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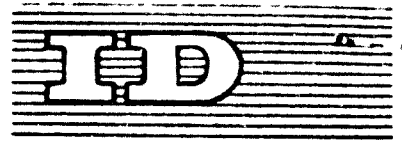
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THE ADMINISTRATION OF INCENTIVE MEASURES ✓

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THE ADMINISTRATION OF INCENTIVE MEASURES

Issues for discussion

I. INTRODUCTION - THE PROBLEM

1. Incentive measures will be most effective if they are clearly presented to potential investors, easily understood, and efficiently administered. The granting and implementation of incentive measures usually affects the policy of and involves subsequent implementing action of a wide range of Government departments. The problem raised in this paper is: how can a Government best arrange the administration of incentive measures, so that they are as effective as possible?

II. SURVEY OF ISSUES RAISED

2. The issues raised in this paper will be grouped under the following headings:

- A. What functions and procedures does the administration of incentive measures involve, and what type of machinery is needed to perform them?
- B. How can administrative machinery to fulfil these functions best be fitted into the Government's organizational structure?
- C. What information should be required from enterprises applying for incentive benefits and how should it be analysed?

A. Functions involved in the administration of incentive measures

3. Three types of administrative functions are involved in the process of administering incentive measures. These functions are: (i) The granting of incentive measures; (ii) implementation of those measures involving action by various Government departments; and (iii) the follow-up of benefitting enterprises.

(i) Machinery for granting incentive benefits

4. The country Background Papers show that the developing countries use various types of administrative machinery to determine whether a new project

is eligible for incentive benefits. A few incentive laws make the granting of incentive measures more or less automatic provided the applying enterprises meet certain criteria, but most laws leave the administration at least some discretion in interpreting the law.

5. The discretionary element often depends on the degree of selectivity included in the incentive legislation. Some legislation is selective as to the type or branch of industry which can qualify for benefits, other legislation offers incentive benefits at different levels of generosity. Some legislation is selective on both counts.

6. Where discretion is left to the administration, effective interpretation of the laws depends on the establishment of clear criteria. The issue arises: does the discretionary approach make the granting of incentives a difficult task if clear guiding criteria are not included in the law?

7. In some countries, the scope of administrative judgment has been narrowed by establishing clear and fixed criteria for the granting of incentive benefits; this is usually but not always the case when benefits of different levels of generosity are offered. Some of the criteria used are discussed in more detail in the Issue Paper ID/WG/30/11 "Criteria for Selecting Industries Benefitting from Incentives". The issue which arises here is: can the adoption of criteria sufficiently specific and clear simplify decision-making on the eligibility of applying enterprises for incentive benefits?

8. Another factor to be considered in designing incentive legislation and the machinery to grant incentive benefits is the speed and efficiency with which it can handle applications. Some countries write into their legislation a time schedule for the processing of applications. The issue arises: can such provisions in the law act as a spur to more effective decision making when granting incentives?

9. A further issue arises here: what is a reasonable period for processing an application, 2 weeks, 4 weeks, 6 weeks, 3 weeks?

(ii) Machinery for implementing incentive benefits

10. Most of the country Background Papers provided little detail of the machinery used to implement incentive benefits once they are granted. A wide range of Government departments or agencies are usually involved in the implementation of incentive measures. The authority administering customs duties on imports is usually concerned; also the Treasury or Finance Ministry. Where assistance with financing is provided, special financial institutions may also play a role.

11. A general issue arises: what procedures can be used by the Government department or agency responsible for granting incentives to ensure their effective implementation by other departments?

12. In a few countries a special Government decree has been required for the granting of major benefits on a case by case basis; but the more common practice is for the Government department or agency responsible to be able to grant incentives on the basis of the incentive legislation itself. The issue arises: should the list of enterprises benefitting from incentives be published for public discussion, or is this a matter for the Government? Are special decrees necessary when major incentive benefits are granted on an adhoc basis?

13. The actual implementation of incentive measures usually depends on instructions passed to the relevant Government departments. For the departments concerned, implementation can be tiresome and time-consuming. Certain forms of tax incentives involve considerable detailed work for the revenue authorities. Import duty concessions on raw materials involve a series of transactions which may prove tiresome for the customs officials concerned. The issue arises: with such types of incentive measure, can the administrative effort be reduced; if not, would it be better to concentrate on ^{other} incentive measures which are more simple to administer?

