MEMORANDUM TO MINISTRY OF FINANCE, GOVERNMENT OF INDIA DURING PRE-BUDGET CONSULTATIONS ON 12th JANUARY, 2016

Background

The Finance Minister's recent pronouncement on raising public investment, in infrastructure and in areas such as agriculture, irrigation, rural roads etc is more than welcome. Hopefully, it can raise public consumption also as that is the way forward to stimulate the economy, considering the global slowdown and decreasing exports.

After assuming office in 2014, the Government has made several genuine attempts to fulfill its promise of *'achche din'* for the citizens. While it has faced few obstacles in the process, specifically with respect to passage of crucial legislations in the Parliament, the Government must be congratulated for its efforts. Hope it can create a consensus with the Opposition to pass critical laws, such as GST.

Nevertheless, the glass remains half empty and much more needs to be done. Having acquired adequate experience of governance at centre, and on becoming fully aware of its limitations, the Government must now design a focused strategy to achieve the goal of turning India into a ten trillion dollar economy by 2030 in absolute terms i.e. not on purchasing power parity.

Accordingly, CUTS International, an independent think and action tank involved in public policy research and advocacy, has identified few of the following critical issues which must be addressed through the forthcoming budget falling directly under the Finance & Corporate Affairs Ministry, recognizing that there are other equally deserving issues which must be addressed:

1. Adoption and implementation of the National Competition Policy
2. Enactment and implementation of the Public Procurement Act and the National Public Procurement Policy
3. Enactment and implementation of an omnibus Financial Consumer Protection Act
4. Adoption and implementation of the Regulatory Impact Assessment Framework
5. Designing and implementation of a Comprehensive Rural Reform Package
6. Plugging capacity constraints in policy implementation

The issues are described in detail below.

1. Adoption and implementation of the National Competition Policy

Since assuming office, the Government has been empowering states and promoting competition at sub-national level. Going forward, states will be given more freedom to formulate policies according to their needs and objectives. In order to ensure that such policies do not unnecessarily differentiate amongst similarly placed entities or impose avoidable costs on firms, adoption and implementation of National Competition Policy (NCP) will be necessary.

The draft NCP was released in November 2011 by the Committee set up by the Ministry of Corporate Affairs, and is pending adoption since. It encourages adherence to competition principles in policies, laws and procedures of the Central and State Governments, sub-State Authorities, optimising efficiency, achieving high growth, reducing inflation, and maximising consumer welfare, in the process. The NCP complements competition law which focuses on containing anti-competitive practices and abuse of dominant position.

The NCP encourages competition impact assessment of central and state policies, and aims to empower states to check anti-competitive practices. It promotes efficient vertical and horizontal coordination amongst central, state and local levels of governance and promotes periodic reviews of policies. It also complements other reforms like Goods and Service Tax (GST), which are being vigorously pursued by the Government. Creation of a National Agricultural Market is another such progressive step. NCP also complements the central government programmes aimed at stimulating manufacturing, encouraging private investments and facilitating start-ups and innovations by removing artificial barriers to entry, operation and growth.

The NCP has been proposed on the basis of successful experiences of Australia, Mexico, Denmark, Turkey, Botswana, Malawi, et al, wherein it delivered substantial benefits that have greatly outweighed the costs. A study undertaken by Australian Productivity Commission expected significant increase in real GDP and consumer welfare as a result of competition reforms.

Australia, also being a federal country, had to incentivise States to adopt reforms, as we have proposed in case of GST. We also need to adopt a suitable financial incentive scheme to enable states to adopt NCP.

Vignettes on few benefits experienced by Australia upon implementation of competition reforms	
Sector	**Benefits**
Electricity	Average real prices have reduced by 19 percent
Rail freight rates	Substantial reductions ranging from 8 percent (wheat) to 42 percent (coal traffic)
Real port charges	Reduction up to 50 percent
Telecom charges	Reduction by more than 20 percent in real terms
Retail price of drinking milk	Reduction by 5 percent in real terms, despite the imposition of an 11 cents a litre levy to fund an assistance package for dairy farmers
Source: Australian Productivity Commission, Review of National Competition Policy Reforms, February 2005	

Action desired: **Decision to adopt and implement National Competition Policy by Central government and providing incentives to states to adopt and implement the same. It is a non-legislative issue with bipartisan support and can be announced without going through the parliament.**

2. Adoption and implementation of the Public Procurement Act and the National Public Procurement Policy

Public procurement in India accounts for almost 30 percent of the total GDP worth US$ 536 billion annually. In spite of its huge significance, there is no legislation to regulate public procurement at the Central government level nor there exists a National Public Procurement Policy. The Public Procurement Bill, which was tabled in the Parliament in 2012, is yet to become a law. This Bill should be enacted at the earliest so as to, *inter alia*, enhance transparency and efficiency in our public procurement system and also to help Indian companies to better access procurement markets in other countries.

