PolicyWatch

Covering developments on policy responses, policy implementation and policy distortions on a quarterly basis. Comments are welcome.

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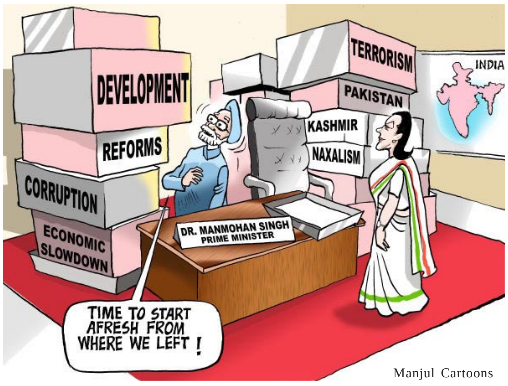
INSIDE THIS ISSUE

HIGHLIGHTS

"The reformer has enemies in all those who profit by the old order and only lukewarm defenders in all those who would profit by the new." **Machiavelli** in *The Prince*

We Can and We Should Do

Manmohan Singh deserves our heartiest congratulations on being elected for a second term, a rare performance. It is thus time for him to introspect and travel down the memory lane. On December 25, 2004 he wrote in this newspaper: "I do hope that in the New Year (2005) we can all work together to build a more equitable, competitive and humane India…This is a doable agenda provided we can set aside our 'make-do' attitude and adopt a 'can do' spirit". We hope that Singh's second term can become a Can-Do and Shall-Do period, and not just for one year.



Manjul Cartoons

During the last four years, many hurdles came his way, including the global economic downturn. With a more stable coalition, progress for the country along the path of inclusive growth will need more than stimulus packages and some 'out of the box' and determined thinking, like the nuclear deal. Many ideas cannot be postponed or vital issues left hanging on a cliff. This will need clear signalling and include harvesting low-hanging fruits within the next 100 days.

As Dr Singh and many others have said, we need to boost investment in the infra sector as a counter-cyclical measure. The malaise in the infra area in the recent past was aided by poor governance and pork barrel politics in spite of Dr Singh assuming command of the situation. Alas, the process became a stumbling block, rather than a catalyst. This needs to be revisited.

The recommendations for reform in infrastructure governance arising from the splendid work done by think tanks like the Planning Commission and NGOs have to make the journey from paper to the realm of implementation. For example, the Planning Commission's draft paper on 'Approach to Regulation of Infrastructure' and the draft Regulatory Reform Bill, a law for designing a uniform architecture for regulatory authorities.

In 2004, the government had also promised that "competition, both domestic and external, will be deepened across industry with professionally-run regulatory institutions in place to ensure that competition is free and fair". Not many will agree that this goal has been achieved, though some very small steps forward have been taken. One of them is the adoption of a National Competition Policy, as recommended in the Planning Commission's policy document: 'Inclusive growth', which highlights the role of private sector investment in bridging our infrastructure deficit.

However, business regulatory framework is itself an entry barrier to new entrants. The World Bank has assigned India a rank of 122 among 181 nations in terms of the 'ease of doing business' in 2009. However, the government needs to put legal reforms on the fast track and engage the judiciary actively. In sum, there are many things that Dr Singh can do and should do.

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TRANSPORT

To Do List

When it comes to Civil Aviation, there are some issues that require immediate attention of the new government. The first is the issue of ground handling – design a new ground handling policy or continue for some more time with the current policy. The second important issue will be considering what needs to be done to the Rs 3,000 crore which Air India is seeking largely to meet its working capital needs.

Planes are lighter, economical and breezy so that they match its name.

Some more issues that await a decision are: allowing foreign airlines to pick up a minority stake in domestic airlines; deployment of additional manpower for the airline watchdog; and the need for creation of airport infrastructure; expediting the creation of a civil aviation policy. *(BL, 12.05.09)*

Supremo

The Planning Commission's proposal to set up a super regulator in the infrastructure sector has not been appreciated by the concerned ministries. There are plans to set up a supremo for all public-private partnership (PPP) projects of highways, ports, airports and railways.

The supremo will oversee: whether the users of infrastructure facilities are being provided with the right level of services and level of user fees being levied. The National Highways Authority of India (NHAI), The Department of Shipping and the Ministry of Aviation feel that the government has been unable to carry out the process of restructuring and strengthening the existing institutions, so would it be feasible to set up another body. *(BL, 07.05.09)*

Regulator Tightens Grip

Aviation regulator, Directorate General of Civil Aviation (DGCA) plans to make it mandatory for airlines operating in the country to report the time of arrivals and departures of their flights, and delays, if any. This data will be collated to analyse the reasons for delayed flights at various airports.

In the past few months, DGCA has tightened ticket rules asking airlines to reflect airfare details due to growing consumer complaints over differences in advertised fares and actual ones. But data collection alone may not help unless it is verified from air traffic controllers and through random checks by DGCA.

