

Name of Paper : THE HINDU

Published at : NEW DELHI

Dated : 22 MAR 2012

# Commerce Ministry cites WTO to shoot down TRAI proposal on local manufacture

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**NEW DELHI:** In an unprecedented move, the Commerce Ministry has told the Department of Telecommunications (DoT) that its ambitions to foster domestic manufacturing through 'preferential access' to procurement by government and government licensees are in violation of India's international commitments at the World Trade Organization (WTO).

Though a serious source of embarrassment for DoT, and a major blow to the domestic lobby, this warning safeguards India from a potential showdown with global manufacturers of telecom equipment invoking WTO agreements to block domestic producers.

The genesis of this face-off between the two ministries lies in the Telecom Regulator-

Authority of India's (TRAI) April 12, 2010, recommendations on the telecom equipment manufacturing policy. TRAI had also directed that licences be suitably modified to include such stipulations for preferential market access and that telecom service providers be held responsible for meeting market access criterion even if the installation, maintenance and operations are outsourced.

Soon after, companies such as Ericsson, Siemens, Nokia, IBM, Cisco, Oracle, HP, and others, lodged protests with various ministries, but primarily with the Prime Minister's Office (PMO), the Commerce Ministry, and the Ministry of Communications and IT. The Commerce Ministry has cited three different violations of India's international commitments to dismiss any such move. It has

told the Telecom Ministry that such a move on preferential access to domestically manufactured products violates provisions of Article - III of GATT (General Agreement on Tariffs and Trade) and the agreements on Trade Related Investment Measures (TRIMs) and that making subsidies contingent upon the use of domestically manufactured equipment over imported goods is additionally violative of Article 3.1 of the ASCM (Agreement on Subsidies and Countervailing Measures).

## DoT's defence

The DoT's defence is that its decision to stimulate domestic manufacturing capability in telecom and electronic products is on account of a mounting import bill, additionally citing security concerns to seek special

exemptions. Refusing to entertain even these security arguments, the Commerce Ministry has informed DoT that while Article 21 of GATT, which provides for security exemptions can be invoked, there will still be difficulties as telecom equipment usually forms part of a network. It further points out that the argument that domestic manufacturing of 35 per cent or even 80 per cent of telecom equipment will address security concerns like protection from malware, denial of service software etc may be difficult to sustain.

"Clearly the purpose of TRAI recommendations stands out as promoting domestic manufacture and not security," the Commerce Ministry concludes, while advising DoT "to refer the recommendations back to TRAI."