50/2017 of Indian Customs)
- Duty credit scrips awarded under MEIS

### Our Comments

With the filing of appeal by India, the timeline for any required amendments (basis the report of the appellate body) to India's export regime, changes. The appellate body has up to three months for finalizing its report. Considering a period of one month for adoption of the appellate report, for the panel's findings that are upheld, one can add up to four months to the timelines specified in the disputes panel order for withdrawal of India's export promotion schemes. In case India's appeal succeeds fully, there would be no amendments to India's export regime. There is however a dependency upon the continued functioning of the appellate body given impending changes in its membership and its own work procedures.

It will be useful for exporters to take stock of the situation, consider various possible outcomes and be in preparedness for them.

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