

**INDIA ICT DISPUTE – TARIFF TREATMENT ON CERTAIN GOOD**  
**IN THE INFORMATION AND COMMUNICATIONS TECHNOLOGY SECTOR**  
**Information gathering exercise under Regulation (EU) No. 654/2014 (“Enforcement Regulation”)**

**Background:**

- In the context of the WTO Information Technology Agreement (ITA), India agreed not to impose import duties on several categories of ICT goods.
- In spite of its WTO commitment, since 2014 India levies import duties on imports of certain ICT goods covered by the ITA. These products include cell phones, telephone handsets, wires used for telecommunication, static converters and base stations. Applied duties range up to 20 % on imports from the EU.
- After unsuccessful bilateral consultations, the EU referred the matter to a WTO panel in 2020.
- The WTO panel report confirmed that India is in breach of its WTO tariff commitments. The report was circulated on 17 April 2023.
- Throughout 2023 there were multiple bilateral contacts at all levels with the Indian authorities. In those contacts, India (a) confirmed that it did not intend to implement the panel ruling; (b) provided no solution for at least EU-made ICT goods; and (c) rejected any possibility to agree on ad hoc appeal arbitration to reach a final settlement.
- Instead, on 8 December 2023 India appealed “into the void”, i.e. it referred the matter to the non-functioning WTO Appellate Body, effectively preventing an appeal review and a final resolution of the dispute. Since then, India has not approached the EU with any proposals for a solution.
- While the EU is generally speaking not the most important exporter of ICT goods, it has strong interests in specific areas (e.g. communications network infrastructure) and, furthermore, EU companies operating in India would benefit from unrestricted access to imported components.
- The Commission has estimated direct EU trade losses for two of the most important tariff lines. The value of EU trade losses is estimated to fall within a bracket of €58-93 million annually.

**Key messages:**

- Since 2014, India is in breach of basic WTO commitments: obligation not to impose import duties above bound levels (art. II GATT). A WTO panel report confirmed this fact in 2023.
- India’s import duties have a negative impact on EU exports of ICT goods to India. The value of EU trade losses is estimated to fall within a bracket of €58-93 million annually.
- The EU’s priority has always been to achieve an amicable solution with India: in 2023 alone, there were 26 bilateral meetings at political, senior official and technical level with India. The EU has been extremely flexible in offering even very minimal solutions.
- However, India
  - (a) opposes the panel ruling and has informed that it does not intend to implement it;
  - (b) could not agree to a solution for at least EU-made ICT goods; and
  - (c) has rejected any possibility to agree on ad hoc appeal arbitration to reach a final settlement.
- Instead, India in December 2023 appealed to the non-functioning WTO Appellate Body, effectively blocking the final resolution of the dispute.
- While the priority remains to explore a mutually satisfactory solution, should India be interested to negotiate, the Commission needs to take in parallel procedural steps to prepare a scenario in which the EU would have no option but to adopt response measures to defend its rights.
- The Commission is launching on 28 November 2024 an information gathering exercise under the Enforcement Regulation to collect information and views from stakeholders as regards EU economic interests as well as possible EU countermeasures.
- This is a compulsory procedural step under the Enforcement Regulation that does not prejudice any future decisions or steps. India was duly informed of this step.
- The Commission has reiterated to the Indian authorities that it is prepared to re-engage in negotiations towards a solution, or to agree on ad hoc appeal arbitration, should India be open to an amicable settlement of the dispute.