(Livemint.com,15.05.09)

All-pervasive Body

All ports in the country, both state-owned and private, will soon be governed by one tariff regulatory body, Tariff Authority for Major Ports (TAMP). The Union government is planning to give deterrent powers to TAMP, including penal and enforcement rights by having a full-fledged TAMP Act, rather than just be a part of the Major Port Trusts Act. Ports currently regulated by TAMP function as trusts under the Major Port Trusts Act, 1963. There is a need for a powerful and all-pervasive TAMP. The idea is to have a transparent tariff structure across ports with TAMP acting as a dispute settlement mechanism with more powers. *(Livemint.com, 13.04.09)*

Sharpened Teeth

The Union government's plan to give more teeth to a proposed regulatory body that will replace the existing tariff regulator for its dozen ports is a step in the right direction. The new regulatory body will be created through a separate, independent legislation.

The new port authority would be a full-fledged regulator. It would have the powers to set rates for the facilities and services provided at the 12 ports, to prescribe and monitor performance norms and standards for services and facilities provided by port authorities and private operators and also to decide on disputes between port authorities, private operators and users of the facilities and services.

(Livemint.com, 26.06.09)

Connecting Cities

The NHAI is working on a plan to identify at least 50 cities it should connect on a priority, based on population and traffic volume. If approved, this would be a departure from the current system where the authority divides the highway stretches under several phases of National Highway Development Programme.

A ceiling of 1,000km has also been set on an annuity basis where the government pays highway developers an annual sum over the concession period, while the developer finances and builds the highways. Government organisations prefer the toll model, where the developer derives revenues through tolls. Private developers on the other hand prefer the annuity model. *(Livemint.com, 11.06.09)*

COMMUNICATION

Bharti, MTN Reconnect

Bharti Airtel Ltd. and South Africa's MTN Group have restarted merger talks to create a US$20bn emerging markets telecom entity. The potential deal, which seeks to tiptoe around the emotional sensitivities that scuppered their merger talks last year, will catapult the combine into the league of top five telecom operators globally, with over 200 million customers spread across 24 countries in Asia, Africa and the Middle East. It would also be India's biggest cross-border deal.

Sunil Bharti Mittal, Chairman and Managing Director of Bharti, said, "We see real power in the combination and we will work hard to unleash it for all our shareholders". Phuthuma Nhleko, Chief Executive Officer of MTN, said, "rationale for this potential transaction between MTN and Bharti was highly compelling".

(BL, 25.05.09 & ET, 26.05.09)

Satellite Radio

The floodgates are set to open for satellite radio services in the country with the government finalising a fresh set of policy guidelines. Religious organisations, political parties, private news channels will be barred from setting up channels. Commercial advertisements will not be allowed, news broadcasts or audio feeds of state-run All India Radio and Doordarshan will be allowed.

The operators would be allowed a maximum of two minutes per hour of promotional material about the channels. Broadcast of public interest announcements for a maximum of one hour per day might be made mandatory.

Former Telecom Regulatory Authority of India (TRAI) Chairman, Pradip Baijal said, "It (satellite radio) will give the subscriber more choice and I would go a step further to say that even terrestrial television should be opened up and not be limited only to Doordarshan". *(HT, 12.04.09)*

Check on Windfall Gains

The Ministry of Corporate Affairs has given its nod to a proposal from the Department of Telecommunications (DoT) to impose a ban on promoters of new telecom companies from selling their stake for a three-year period. This may apply to companies like Vodafone, Idea Cellular etc. who were given additional licences to operate in new service areas.

The TRAI has already given its consent to the proposal aimed at preventing 'fly-by-night' operators from making profits by trading spectrum. The DoT had initiated the policy after concerns were raised over new private telecom players making windfall gains allegedly at the cost of the national exchequer.

(BL, 07.04.09 & ET, 08.04.09)

Comprehensive Act on the Anvil

The DoT is planning a complete revamp of the Wireless Planning Coordination (WPC) wing in order to improve spectrum management and better the processes being followed currently. Under this plan, a comprehensive Spectrum Act will be pushed through an Act of the Parliament providing a legal basis for taking away spectrum from operators which do not use it efficiently.

Currently, the WPC wing is responsible for planning, regulating and managing spectrum allocation among various users. It also issues licences for use of radio equipment and also ensures that there is no interference among various spectrum users. DoT is also planning to re-organise the Spectrum Management Policy. The revamped Group will have the mandate to look into only policy related issues. *(BL, 21.06.09)*

A Bane in Disguise

The mobile tariffs in the world's cheapest telecom market are set to fall further by at least 20-25 percent during 2009, more so due to increasing number of telecom operators and infrastructure overcapacity. The country has the lowest telecom tariffs in the world.

However, price reduction is not all that good. According to Idea Cellular Managing Director, Sanjeev Aga, "Indian companies are rolling our predatory prices without conducting proper studies, unlike in the developed countries. Price reductions coming in from desperate companies are anticompetition and are not based on economic sense, and in the long run this would be anticonsumer and antiindustry". In the short term, it is the customer who will reap the benefits of the tariff fall. *(BS, 03.05.09)*

OIL & GAS

Natural Gas to Fuel Growth

As part of its new gas infrastructure policy, the government is working on setting up a suitable administrative mechanism for executing and managing national gas highways. It is likely to set up an apex implementation agency on the lines of NHAI that will lay natural gas pipelines along the national highways across the country.

Other options under discussion are setting up a board having various stakeholders and permitting Gas Authority of India Ltd. (GAIL) India to manage the project.