The implementation of the Bill will benefit from adoption and implementation of a coherent National Public Procurement Policy which addresses interfaces between public procurement and related macroeconomic policies including, but not limited to trade policy, competition policy, sustainable procurement policy, fiscal policy and the new manufacturing policy, amongst others, in order to allow decision-makers to adapt to changes in specific macroeconomic indicators. Such a policy will encourage the growth of a coherent and cohesive plan of action for all procuring departments of the government including state governments and will help in achieving more and better transparency and competitiveness of the Indian economy. It will also allow governmental bodies to determine their approach to public expenditure after assessing the macroeconomic climate under which such expenditures are to be made and by taking into account their impact on major socio-economic development objectives.

Action desired: **Decision to enact and implement the Public Procurement Act and adoption and implementation of a Public Procurement Policy. The Policy can be drafted before the enactment of the law and being a non-legislative issue it can be drafted and adopted soon. The Policy itself will have a salutary effect on the practices thus increasing efficiency and savings.**

3. Adoption and implementation of an omnibus Financial Consumer Protection Act

Every other day one hears of stories of ordinary consumers being ripped off by dishonest investment businesses. On the other hand, over the last several months, the Government and Reserve Bank of India has taken several initiatives to take formal financial services to the unbanked. Some of these efforts include the Pradhan Mantri Jan Dhan Yojana; issue of licenses to new banks, payments banks, and small finance banks; and introduction of Jan Dhan–Aadhar–Mobile trinity. These efforts are expected to increase the financially included populace, and consequently the risk the financial sector brings along. These risks include hidden and inflated charges or fees; unfair contract terms and conditions (including unfair variation of contract terms, interest rates or charges); undisclosed level of financial risk; inadequate explanation of the contract terms; sub-optimal after-sale customer service; aggressive or invasive sales techniques; breach of contract by the service provider; failure to deliver the service; exclusion from service etc. The country has not yet forgotten the experience with ponzi schemes and illicit money circulation schemes.

Technology is being leveraged to bring hitherto excluded population in the financial sector. Unregulated e-commerce is growing rapidly with high value transactions increasingly being concluded over the internet. While technology has its benefits, it also increases the risks. These include unauthorised fund transfers, fraudulent withdrawals from ATMs using duplicate cards, phishing e-mails aimed at extracting personal information, data privacy violations, electronic fraud. The regulatory apparatus for e-commerce sector has been a work-in-progress, which makes the consumer more vulnerable.

The UN Guidelines on Consumer Protection, 1985 and amended in 2015 also calls upon governments to *inter alia* make special efforts to protect consumers of financial services.

Thus, there is an urgent need of a strong consumer protection mechanism, setting clear rules for financial institutions regarding their dealings with retail customers, and addressing financial exclusion. While experts have recommended reforms such as introduction of suitability requirements, simple and standard financial products, move to seller beware principles, and various mechanisms to enable financial inclusion for poor and small enterprises, much more needs to be done. Adoption and implementation of a strong and omnibus financial consumer protection law covering the online as well as over the counter transactions, to implement various suggestions is need of the hour.

Action desired: **Decision to adopt and implement an omnibus Financial Consumer Protection Act. Such law must take into account successful and not-so-successful practices implemented by various states and comparable jurisdictions. It should establish a new national single financial consumer protection mechanism (regulator), having state units/regional offices, thus covering the entire country.**

4. Adoption and implementation of Regulatory Impact Assessment Framework

Regulations have widespread impacts and affect multiple stakeholder groups in different ways. A sub-optimal regulation has the potential to increase the cost of administration and compliance, raise complexity and uncertainty associated with obligations, and most importantly, limits the likelihood of achievement of its objectives. Therefore, it is of paramount importance to understand the impacts of any regulation, proposed or in operation, to achieve favourable outcomes. Indian regulatory architecture is replete with examples of archaic, costly and avoidable regulations, which only breed corruption and delays. Government itself is in the process of repealing and modifying outdated laws and simplifying complex ones. To ensure that the momentum is not lost, it should be institutionalised. Regulatory Impact Assessment (RIA) framework enables systematic assessment of costs and benefits of proposed and existing laws, policies, regulations, guidelines etc. and aids in selection of efficient regulatory options, through transparent stakeholder consultation mechanism.