(iii) Follow-up on firms granted incentive benefits

14. The incentive legislation of many developing countries provides that benefitting enterprises should meet certain initial conditions and comply with other conditions once they start operations. Thailand has established a special department to follow up benefitting enterprises. The issue arises:

is there a need to develop follow-up procedures for enterprises benefitting from incentive measures?

15. The experience of some developing countries suggests that some applications are made without there being any serious intention of implementing the project. The issue arises: what steps can be taken to prevent this type of application? Can (i) a financial deposit in the form of a bond, or (ii) an application fee, or (iii) the granting of concessions subject to a fixed implementation schedule, help deter this practice?

16. A number of incentive laws provide that fines can be levied for parties who abuse incentives granted. The issue arises: are such clauses effective, and if not, is this because the fines are set at too low a level?

B. Centralised or de-centralised machinery for administering incentive measures

17. The country Background Papers and other studies show that developing countries have located the machinery for administering incentive measures in various parts of the Government organization. Some countries prefer to have the machinery under the Treasury because of the fiscal implications of many incentives. Mexico is one example. Others prefer to have the Ministry of Industry responsible, presumably because they wish to emphasize the promotional aspect of incentive legislation. In other countries where the Planning Organization plays an important role, the administration of incentive laws is associated with the responsibilities of this Organization. India appears to lean towards this arrangement as well as Pakistan.

18. Some of the country Background Papers show that more than one application has to be made if more than one different type of incentive measure is involved. The issue arises: is it preferable to organize the administration granting incentive measures so that only one application will suffice for all available incentives?

19. This raises another issue: do the scattered range of Government departments and agencies granting incentive measures in some cases reflect a failure to recognize that incentives are best granted as a package? Some country Background Papers report that investors have found it difficult to learn at one and the same time whether they will obtain all or only some

of the incentives available.

20. Many countries use a special advisory committee on which most of the interested Government departments are represented to approve the granting of incentive measures, at any rate in the case of major projects. Under these arrangements, decision making on the granting of incentives may either be centralised with one agency or department or made the responsibility of the committee. The issue arises: are there any disadvantages in centralising decision making on the granting of incentives? Applying enterprises would usually prefer this. Does it cause any difficulties for the Government?

21. Some developing countries (for example Israel, the Philippines and Thailand) have established a separate organization for granting incentive benefits. The issue arises: are there any advantages in having the administrative machinery granting incentives as a separate part of the Government organization with a certain amount of independence?

22. Some countries have placed the administration of incentive measures under the direct authority of the President's Office or the Prime Minister's Office. In this way the decision to grant incentives carries more authority. The issue arises: what are the advantages or disadvantages of this approach?

C. Information required from enterprises applying for incentives

23. The legislation of most developing countries requires that formal application should be made. The issue arises how much information can the Government reasonably expect?

24. The information requested in the application forms of some developing countries is very detailed and it would require a substantial and well-qualified staff to analyse these in full. The issue arises: should the staff involved in the administration of incentive measures include project analysts skilled in the business, financial, marketing and technical and engineering aspects of project appraisal? In other words, should the Government try to assess the commercial and technical soundness of each project?

25. Some countries also wish to use national economic (i.e. cost-benefit) criteria to evaluate new industrial projects benefitting from incentives. Is this worthwhile? What kind of staff does it require?

26. In Thailand the Government has prepared instruction booklets in Thai and English to explain to potential investors how to fill out a detailed application for incentive benefits. The issue arises: is this a useful supplement to promotional literature explaining the programme of incentive measures?

III. SUGGESTED ISSUES FOR DISCUSSION

27. This Issue Paper has raised a wide range of issues. It is suggested that discussion concentrate on the following:

To bring out the experience of countries represented at the Seminar, participants might describe:

- (a) What type of administrative machinery is used for granting incentive measures in their country;
- (b) How much discretion is left to the administration in deciding (i) which projects should benefit, and (ii) how generous the incentives should be;
- (c) To what extent the machinery for granting incentives has been centralised;
- (d) What problems have arisen in the administration of incentive measures (i) in granting incentives, (ii) in implementing them, and (iii) in the follow-up of benefitting enterprises.

More general issues which might be discussed are:

- (e) Do potential investors, particularly foreign investors, prefer to deal with a centralised authority which can decide quickly which incentive benefits they will be granted and ensure their speedy implementation?
- (f) What type of information should a Government expect from an enterprise applying for incentive measures?
- (g) What special skills are required if the staff are to appraise each project (i) for its commercial and technical soundness, and (ii) for its contribution to national economic objectives.



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