Once created, the infrastructure will belong to the nation and consumers will not have to bear the burden of the capital cost. The proposed changes in the gas transportation policy aim to ensure availability of gas to consumers across the country at affordable prices. *(ET, 04.06.09)*

Cess on Natural Gas

The government is planning to levy a cess on natural gas to generate funds to put in place necessary infrastructure for building a national gas highway network across the country. Gas pipelines are required throughout the country to transport environment friendly fuel to regions untouched till now.

There is an urgent need for a national gas highway on the lines of the national highways. India produces 105 million cubic meters a day of gas while 25 mmcmd is imported in the form of LNG. A nominal 20 cents per million

Number Portability

Mobile users in Kolkata metro and the telecom circles of Karnataka, Andhra Pradesh and Tamil Nadu can change the service provider while retaining their numbers. MNP Interconnection Telecom Solutions Pvt Ltd – a joint venture of the US-based Telcordia Technologies and its Indian partner DTC Pvt Ltd who have been awarded a 10-year licence for 11 telecom circles in south and east India.

Financial Express

TRAI and DoT are likely to come up jointly with the tariff structure for mobile number portability services soon. The subscriber might have to pay a one-time charge to avail the service. The application for retaining of the old number is to be placed with the newly chosen service provider. *(BL, 04.05.09 & ET, 30.04.09)*

Deregulating Prices

Public sector undertakings (PSUs) such as Indian Oil, Bharat Petroleum and Hindustan Petroleum may have freedom to fix petrol and diesel prices when crude oil prices are below US$75 a barrel and raising rates of natural gas produced by Oil and Natural Gas Corp (ONGC) and Oil India Ltd from nominated fields.

The government is considering deregulation of petrol and diesel prices. The attempt is to make available fuel to common man at affordable prices. The fall in crude oil prices has however, presented an opportunity to free the auto fuel prices that were brought under government control in 2004. *(BS, 22.05.09)*

British thermal unit cess on domestically produced natural gas may be levied to garner Rs 3,000 crore annually that can help build 500-600 km of gas pipeline. *(TH, 14.05.09)*

CSR Mandate

The government has set a mandatory target on social welfare activities for PSUs. At present, oil PSUs spend 0.5 to 0.75 percent on corporate social responsibility (CSR) activities, which is voluntary.

PSUs like ONGC, Indian Oil, Gail India, BPCL, HPCL and Oil India will spend at least two percent of their net profits for 2008-09 on social development projects as the government has set a floor for their social spending. The ministry has decided to keep a close watch on their social projects. Quarterly progress reviews will be conducted by the ministry to ensure fund utilisation under CSR. *(ET, 18.04.09)*

Policy for the Poors

The petroleum ministry is working on a policy to decontrol fuel pricing. The new government may also withdraw dual pricing of kerosene and cooking gas and devise a plan to supply subsidised fuel directly to poor beneficiaries through smart cards or coupons. Alternative mechanisms are being worked upon to provide cheap kerosene and cooking gas to the poor and subsidised diesel to the agricultural sector.

A revised draft of the proposed Integrated Energy Policy (IEP) is to be submitted for approval. The IEP criticised the government for regulating retail prices of petrol, diesel, kerosene and cooking gas. The ultimate objective should be to remove government intervention in pricing of all petroleum products and provide targeted subsidies directly to the beneficiaries. *(ET, 19.05.09)*

Reliance on Reliance

The government, which will be earning close to US$9bn from Reliance Industries Ltd. (RIL), as part of its profit share, is likely to intervene in the RIL vs. Reliance Natural Resources Ltd. (RNRL) case yet again, as the Bombay High Court order puts a huge question mark on its gas utilisation policy.

The court order directs RIL to sell gas to RNRL, which in turn will sell it to its affiliate, Reliance Power (R-Power). At present, R-Power does not have any gas-based plant; therefore, the company has two options: either to use it as fuel for the proposed power plant at Dadri, which is yet to come up, or to buy an existing one. And, selling gas to a new power plant is not allowed under the present gas utilisation policy. *(ET, 17.06.09)*

POWER

Reforms in T&D Network

The Planning Commission has proposed setting up a National Electricity Fund to finance development of power transmission and distribution (T&D) network by state utilities so as to reduce T&D losses.

The idea behind setting up this fund is to reduce T&D losses in the next three years to 15 percent by setting up new electricity transmission lines, transformers, replacing overloaded lines and using new technology. State run Power Finance Corp and Rural Electrification Corp will be the nodal agencies to finance state utilities. The government will help the agencies through interest subvention. *(FE, 30.04.09)*

Empowered Power Companies

Power generating companies owned by the Central government have now been given the green light to reduce power supply to a state utility in case it defaults in opening of or maintaining the letter of credit (LC) for paying its dues. This follows a recent judgment of the Appellate Tribunal for Electricity (APTEL) in a case filed by NTPC.

"Should a state default in future, the company can legally take action. This will act as a deterrent to other states. Though this does not apply to the private companies, they can take heart from the fact that the regulatory framework in the power sector is active", said Arvind Mahajan, Executive Director, KPMG Advisory Services. *(BS, 03.05.09)*

Losing Stream

Since 2002-03, growth in power generation slipped below the three percent mark last fiscal due to tardy progress in project implementation by state, central and private operators, as well as an acute shortage of feedstock, especially coal. This has led to an increase in the gap between supply and demand to double digits for the first time since 2002-03.

