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The Global Voice of the Tech Sector

**Telecommunications Industry Association (TIA)
Information Technology Industry Council (ITI)**

Comments on the
Telecommunications Regulatory Authority of India
Consultation Paper on Promoting Local Telecom Equipment Manufacturing
October 16, 2017

The Telecommunications Industry Association (TIA) and the Information Technology Industry Council (ITI) appreciate the opportunity to comment on TRAI's *Consultation Paper on Promoting Local Telecom Equipment Manufacturing*.

TIA represents approximately 250 manufacturers and suppliers of high-tech telecommunications networks and services here in the United States and around the world. TIA is also an ANSI-accredited standards development organization. TIA members' products and services empower communications in many industries and markets, including healthcare, education, security, public safety, transportation, government, the military, the environment, and entertainment.

ITI is the global voice of the tech sector. ITI advocates for public policies that advance innovation, open markets, and enable the transformational economic, societal, and commercial opportunities that our companies are creating. ITI's members represent the entire spectrum of technology: from internet companies, to hardware and networking equipment manufacturers, to software developers. ITI's diverse membership and expert staff provide a broad perspective and intelligent insight in confronting the implications and opportunities of policy activities around the world.

Our associations' member companies have made substantial investments in Indian manufacturing plants and equipment. We value the high caliber of Indian engineers and staff and want to grow along with India's dynamic and fast-changing technology market. India benefits from a number of factors critical to the development of a dynamic digital economy, including a vast and innovative engineering base; strong R&D capacity; competitive labor costs; and of course, a large domestic market for ICT products and services. However, it is clear India has yet to achieve its potential as a design and manufacturing venue.

In response, TRAI appears to be considering policies for the telecom equipment market that that could make it harder for non-Indian firms to compete. We believe a more productive long-term approach to help local industry would be to implement reforms to improve the business environment. To that end, we would urge policymakers to consider some of the policy proposals outlined in a 2016 paper issued by NITI Aayog, [Make in India Strategy for Electronic Products](#).

I. Policies to boost innovation and productivity

The TRAI paper asks what policy measures may be warranted to boost innovation and productivity in the local telecom manufacturing space and questions whether an export-oriented approach would be appropriate.

The NITI Aayog paper has already considered this question for the category of electronic products writ large. That paper, in a similar vein to the TRAI consultation, observed that “with the skilled labor force the country has, the [Indian electronic] industry should be a significant force in the world markets” (p. 3). That it is not suggests there is a strong case for pursuing changes in India’s business policies.

The NITI Aayog paper ultimately determines that a policy of import substitution is not in India’s interest, concluding that significant “success requires operating in the large world market [for electronics equipment], which amounts to more than two trillion dollars compared with only \$65 billion in the case of the domestic market” (p. 9). Accordingly, the document asserts that “we must reorient our policy to ensure that the industry becomes competitive in export markets” (p. 9).

Indeed, there is substantial evidence to bear out the assertion that exports are a vital element of economic growth for any nation. As a recent report by the Peterson Institute for International Economics pointed out, no country, including India a decade ago, has consistently grown at 8 percent or more without rapidly expanding its exports.¹

NITI Aayog also highlighted a critical downside of import substitution: that it increases the cost of products to end consumers. As cautionary tales, the paper highlights the experience of the largely protected Indian auto and apparel industries, pointing out that auto prices in India are 20 to 50 percent above those in the rest of the world, and Indian-made clothing has “remained largely inward oriented,” with export levels below Bangladesh and Vietnam (p. 26).

The risks are arguably even higher for import substitution in the ICT space, where protectionist policies could have unintended consequences for economic development. “Had we pursued import substitution in in this [telecommunications] sector and relied on the domestic industry to supply the bulk of the handsets, the [Indian] telecommunication revolution would have almost surely failed to materialize on the scale it did,” determines NITI Aayog (p. 16).

The conclusion of the NITI Aayog paper, which we support, is that India would benefit from pursuing an export-oriented strategy. Toward that end it outlines a number of constructive policies such as clarifying tax liabilities, establishing coastal economic zones, reducing duties, implementing tax holidays and promoting FTAs (p. 20-23).

¹ Bergsten, C. Fred, *India’s Rise: A Strategy for Trade-led Growth*, 7, (Washington, D.C.: Peterson Institute for International Economics, September 2015).

II. ITA-related issues to be addressed

The TRAI paper also asks if there are “any issues under ITA which need to be addressed” to make India’s domestic telecom manufacturing industry more competitive.

In fact, India is currently violating both its GATT and ITA commitments through duties it has imposed on ITA-covered products. The violations follow from duties announced in July 2017 on mobile phones, smart phones and base stations, and ink cartridges as well as earlier levies on telecom equipment and other ICT equipment issued in 2014 and 2016.

The Indian government has maintained that it has the authority to levy fees on these products because they contain technology that is “new.” However, this statement is clearly inconsistent with WTO precedent. In a WTO case launched by the U.S. against the EU on a similar issue, a WTO panel determined in 2010 that “there is no need to consider further the particular status of technology at the time of negotiating the concession in assessing the scope of the concession.”²

In other words, ITA commitments – which, after all, have been codified into India’s GATT schedule – are meant to endure, in keeping with technological progress. They do not become obsolete as technology evolves; the very nature of technology is that it constantly changes. A trade agreement for the ICT industry that had to be constantly updated to incorporate technological advances would be out of date almost as soon as it was signed.

