WTO: Dispute Panels against India

GS-Paper-3 WTO- Dispute redressel mechanism (MAINS)

Recently, the Dispute Settlement Body (DSB) of the World Trade Organisation (WTO) has set up two dispute settlement panels targeting import duties imposed by India on a number of Information and Communication Technology (ICT) products including mobile phones. It was done on the request of Japan and Taiwan, taking up the number of panels constituted to examine the same tariff-related issue to three. In June 2020, the European Union (EU) had a panel established against India on the same issue.

- The panels would determine whether India’s customs duties on imports of certain ICT products infringe the WTO’s norms or not.
- The panels have been set up to decide on 20% customs duty levied by India on mobile phones and some other ICT products.
- India decided to levy 10% customs duty on these products for the first time in July 2017 which was increased to 15% in the same year.
- These custom duties were further increased to 20% despite opposition from a number of WTO members.
- The EU, USA, China, Singapore, Taiwan, Canada, Japan and Thailand initiated consultations with India on the matter claiming that the move substantially affects them.
- The goods covered in the complaint include telephones for cellular networks or for other wireless networks; base stations; machines for the reception, conversion and transmission or regeneration of voice, images or other data, etc.

Complainants’ Arguments:

- Japan and Taiwan said that their failed consultations with India prompted them to submit the requests for panels.
- Japan, Taiwan and the EU have argued that these products fall within the scope of the relevant tariff lines for which India has set the bound rate of 0% for its WTO schedule of commitments.
- Bound Rates are the legally bound commitments on customs duty rates, which act as ceilings on the tariffs that member governments can set.
- Once a rate of duty is bound, it may not be raised without compensating the affected parties.
- They held that India is applying tariffs on ITC goods falling under five tariff lines in excess of the 0% bound rate and that for some products, the applied tariff rate was as high as 20% some times.
- Tariff Line refers to the classification codes of goods, applied by individual countries, that are longer than the 6-digit level of the Harmonized
System (HS).
- HS is a system of code numbers for identifying products. The codes are standard up to six digits. Beyond that countries can introduce national distinctions for tariffs and many other purposes.

India’s Stand:

India managed to block Japan’s first request for a panel on the grounds that the complaint undermined India’s sovereignty. India also rejected the EU’s suggestion of agreeing to one consolidated panel combining complaints from all three of them and saving time and resources. India argued that all three complainants are seeking to get the country to take on commitments under the Information Technology Agreement-II (ITA-II) which it never agreed to.

Information Technology Agreement

- It is a plurilateral agreement enforced by the WTO and concluded by 29 participants in the Ministerial Declaration on Trade in Information Technology Products at Singapore in 1996.
- It entered into force on 1st July 1997.
- It seeks to accelerate and deepen the reduction of trade barriers for the critically important ICT industry.
- Currently, the number of participants has grown to 82, representing about 97% of world trade in IT products.
- India is a signatory.

Information Technology Agreement-II

- Few developed countries proposed to broaden the scope and coverage of the ITA.
- At the Nairobi Ministerial Conference in December 2015, over 50 members concluded the expansion of the Agreement, which now covers an additional 201 products valued at over USD 1.3 trillion per year.
- Its aim was to increase the coverage of IT products on which customs duty would be bound at zero, addressing non-tariff measures and expanding the number of signatory countries to include countries such as Argentina, Brazil and South Africa.
- India has decided not to participate in this for the time being because India’s experience with the ITA-I has been most discouraging, which almost wiped out the IT industry from India.
- The real gainer from that agreement has been China which raised its global market share from 2% to 14% between 2000-2011. China is a significant exporter of ICT goods.