However, the peak-hour deficit has come down drastically, mainly due to improvement in plant load factors. In the improvement graph, private sector generation companies fared the best, while the central sector rated second and the state sector rated the lowest. *(FE, 21.04.09)*

TNEB not to be Privatised

The Tamil Nadu Electricity Board (TNEB) would not be privatised upon its reorganisation. TNEB Chairman would head all the three utilities – TNEB Ltd., the Tamil Nadu Transmission Corporation Ltd. and the Tamil Nadu Generation and Distribution Corporation Ltd.

The Centre had made it clear that its assistance would not be available unless State Electricity Boards were restructured. So there was no option but to agree to the re-organisation to avail Central assistance. *(TH,18.06.09)*

Welcome Change!

Private players in the power sector are expecting an amendment to the Atomic Energy Act and a well-defined policy on nuclear agreements. Industry executives have pointed at the need to open up nuclear sector by amending the Atomic Energy Act of 1962 which prohibits private sector players from setting up nuclear power stations.

The country also needs an elaborate regulatory and licensing system from the government. The Atomic Energy Act also restricts nuclear generation business to state-owned companies only.

Indian companies, such as Tata Power, Reliance Energy, Essar and GMR have already expressed their interest in participating in nuclear generation business. Entry of private industry into the nuclear power sector would enable a more rapid expansion of the sector. *(ET, 18.05.09)*

MIXED BAG

LIC to Pare Down its Stake

The Insurance Regulatory and Development Authority (IRDA) has asked Life Insurance Corporation (LIC) to chalk out a plan to reduce its stake in those companies where it holds more than 10 percent.

Though IRDA will not insist on LIC reducing its stake below 10 percent for some time, but have informed them it should be hiked beyond this limit. LIC is expected to chart its course of action and revert to the IRDA with its plan of compliance in a few days. *(ET, 11.05.09)*

No Favouritism

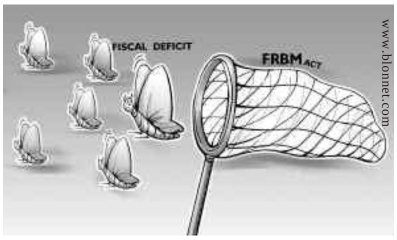
The Gujarat High Court has criticised the practice of government nominating members of political parties as non-official directors (NoDs) on boards of public sector banks, saying it sends a wrong signal.

Such appointments would do no good to the public sector banks, many of which are reeling under tremendous economic crisis. It has been observed that the government has to do some serious thinking while nominating NoDs to various public sector banks keeping in mind their special knowledge and practical experience in various fields, which would help the bank in formulating various policies.

(BS, 26.03.09)

Amendment to FRBM Act

With the Centre already breaching the deficit targets stipulated under the Fiscal Responsibility & Budget Management (FRBM) Act, the finance ministry is seeking to ask the new government to amend it. Former finance minister Palaniappan Chidambaram had already suspended the FRBM's revenue deficit target for 2008-09 by a year.



The Centre had amended the commission's terms of reference in August 2008 to include a review of "the roadmap for fiscal adjustments" and suggest a "suitably revised roadmap to maintain the gains of fiscal consolidation through 2010 to 2015".

(FE, 18.05.09)

No NoCs!

The logic behind continuation of no-objection certificate (NoC) is under surveillance by the chief minister (CM) of Delhi. NoC has to be obtained by the Delhi Jal Board from the Delhi Development Authority (DDA), the Municipal Corporation of Delhi and the Delhi Traffic Police for carrying out digging activities for development works.

The CM said that most of the delays caused in replacing old sewer lines with new ones in the capital were because of these NoCs that have to be obtained by the Jal Board. She said when works are being done for public good, there is no need for such NoCs. Noting that politics should not be allowed to come in the way of development, the CM called for a transparent system that did away with the need for such NoCs. *(TH, 20.06.09)*

Deterring the Wrongdoer

The Law Commission of India, which has recommended the setting up of fast track courts (FTCs) to dispose off over 38 lakh pending cheque bounce cases, has suggested an amendment to Section 138 of the Negotiable Instruments Act to compel the drawer of a cheque to pay 50 percent of the amount on receipt of summons.

Even after the serving of summons, the accused prolonged trial for years together, thereby putting the complainant to not only financial loss but also a lot of inconvenience and harassment. The insertion of this clause would certainly deter the unscrupulous drawer from causing cheque bounce, and would result in reduction of litigation. *(TH, 31.05.09)*

New Investment Guidelines

The Pension Fund Regulatory and Development Authority (PFRDA) will issue investment guidelines for its mega new pension scheme (NPS). PFRDA has invited public comments on the recommendations, as well as certain modifications proposed by it to these suggestions.

In the NPS both the employees and the employer contribute an equal amount to the pension fund. However, the NPS for all citizens will not have any mandatory obligation for employers to give matching contributions to the pension fund.

(BS, 03.04.09)

Three-pronged Approach

The government is planning a 'national fibre policy' for the textile industry as a part of its three-pronged approach. The over US$50bn industry is not keeping pace with the government's vision for the current Five-Year Plan.

The new policy will be a neutral aimed at restoring competitiveness of the industry and will benefit all. The ministry has also made it clear that it wants to make India a brand and, at the same time, promote the domestic market. so that it could be insulated from the future slowdowns.

