

India – Export Related Measures (WT/DS541)

Substantive Meeting of the Panel with the Parties

Closing Statement of the United States

February 13, 2019

1. Mr. Chairman, distinguished members of the Panel: The United States would like to thank you again for serving on this Panel and to thank the Secretariat staff assisting you.

2. In its closing statement, the United States will address one substantive issue: how the Indian schemes do not meet the required elements of the SCM Agreement to qualify as duty drawback/remission schemes.

I. INDIA'S EXPORT SUBSIDY PROGRAMS ARE NOT DUTY DRAWBACK SCHEMES

3. We emphasize that through our written submissions, opening statement, and answers to the Panel's questions, the United States has shown how India's critical defense of four of its five schemes fails. The United States does not prescribe how a proper duty drawback scheme must be designed, but as we have shown, a duty drawback or remission scheme must contain the fundamental elements described in the SCM Agreement. For example, India's schemes fail to meet the basic requirement that *inputs be consumed* in the production of the *exported product*.

4. Because India cannot demonstrate that its export subsidy schemes meet the threshold standard for consideration as duty drawback/remission schemes, India tries to assume away this critical requirement and begins discussing the technical requirements and quantitative analysis found in a CVD investigation. This dispute is not a CVD case. In *EU-PET (Pakistan)* the Appellate Body was evaluating the administrative conduct of a CVD case, and whether there was a valid duty drawback scheme was not at issue.

5. Moreover, such a discussion is irrelevant because the Indian export subsidy schemes are not duty drawback schemes *to begin with*. As we have repeated throughout this meeting, you cannot reach step 2 before you reach step 1— that is, meeting the requirements of a duty drawback scheme as provided in the SCM Agreement. India's export subsidy schemes do not meet these basic requirements.

II. CONCLUSION

6. For the reasons outlined in our written submissions, oral and written answers, and opening and closing statements, the United States respectfully requests that this Panel find the

identified Indian export subsidy schemes are inconsistent with Articles 3.1(a) and 3.2 of the SCM Agreement. Thank you.