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**INDIA – TARIFF TREATMENT ON CERTAIN GOODS IN THE INFORMATION AND
COMMUNICATIONS TECHNOLOGY SECTOR**

REQUEST FOR THE ESTABLISHMENT OF A PANEL BY THE EUROPEAN UNION

The following communication, dated 17 February 2020, from the delegation of the European Union to the Chairperson of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

On 2 April 2019, the European Union requested consultations with India, pursuant to Articles 1 and 4 of the DSU and Article XXII of the GATT 1994 with regard to the customs duties applied by India on imports of certain products in the information and communications technology ("ICT") sector.

The consultations took place on 21 May 2019 in Geneva with a view to reaching a satisfactory settlement of the matter. Unfortunately, the consultations failed to settle the dispute.

As a result, the European Union respectfully requests that a panel be established pursuant to Articles 4 and 6 of the DSU and Article XXIII of the GATT 1994 to examine the matter on the basis of the standard terms of reference, as set out in Article 7.1 of the DSU.

The measures at issue are the duties applied by India on imports of certain ICT products in excess of the bindings set forth in its Schedule of Concessions and Commitments annexed to the GATT 1994 ("India's WTO Schedule" or "WTO Schedule").

The ITC products concerned fall within the scope of the bindings included in India's WTO Schedule with respect to the following tariff lines (based on the HS 2007):

8504.40.02

8517.12

8517.61

8517.62

8517.70.01/02/03

8518.30.01

8544.42.01

In its WTO Schedule India has bound the *ad valorem* duty rate for the above tariff lines at 0 %. Yet the duty rate applied by India on imports of ICT products falling within the scope of those bindings is up to 20%, depending on the tariff line and is, therefore, in excess of the bound rate.

The duties applied by India on imports of the products falling within the scope of the bindings for each of the above mentioned tariff lines included in India's WTO Schedule are stipulated in the following legal instruments:

1. Tariff line 8504.40.02:

- Customs Act, 1962, Act No. 52 of 13 December 1962;
- Customs Tariff Act, 1975, of 18 August 1975, including its Section 2 and its First Schedule;
- Notification No. 25/2005-Customs of 1 March 2005;
- Notification No. 57/2017-Customs of 30 June 2017.

2. Tariff line 8517.12 :

- Customs Act, 1962, Act No. 52 of 13 December 1962;
- Customs Tariff Act, 1975, of 18 August 1975, including its Section 2 and its First Schedule;
- Notification No. 24/2005-Customs of 1 March 2005;
- Notification No. 57/2017-Customs of 30 June 2017.

3. Tariff line 8517.61 :

- Customs Act, 1962, Act No. 52 of 13 December 1962;
- Customs Tariff Act, 1975, of 18 August 1975, including its Section 2 and its First Schedule;
- Notification No. 24/2005-Customs of 1 March 2005;
- Notification No. 25/2005-Customs of 1 March 2005;
- Notification No. 50/2017-Customs of 30 June 2017.

4. Tariff line 8517.62 :

- Customs Act, 1962, Act No. 52 of 13 December 1962;
- Customs Tariff Act, 1975, of 18 August 1975, including its Section 2 and its First Schedule;
- Notification No. 24/2005-Customs of 1 March 2005;
- Notification No. 57/2017-Customs of 30 June 2017.

5. Tariff line 8517.70.01/02/03 :

- Customs Act, 1962, Act No. 52 of 13 December 1962;
- Customs Tariff Act, 1975, of 18 August 1975, including its Section 2 and its First Schedule;
- Notification No. 24/2005-Customs of 1 March 2005;
- Notification No. 50/2017-Customs of 30 June 2017;
- Notification No. 57/2017-Customs of 30 June 2017.

6. Tariff line 8518.30.01:

- Customs Act, 1962, Act No. 52 of 13 December 1962;
- Customs Tariff Act, 1975, of 18 August 1975, including its Section 2 and its First Schedule;
- Notification No. 25/2005-Customs of 1 March 2005;
- Notification No. 57/2017-Customs of 30 June 2017:

7. Tariff line 8544.42.01

- Customs Act, 1962, Act No. 52 of 13 December 1962;
- Customs Tariff Act, 1975, of 18 August 1975, including its Section 2 and its First Schedule, as amended;
- Notification No. 25/2005-Customs of 1 March 2005;

- Notification No. 50/2017-Customs of 30 June 2017;

For each of the instruments referred to above, this request also covers any amendments, replacements, extensions, implementing measures or other related measures adopted by India

The measures at issue are inconsistent with India's obligations under the covered agreements and, in particular, with Article II:1 (a) and (b) of the GATT 1994, because, through those measures, India accords to the EU commerce of certain ICT goods treatment less favourable than that provided for in its WTO Schedule and does not exempt those goods from ordinary customs duties or other import duties in excess of those set forth and provided in its Schedule, respectively.

These measures adversely affect exports of goods from the European Union to India, and they nullify or impair the benefits accruing to the European Union directly or indirectly under the covered agreements.

The European Union asks that this request be placed on the agenda for the meeting of the Dispute Settlement Body to be held on 28 February 2020.