To the contrary, one of the central goals of the ITA is to provide predictability and stability, which in turn encourages business investment. Indeed, the steady growth in the ranks of ITA member countries over time reflects a recognition of the ITA’s value in enhancing the investment environment.

Legal considerations aside, from a practical standpoint, India’s imposition of duties undermines business confidence. Not only do higher duties make it more expensive to manufacture and sell products, but the unexpected levy of new fees creates a destabilizing sense of uncertainty. Companies find it harder to plan for the future when faced with the prospect that operating costs could rise unexpectedly. This makes it difficult to justify expanded investments in facilities and staff.

For an Indian perspective on this issue, we would cite the NITI Aayog paper, which positioned duties reform as a key component in a broader plan to promote India’s electronics industry (p. 20). The document urged the reduction of duties on inputs to the same level as their respective final products. Moreover, as the paper points out, India should take incremental steps to increase its role in the global technology supply chain. When considering telecom equipment in particular, vendors have an extremely niche market limited to telecom operators. Telecom equipment requires \$4-5 billion worth of annual R&D and it is difficult to imagine a full-fledged, domestic OEM emerging due to the creation of import duties. Instead, these fees have the opposite of the intended effect, increasing consumer pricing, preventing a Digital India, and limiting the country’s ability to compete in the global economy.

Reduced import duties are one of the top items on the wish list for both domestic and foreign manufacturers in India, according to a Department of Telecommunications survey referenced in the

² Panel Report, European Communities and Its Member States – Tariff Treatment of Certain Information Technology Products, 187, WT/DS375/R, WT/DS376/R, WT/DS377/R, (August 16, 2010).

2015 *National Telecom M2M Roadmap*³. Moreover, while funding considerations are important for any government, we would submit that efforts to improve the business environment and attract investors will ultimately yield a broader and more productive corporate tax base. We would encourage government leaders to consider the long-term benefits of such an approach.

III. System of standardization, certification and testing of telecom equipment

The TRAI paper seeks input on whether the existing mechanism of standardization, certification and testing of telecom equipment is adequate to support local telecom manufacturing. We would note that if India seeks to promote the growth of a meaningful telecom industry, with internationally competitive products, it would also benefit from better harmonizing its testing and certification approach with internationally accepted norms.

Currently India has requirements for repetitive and redundant telecom equipment tests for safety (through the compulsory registration order), as well as potentially intrusive tests related to telecom security whose implementation has so far been postponed. This year the Department of Telecommunications announced plans to implement in 2018 another mandatory system of testing and certification for telecom equipment, to be conducted by Indian accredited labs. It is not yet clear specifically which products will be included or how this will differ from existing requirements.

Our member companies already certify telecom equipment products to a high level of international standards in areas such as radio frequency and safety. Requirements to test once again for the Indian market will merely incur needless and unnecessary costs for suppliers.

It is not clear from the draft document which standards within the different areas outlined (general, security, technical, and other requirements) vendors may need to meet. In addition, a “surveillance” provision of the new certification scheme suggests government may have the right to conduct potentially intrusive inspections to inspect and test products. At a more detailed level, the proposed change appears to create overlap with existing regulation of some products (for example, Wi-Fi and Bluetooth products, which are now regulated by a separate arm of the Department of Telecommunications, may now also be subject to the forthcoming certification requirements articulated by the DoT’s Telecommunication Engineering Center).

In short, we believe the current testing and certification system should be streamlined and harmonized to reduce costs and time to market. This would in turn bolster business confidence that New Delhi is seriously committed to making it easier to do business in the ICT space. As it stands, the system appears to be growing steadily more complex rather than less.

IV. Potential changes to preferential market access (PMA)

The TRAI paper also asks whether the existing PMA policy should be amended.

India has recently issued a series of policies to promote government purchases of locally made ICT products.

³ *National Telecom M2M Roadmap*, 30, (New Delhi: Ministry of Communications and Information Technology, May 2015).

- In January 2017 the Department of Telecommunications issued [conditions for a list of telecom products](#) under which they could qualify as domestic and therefore be accorded a preference in government procurement.
- Under the [Public Procurement \(Preference to Make in India\) Order](#) 2017 issued in June 2017 by the Department of Industrial Policy and Promotion, government agencies and companies are requested to accord a 20% price preference to products containing more than 50% local content.
- Most recently in September 2017, the Ministry of Electronics and Information Technology issued a [lengthy list of cybersecurity products](#) that will be subject to the June order.

At a practical level, local content requirements are often difficult to meet. In a number of cases, it is not possible to manufacture in India while meeting the necessary technical requirements outlined in government tenders. Like all countries that manufacture ICT products, India's ICT manufacturing base depends on a globally flexible supply chain that is characterized by intense competition and fluctuations in price and supply of different inputs. Market demands are such that it would be impractical for the commercial sector to eliminate the use of global resources or a distributed supply chain model.

More broadly, we would submit that the policy does a disservice to the Indian government in limiting access to the most cost-effective and advanced ICT products available, especially at a time officials are implementing important new programs to promote digital connectivity nationwide. We would urge the Indian government to consider a procurement policy that grants agencies maximum flexibility, allowing them to purchase products based on performance, operational needs, and overall cost, rather than focusing on local content requirements.

Local content mandates have not historically proven effective in promoting the development of local products that are either high quality or cost-competitive. Instead of granting domestic preferences in public procurement, we would argue that a better means to help local industry would be to focus on enhancing the business environment to foster healthy competition and encourage innovation.