(BS, 19.06.09)

Government Efforts to Promote Competition in 3G Services: A Misguided Effort?

– Rashi Rathore*

The use of third generation (3G) technology in telecommunication is the demand and need of the hour. It is being used all over the globe including Bangladesh and Pakistan but was missing in India till recently. Recently, after a delay of eight years, only public sector companies, BSNL and MTNL, were allowed to launch this service in their respective areas. Controversies over spectrum allocation and development of a pricing formula for the use of spectrum have been major concerns in this area.

The entry of new players has been another subject of debate. The government is very keen to encourage new players into the bidding process so that market price of scare spectrum can be discovered. However, differences of opinion between TRAI and DoT have delayed this process. It is high time that the two resolved their differences to facilitate further progress in the issue.

TRAI has been arguing strongly against allowing new entrants because of the following reasons: first, given that the launch of 3G is overdue, banking solely on existing players to roll out 3G services would minimise further delays; second, this would facilitate the usage of excess capacity in infrastructure installed for 2G to provide some 3G services at affordable rates; third, allowing entry by new players directly into 3G could be construed as unfair and even illegal, given that 300 applications are awaiting DoT clearance for access to 2G spectrum.

DoT, on the other hand, holds a radically different view. It contends that an open bidding process will fetch higher revenue and introduce more competition in the market. The DoT view is being welcomed by new entrants for obvious reasons.

According to the recently issued guidelines for 3G spectrum auction, the new entrants will have to pay a huge fee of Rs 1,651 crore to acquire the Unified Access Service License (USAL). In addition to this, according to industry estimates, the 3G auction price is expected to be around Rs 8,000 crore. Further, to reach the breakeven point, a new operator has to develop infrastructure to serve a subscriber base of 50 lakh which would cost another Rs 7,500 crore inclusive of required investment in transmission facilities. Thus, a new entrant has to invest around Rs 17,000 crore in all for setting up a network.

The government is looking for more competition and resultant higher revenues by allowing new players including global firms to bid for the 3G spectrum. Therefore, it should ensure a level playing field either through an infrastructure sharing mechanism or preferential treatment for new players

The Economic Times

Given these additional cost liabilities, new entrants will not be able to compete with existing players. Further, the quality of service provided by new 3G players is bound to suffer as they have to accommodate voice and data transfer out of allocated 3G spectrums only while existing players have 2G and 3G spectrum both to support such transmission. Augmentation of capacity by new entrants would then require purchase of 2G spectrum from existing holders which would again be characterised by limited choice and high prices.

All the above factors give existing players an advantage over new players in the 3G market as the former face much lower investment costs and have a large subscriber base in 2G. Thus, they already have a captive market for 3G services as existing 2G subscribers with more sophisticated demand can be shifted to the newly forming 3G subscriber base. Thus, these players can accommodate more users of 2G services, thereby, tiding over the spectrum crunch.

In a bid to end controversies relating to the 3G spectrum, the government is planning to create a spectrum regulator. Creating a separate regulator is not a good idea when a telecom regulator already exists. However, as has often been the case, the government might ignore TRAI's opinion and constitute a new regulator.

The government is looking for more competition and resultant higher revenues by allowing new players including global firms to bid for the 3G spectrum. But levy of a large fee will be counterproductive and thwart competition. Therefore, the government should ensure a level playing field either through an infrastructure sharing mechanism or preferential treatment for new players. It is important to realise that you cannot eat you cake and have it too!

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Adding Megawatts

– P Raghavan*

Private sector investment in power has picked up but there is much variation across regions.

Sustained efforts to boost private sector investments in the power sector seem to be finally paying off. Most recent numbers show that installed capacity of the private sector has grown more than three times faster than the government sector (state and central), in the first two years of the eleventh Plan. While the installed capacity of the private sector shot up by 32.8 percent in the first 47 months (up to February 2009) of the eleventh Plan that of the central and state governments rose by just 8.5 percent each.

Though some cynics may contend that the sharp pick-up in power capacities added by the private sector is because of its low base – it still accounts for only about 15 percent of the total capacity even now – the size of the additional capacity built shows that it is more than just a statistical blip. For instance, the numbers till February 2009 show that the private sector added 5,592 mw of capacity in the Eleventh Plan while the state sector, which account for more than half the total power generation capacity in the country, could install only 5,944 mw and the central government, with a one-third share, just 3,850 mw.

The pick up in performance of the private sector is also evident from its superior record in meeting the plan targets. While the private sector achieved 37.2 percent of the additional power capacity targeted for the sector in the Eleventh Plan period by February 2009, the state sector could only install 22.2 percent of the targeted addition. The worst record was that of the central government which could meet only 10.4 percent of the plan target during this period.

What is more surprising about the significant improvement of the private power in the generation business is that the states like Orissa and Haryana which were at the forefront of power sector reforms have fallen far behind other states in promoting private sector investments in power generation.

In fact the early numbers show that it was the western and southern States that made most of the gains in this segment. For instance at the end of December 2005 the Western region has registered the highest gains with its total power generation capacity in the private sector at 5,793 MW followed closely by the Southern region with its private generation capacity at 5,212 MW. Together these two regions accounted for more than four fifth of the private power capacity built till then.

