

**GOVERNMENT OF INDIA
COMMERCE AND INDUSTRY
LOK SABHA**

UNSTARRED QUESTION NO:3326
ANSWERED ON:01.08.2014
IMPOSITION OF COUNTERVAILING DUTY BY US
Thota Shri Narasimham

Will the Minister of COMMERCE AND INDUSTRY be pleased to state:

- (a) whether the World Trade Organisation Dispute Panel has ruled/ observed that the imposition of Countervailing Duty by the United States (US) on India's export of hot rolled carbon steel flat products is inconsistent with the law on subsidies;
- (b) if so, the details thereof;
- (c) whether the Government is now considering to evaluate all other products of Indian origin on which the US has applied similar provisions; and
- (d) if so, the details thereof along with the progress made in this regard?

Answer

THE MINISTER OF STATE IN THE MINISTRY OF COMMERCE AND INDUSTRY (INDEPENDENT CHARGE) (SMT. NIRMALA SITHARAMAN)

(a) & (b): The World Trade Organisation (WTO) Dispute Panel ruling in the dispute DS436 related to Countervailing Duty (CVD) imposed on certain hot rolled carbon steel flat products originating from India has been circulated on 14 July, 2014. The Panel ruling is also available in the Public domain at www.wto.org. Panel has given a mixed ruling in this dispute.

In one of the major rulings in favour of India, the Panel has held that the United States (US) law mandating cumulation of non-subsidized imports with subsidized imports while determining injury in a CVD investigation is inconsistent with WTO obligations under subsidies.

In addition to the above ruling, the Panel has held that the US had no factual basis to hold that the grant of mining rights for iron ore and coal was a subsidy. The Panel has also held that the US should not have ignored market prices available in India while determining the amount of subsidies, if any. The Panel held that the US was not correct in applying "adverse facts available" standard in 73 out of 85 instances for imposition of penultimate duty.

However, the Panel could not consider some of India's claims such as those relating to the methods of calculating the amount of subsidies and one relating to the application of adverse fact available. The Panel has also not accepted India's claim that NMDC was not a "public body" within the meaning of WTO law.

The ruling is appealable before the WTO Appellate Body and the decision to appeal against the same is currently under active consideration, in light of the systemic concerns on some of India's claims denied by the Panel.

(c) & (d): The Panel ruling on cumulation potentially questions the validity of a number of other CVD proceedings conducted by the US on products of Indian origin. Once the Appeal proceedings before the WTO is over and the Appellate Body (AB) upholds the Panel ruling in this matter, it would be useful for the government to undertake an evaluation of all other products of Indian origin on which the US has applied the same provision to arrive at CVD.