RIA has demonstrated several benefits in other jurisdictions. The One-in, Two-out Policy in UK resulted in net reduction of £836 million in costs to the business between 2010-2013. The Red Tape Challenge in UK resulted in £300 million in annual saving to 100,000 small businesses from increased flexibility and audit requirements. Several expert committees have recommended adoption of RIA in India. These include Planning Commission Working Group on Business Regulatory Framework, the Financial Sector Legislative Reforms Commission, and the Damodaran Committee on Reforming the Regulatory Environment for doing Business in India. The Pre-Legislative Consultation Policy of the Government also envisages conduct of partial RIA.

RIA complements the central government programmes aimed at stimulating manufacturing, encouraging private investments and facilitating start-ups and innovations by removing artificial barriers to entry, operation and growth. Consequently, the Government should adopt and implement RIA Framework for design and review of laws, policies and regulations. A RIA cell could be set up in the Ministry of Finance to provide legitimacy and ensure effective coordination with different ministries. NITI Aayog could provide capacity building services and aid states in adoption of RIA framework.

Action desired: **Decision to adopt and implement RIA Framework, by setting up of a RIA cell in Ministry of Finance, for coordination amongst different ministries, and providing assistance to states to conduct RIA, through NITI Aayog.**

5. Adoption and implementation of a Comprehensive Rural Reform Package

Several steps were initiated by the Government to improve the conditions of significant rural population that depends on farm and non-farm livelihood. These include, *inter alia*, agriculture produce market reforms and establishing national agriculture market; restructuring of Food Corporation of India; and improving conditions of agriculture warehouses, launch of soil health card schemes, revamp of crop insurance schemes. After initial proposals, not much momentum is being witnessed to benefit the rural hinterland. There is a need to restart the reforms process for rural India with requisite rigour and vigour

However, the aforementioned steps are not expected to be enough. A comprehensive Rural Reform Package will be required to be adopted and implemented in a time bound manner to address the concerns of rural populace. In addition to steps already thought of, other essential reforms must also be implemented. These include, *inter alia*, providing sustainable alternative employment opportunities in villages (such as dairy management); implementation of crop insurance in right spirit and timely manner; digitising land records, reforming agriculture input, output and credit subsidies by benefitting from the experience of direct benefit transfer programme; introduction of graduation approach for sustainable increase in income; protecting intellectual property in agriculture sector; foster research and innovation with use of high yield seed varieties; focused attention on horticulture, and improving infrastructure.

The Make in India programme must not be limited to Make in Urban India and rural India must be given equal importance, if not more. The Rural Reform Package could be designed and marketed on the lines of, and within the broad scope of Make in India. The Reform Package must be adopted and implemented in a manner than low hanging fruits are implemented prior to reforms which might require legislative amendments. Clear timelines must be fixed for implementation of the package and accountability must be fixed beforehand.

Action desired: **Designing and implementation of a Rural Reform Package to benefit rural farm and non-farm dependent communities, in a time bound and efficient manner.**

6. Plugging capacity constraints in policy implementation

Policies and programmes will not result in desired results unless necessary capacity is built to ensure their implementation. Constrains could be in form of limited infrastructure as well as lack of skills. Infrastructure required for efficient execution of policies includes setting up regulatory and dispute resolution agencies, management and supervisory offices at local and regional level, etc. The infrastructure create will need to be manned by individuals skilled and trained in their respective tasks. For instance, a Presiding Officer of a Debt Recovery Tribunal must be trained in banking and finance. A Public Private Partnership Project Review

Committee member must possess necessary skills in economics. Thus, the need for efficient selection, performance review, skilling, and training.

Capacity constraints are holding back reforms in various domains such as management of non-performing assets and debt recovery, performance of state owned enterprises, reducing delays in judicial and quasi-judicial authorities, reinvigorating public private partnerships, reforming education, and promoting skill development. There is an urgent need to review the existing and potential capacity constraints which are holding back efficient implementation of policies. A comprehensive package must be designed to plug these gaps at national, states and local level, with help from stakeholders, including private sector and civil society. Necessary infrastructure must be put in place in a time bound manner and experts from within and outside the country must be identified and engaged to build necessary capacity and skills.

Action desired: **Plugging capacity constraints in policy implementation by providing necessary infrastructure and skills, with help from private sector and civil society, at national, sub-national and local level.**

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