The figures for 2009 show that the scenario has not changed significantly since then though the southern region has replaced the western region with the largest power generation capacity in the private sector. While the total power generation capacity in the private sector in the southern region went up to 9,771 MW that of the western region touched 9,467 MW.

Apart from regional inequalities what is more disturbing is the sharply skewed distribution of private power generating units in the states. Numbers show that till now not a single MW of capacity has been built in a dozen odd states including Orissa, Bihar, Delhi, Jammu and Kashmir, Sikkim and the most of the North Eastern states, the sole exception of Assam. The private power generation capacity distribution scenario turns worse when one accounts for the fact that the private capacity set up so far in states like Haryana, Punjab, Goa, Madhya Pradesh, Kerala and Assam was less than a percentage share of the national share.

So the bulk of the private power generation capacity set up so far was concentrated in a few states. Leading them was Tamil Nadu with 5,434 MW (24 percent of total capacity), followed by Maharashtra with 4,217 MW (18.6 percent), Andhra Pradesh with 2,126 MW (9.4 percent), Karnataka with 2,015 MW (8.9 percent), Chattisgarh with 1,156 MW (5.1 percent), West Bengal with 1,002 MW (4.8 percent) and Rajasthan with 696 MW (3.1 percent). These nine states now account for more than 90 percent of the private generation capacities.

The role or significance of the private power sector in these leading states also varies substantially. In fact it was only in Tamil Nadu, Chattisgarh and Gujarat that private sector has come to occupy a major role with its share around a third of the total power generation. The share of private power in Maharashtra, Andhra Pradesh and Karnataka was just about a fifth and that in West Bengal and Rajasthan even much lower at around one tenth.

* *Senior Editor, Financial Express. Abridged from an article that appeared in the Financial Express, on April 17, 2009.*

In Raja's Raj

– Payal Malik*

An important policy measure that can foster competition and prevent the possibility of collusive behaviour among current firms is number portability

The policy mandate of the outgoing government in the telecom sector has left much to be desired. Other than some odd positive development like allowing passive and active infrastructure sharing the policy developments did not promote the furtherance of competition.

The test of competition must be contestability or ease of entry into the industry. Contestability naturally means that existing operators should not be able to preclude entry, but it also means that the government should not be able to stop it either. For quite a long time the DoT was not in favour of new entry. Moreover, any new entry is inextricably linked to the availability of spectrum for it to offer credible contestability. Here, too, the policymaker drew a naught, be it 2G or 3G spectrum.

If the policy has been so inimical how does one explain millions of subscriber additions each month? With saturated markets in the urban areas operators are now seeing expansion possibilities in tier two towns and even in rural areas. The "budget telecom" model (a model based on compromising on investments for quality improvements) will allow packing more subscribers with innovative market driven schemes and hence the policy is irrelevant for these outcomes. However, it is still relevant when it comes to the issue of licensing, management of scarce resources and universal service. Unfortunately the UPA does not have a good record these.

Expressing dissatisfaction with the licensing procedure, TRAI said that the decision to give Letters of Intent to new players was not totally in line with their recommendations. TRAI said that while it had not suggested any cap on the number of operators, it had suggested that the government make sure that there is adequate spectrum before allowing new players. What irked the telecom regulator was that the DoT tried to justify its decisions on grounds that they were based on TRAI recommendations.

By issuing licences bundled with a promise of allocating 2G spectrum at an arbitrarily decided price of Rs 1651 crores (the price paid by the fourth cellular operator way back in 2001) the policymaker violated all the principles of efficient allocation of this scarce resource.

Once these firms got the licence they resold large chunks of their businesses at a price that was determined in the market. Not surprisingly it was way above the paltry licence fee that they had paid. This rent seeking on the part of these companies was an obvious outcome of the flawed spectrum allocation mechanism. The policy of bundling spectrum with licence meant that the firms got spectrum cheaply and this denied the public huge amount of money.

TRAI was asked for recommendations on allocation of 3G spectrum in April 2006. It furnished them in September 2006. The government issued guidelines in November 2007. Since then, the government has been dithering and issuing amendments to the 3G policy and the auctions have been postponed till a later date. Policy sluggishness in this regard is also impacting the growth of Broadband through wireless. An important policy measure that can foster competition and prevent the possibility of collusive behaviour among current firms is number portability. The policy has not been implemented and the operators are in cosy arrangements as they do not compete on quality and the consumer is crying hoarse as the quality of service deteriorates across board.

Though the universal service policy was changed in 2007 and infrastructure providers became the beneficiary of the universal service funds but funds have not been disbursed speedily. Of the Rs 20404 crores collected so far, India has been able to use only 34 percent for promoting universal access.

For the next government fixing of the spectrum policy and a speedy disbursement of universal service funds for projects that encourage infrastructure and backhaul creation should be important items on the policy agenda.

* *Associate Professor, Delhi University, and Adviser, Indicus Analytics. Abridged from an article that appeared in the Financial Express, on April 20, 2009.*

India Becomes the Key Player

The 1999 Montreal Convention unified the rules on international carriage by air and modernised the provisions on limitation of liability for international air carriers. The amendment act should help to avoid complex jurisdictional discrepancies when deciding matters relating to passenger or goods liability.

