

WORLD TRADE ORGANIZATION

RESTRICTED

G/SCM/W/510

30 April 2002

(02-2451)

**Committee on Subsidies
and Countervailing Measures**

Original: English

IMPLEMENTATION RELATED ISSUES REFERRED TO THE COMMITTEE BY MINISTERS

Reply from INDIA to the Follow-Up Question from the UNITED STATES¹

The following communication, dated 29 April 2002, has been received from the Permanent Mission of India.

The SCM Committee should clarify the provisions of the ASCM in Annex I (items h and i), Annex II and Annex III so that any remission, exemption or drawback of duties and import charges to the extent of those levied on inputs consumed is not countervailed and only the amount of remission, exemption or drawback of duties and import charges in excess of those levied on inputs consumed may be treated as a countervailable subsidy (G/SCM/W/462, para 14).

Q. In its response to the US question India states "It is not clear how it is being claimed that the amount of excess remission, exemption or drawback of duties is not calculable or can only be calculated with great difficulty." Based on our experience, the appropriate rate of duty drawback is contingent in part, for example, upon highly technical input/output studies. If these types of studies are not done or are based on faulty premises, it is the US view that is unreasonable to expect the investigating authority to conduct another input/output study.

Reply

As has been stated by India no countervailing duty shall be levied on any product in excess of the amount equal to the subsidy determined to have been granted. A countervailing duty should be limited to the amount of the estimated subsidy. This position is supported by provisions of Article VI:3 of GATT 1994 and Article 19.4 of the ASCM. The United States appears to suggest that in certain cases "the appropriate rate of duty drawback is contingent in part, for example, upon highly technical input/output studies" and this a constraint in limiting the countervailing duty to the excess of the amount of subsidy determined to have been granted. In order to obtain a better understanding of the difficulty experienced by the United States, India requests the United States to provide specific examples where it has faced such difficulties.

¹ G/SCM/W/508