

# WTO panel rules against India in ICT tariff dispute

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The dispute settlement panel of the World Trade Organization (WTO) on Monday ruled that India's imposition of tariffs on mobile phones and electronic components violates its commitment under the Information Technology (IT) Act under the multilateral trade body.

"We recommend India bring such measures into conformity with its obligations under the General Agreement on Tariffs and Trade 1994," the panel ruled.

The rulings in three separate but similar disputes raised by the European Union (EU), Chinese Taipei, and Japan will put pressure on India to withdraw the tariffs at a time it is seeking to be a leader in electronics manufacturing through a production-linked incentive scheme.

However, an Indian commerce ministry official said since the appellate body of WTO — its highest adjudicating authority — is dysfunctional due to the absence of judges, the adverse report of the dispute settlement panel will not have any immediate impact.

"India will be appealing against this judgment. Since the appellate body at the WTO is dysfunctional, it will be a void appeal. That is why there will not be any substantial impact on India," said a government official.

India, which is signatory to the 1996 Information Technology Agreement (ITA), is required to eliminate tariffs on a range of pro-

## CASE FILE

▶ **The EU, Chinese Taipei and Japan dragged India to the WTO dispute in 2019**

on imposing tariffs on certain information and communications technology goods

▶ **Products include mobile phones, microphones, transmission apparatus for radio broadcasting, parts used in television cameras, electronic integrated circuits, insulated wire, oscilloscopes and measuring or checking instruments**

▶ **India's high tariffs on such ICT items have led to substantial increase in investments and exports of such items**



ducts, including mobile handsets. However, starting 2007-08 Union Budget, India imposed tariffs on a clutch of electronic items to curb cheap electronic imports from China and promote India's home-grown manufacturing.

Many countries had complained that the imposition of tariffs on IT products by India was against the principles agreed upon under ITA. However, India argued that at the time of signing the ITA, products such as smartphones did not exist and hence, it was not bound to eliminate tariffs on such items. Turn to Page 6 ▶

to the new Apple BKC tomorrow," Cook tweeted.

In between, he met India Inc leaders including Mukesh Ambani, chairman and managing director of Reliance Industries, his son, Akash, and daughter, Isha — both of whom occupy key positions in the RIL empire — and Manoj Modi, director, Reliance Retail and Reliance Jio. A video of several black limos leaving Antilia, the Ambani residence, went viral as Cook was reportedly spotted there. There's a connect: The Mumbai Apple store is opening at the Reliance Jio Mall. But there was more to Cook's India Inc interactions. He met N Chandrasekaran, chairman, Tata Sons, among some others. The Tata Group is getting ready to start manufacturing Apple phones in India. Needless to say, the meeting between Cook and Chandrasekaran was a closed-doors affair.

Cook is scheduled to meet Prime Minister Narendra Modi and a few ministers during the Delhi leg of his India visit later this week. According to a Bloomberg report, the Cupertino-based firm, which completes 25 years in India, saw its sales touch a new record of \$6 billion for the year ended March 31, 2023. Its revenue surged 50 per cent in FY23 over the previous year. The firm's market share in the smartphone segment does not figure in the top five. The segment is dominated by Korea's Samsung and the Chinese manufacturers, Xiaomi and Vivo. With the first store in Mumbai and a second store coming up in New Delhi, in Saket, the company has finally forayed into direct retail in India. Perhaps this is the beginning of not just Tim Cook's India adventure but Apple's as well.

## WTO panel...

The WTO dispute settlement panel said although it accepted "in good faith" India's argument, the panel found it had failed to demonstrate that this assumption constituted an essential basis of India's consent to be bound by the certified Schedule.

"The panel also found that India was put on notice of the possibility that its WTO tariff commitments in its

Harmonized System (HS) 2007 Schedule may have expanded from those outlined in its HS 2002 Schedule, and similarly, that its WTO tariff commitments in its HS 2007 Schedule may have expanded from those outlined in the ITA," it added.

Ajay Srivastava, founder of think tank Global Trade Research Initiative, said India can rejoice that its decision to increase import tariffs on mobile phones has paid off handsomely.

"It resulted in significant investments, including those from Apple and Foxconn. Our mobile phone exports will soon cross \$10 billion a year. Hypothetically, if India agrees to pay the compensation, it will lose minimal money as its imports from the EU, Japan, and Taiwan are low. Third parties like China, which account for significant imports from India, are not allowed to get any compensation under the

WTO mechanism," he added. "India should apply a zero duty rate on information and communication technology products like mobile phones, according to its WTO commitments. Instead, it has tariffs of up to 20 per cent. That is illegal, a WTO panel has ruled. Respect for the rules-based trading system is vital for a good trade relationship," the international trade department of the EU tweeted.

The EU has also approached India to resolve the matter through a multi-party interim appeal arbitration arrangement (MPIA). However, India is against MPIA as a mechanism and is in favour of the restoration of the WTO appellate body, the official quoted earlier said. MPIA is an alternative system for resolving WTO disputes that are appealed by a member nation in the absence of a functioning WTO appellate body.

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