The incorporation of the convention into Indian law means that India is now operating at the same level as the prevailing international regime. This will augment India's position as a key player in international civil aviation. *(ILO, 29.04.09)*

Round-tripping under Review

The Organisation for Economic Cooperation and Development (OECD) has begun a review of India's foreign direct investment (FDI) policy to suggest measures that will ease sector-specific ceilings as well as look into issues of round tripping.

The first-of-its-kind review is expected to propose measures to make the FDI policy more open and transparent, methods to improve data maintenance, clauses on 'security', and also look into dependence on investment that is round-tripped from tax havens.

The review is significant as it comes at a time when the global financial crisis has slowed down foreign investment into the country. This will be the first OECD Investment Policy Review of India. *(FE, 13.04.09)*

States may get GST Damages

The Centre is considering a proposal to compensate states for any revenue loss that they might suffer on implementation of the Goods and Service Tax (GST). The move is expected to encourage them to adopt the new tax structure.

The enactment of GST means integrating service tax legislation with central excise law and harmonising tax rates. While this requires legislative and constitutional changes, the move will reduce cascading of taxes and will give comfort to consumers. A well-designed GST will also contribute to lowering manufacturing costs and will make businesses more efficient.

(ET, 30.06.09)

Wal-Mart Outsourcing to India

Wal-Mart Stores has shortlisted top Indian tech firms, including TCS, Infosys and Wipro, for an outsourcing contract potentially worth US$500mn over next few years, as the retailer seeks to award multiple contracts for managing its business applications and other back office activities.

Wal-Mart has been testing the waters by outsourcing smaller projects to companies but now, the retailer wants to flesh out a more comprehensive outsourcing strategy and has shortlisted these tech vendors. *(ET, 08.06.09)*

Safeguard Measures

Moving against dumping of cheap products, India has imposed up to 30 percent duty on import of key aluminium products from China to protect the domestic industry against cheap shipments.

The Directorate General of Safeguards initiated a probe into cheap arrival of aluminium products after the domestic industry had filed a petition for levying the duty against import from China. Safeguard duty is a WTO-compatible temporary measure to avert any damage to domestic industry from cheap imports. *(TH, 24.06.09)*

Downturn takes its Toll

Following the downturn in private equity investments, merger and acquisition (M&A) deals are also witnessing a steep decline. The total number of M&A deals (excluding group mergers and restructuring deals) during the first four months of 2009 declined to 74 as against 174 deals during the corresponding period in 2008.

The total number of M&A and group restructuring deals for the month of April 2009 stands at 21 as compared to 42 deals for April 2008. There were 13 domestic deals and seven cross-border deals. Four of the cross border deals were outbound and three were inbound deals.

(FE, 17.05.09)

Growth Beats Forecasts

India reported robust economic growth weathering the global downturn better than many of its peers. Growth expanded by 5.8 percent in the last quarter of the fiscal year to March 2009, beating forecasts of five percent. Growth for the full year was 6.7 percent, down from the nine percent posted a year earlier.

The Finance Minister said the government will make increasing growth its top priority to help India's "common man" – even at the risk of ballooning an already large fiscal deficit. Eyes will now be on the budget, due in early July, to see how quickly the government moves on reforms such as opening up the financial sector to more foreign firms and disinvestment.

(Google News, 29.05.09)

Pre-budget Consultations

In pre-Budget consultations with Finance Minister, chiefs of financial service firms were of the consensus that this is the time to promote growth in the country and therefore the time to promote investment in various sectors in capacity building, infrastructure, agriculture and so on.

Representatives of these firms made recommendations on how funds can flow better in all sectors. Recommendations were – disinvestment of PSUs so that government can get proceeds to take care of the ballooning fiscal deficit; government should consider giving priority to long-term insurance products within one lakh limit of tax-exempted savings; and carry forward losses for insurance companies should be increased to 10 years. *(NDTV Profit, 10.06.09)*

Stakes at Sale

The government has sought to revive plans for the divestment of minority stake in government-owned companies. About nine PSUs may make it to the market over the next few months. An amount of Rs 45,000 to Rs 53,000 crore could be raised through sale of stake in select central PSUs.

More than half of the proceeds may come from two high-profile offers – 10 percent stake sale each in BSNL and Coal India. Similar estimates suggest that stake sales in smaller government companies such as NHPC, RITES, Oil India and United Bank may bring in another Rs 6,100 crore-Rs 6,850 crore. BHEL, Power Grid Corporation and Rural Electrification Corporation are also likely to contribute Rs 16,000 crore. *(BL, 29.06.09)*

Core Statistics

The Statistics Ministry has started the process to operationalise the newly passed Collection of Statistics Act, 2008, by framing draft rules and guidelines that will enable better data collection and dissemination.

Under the new Act, people or companies not divulging data would have to pay a fine, thus making it obligatory for companies to comply with timely data collection activities.

The Act also makes wilful manipulation or omission of data, a criminal offence, punishable by a prison term. The government is also planning to finalise a list of data series that will be called as "core statistics", that is, numbers which are of national importance, within the next three months. *(BS, 05.05.09)*

No Blanket Clearances

Flooded with demands from both private and public sector companies for fast track environmental clearance of various power projects, Environment and Forests Minister, Jairam Ramesh, said the track record of these companies did not inspire much confidence, and they needed to look within to set right the damage to environment and ecology.

Ruling out any kind of blanket clearance to power projects in the name of achieving targets, Ramesh said he was prepared to help the power sector in getting early clearances, but these companies would have to show greater sensitivity on environmental issues. Those not adhering to local laws, and to environmental and forest issues in the development of projects, will face action. *(TH, 30.06.09)*

Integrative Development

India badly needs private investment in retail. These investments are needed from both Indian and foreign sources, but should initially be restricted to the wholesale segment, said the Confederation of Indian Industry (CII) Northern Region Chairman, Harpal Singh.

Referring to the newly opened Bharti-Walmart 'cash and carry' outlet in Amritsar, he said that private players have more access to investment and, hence, can maintain good storage and refrigeration systems required to store perishable items. Moreover, they can provide access to products from distant markets, such as fish from South India and fruits from other countries, he said. *(BL, 15.06.09)*

Intentions to Actuals

Undeterred by global economic crisis, Indian firms mostly in steel and electrical equipment sectors, proposed investment of Rs 99,958 crore in January.

However, economists are sceptical about these figures. Financial rating firm CRISIL's Chief Economist D K Joshi felt the translation of the investment intentions into real projects would depend on the global economy. "These are only proposed investments. It is reflection of intentions. During the current economic scenario to change the intentions into actuals… it depends how the global downturn behaves in the coming months", Joshi said. *(BS, 11.05.09)*

India Strides Past China

India will have a gross domestic product (GDP) growth that is higher than that of China in the next few years, said Oxus Research and Investment Chairman, Surjit Bhalla in his address to delegates at the fourth global meeting of the Emerging Markets Forum.

Bhalla said that while India will post a GDP growth of more than nine percent, China's growth rate will be below eight percent in the not so distant future. The strides that India has taken in the last few years needs to be taken into consideration. *(IE, 24.06.09)*

EAC Lowers Growth Projection

With slackening demand hitting Indian trade more than anticipated, the Prime Minister's Economic Advisory Council (PMEAC) has lowered India's growth rate forecast to 6.5-7 percent from earlier projection of 7.1 percent for 2008-09 due to "painful adjustments to the abrupt changes in the international economy".

PMEAC chairman said the global crisis affected the Indian economy through export and export-related industries and capital outflows, which took place not because of lower profitability but foreign institutional investors had their obligation to meet back home. The psychology of gloom and doom which essentially pervaded in the industrialised countries was imported to this country. *(FE, 05.04.09)*

Low Inflation but High Prices

The inflation rate has dropped to almost zero, but the prices for food continue to remain high, especially for essentials such as rice, sugar and pulses. The prices of what is being put on your table actually reflects the demand-supply situation globally. Prices of rice and all pulses have increased though wheat prices, however, have been stable.

Sugar prices have soared while edible oil prices have shown a declining trend in line with the global market. Vegetable oil prices began their downslide mainly after crude oil rates crashed. *(BL, 03.04.09)*

Development Strategies Still Matter

– Yoginder K Alagh*

We need to move away from intellectual orthodoxy in response to the global economic turmoil

Our Planning Commission is good, as good as the one I served for, with persons like Sukhomoy Chakravarti and the ones I served with, like Abid Hussain, Raja Chelliah and Hiten Bhaiyya. But jokes apart, the 11th Plan is a good document. Many of its chapters are technically good. But, sometimes they do not hang together and there are no larger frameworks, with some numbers in different portions actually contradicting each other. Its production and some of its technicalities are outsourced and the novelty is attractive.

What's wrong in it? This money belongs to them. All this is public welfare schemes' money.

Also there is an overarching ideology behind them which comes from the UPA and Sonia Gandhi's National Advisory Council, which lends coherence. The section on agriculture and rural development is based on critiques of the mistakes of the 1990s and work done on them. These essentials must continue.

India and the world have gone through tumultuous times in the last two years. But we have protected ourselves from the worst ravages of the meltdown. The jury is still out on whether that was on account of momentum or strategy, with some like this column arguing that quicker, more coherent responses could have been possible. It will be a mistake though to believe that all that is required now is private research agencies to giving fact finding reports on sectors and regions.

This mindset comes from a strong ideological position that development planning as a strategy was wrong. Treatises by government economists denying the growth of the eighties (a decade, one said, was without 'vision' and so on), facile critiques of the National Planning Committee chaired by Nehru (to build up the case of alternate visions) are all interesting pieces of writing but have not been subjected to any serious professional scrutiny. None of these approaches, for example, were able to articulate the perception that India was growing fast from the 1980s. Apart from some Indian economists like Nagaraj, Sebastian Morris, Arvind Virmani and your columnist, this aspect was articulated largely by economists working outside India.

These economists working outside India were from the Brettenwoods institutions and had a largely coloured and jaundiced view of policy formulation in India. Alternately they reflected perceptions on India in their country of residence. For example some of the most severe critiques of India have emerged from liberal friends from the Democratic or Labour Party.

Remember Selig Harrisson and the factual inaccuracies abundant in Francine Frankel. Okay, if you believe...that good governance is an Anglo Saxon monopoly. A very astute Canadian friend recently startled me by saying that Indian film makers in his country, very critical of India were never a part of the critical social discourse there. Ditto for economists leaving aside honourable exceptions.

The upshot of the story is that there is a genuine need for a debate on development strategy for India. It is rubbish to say that those who want it do not see the merits of market-based reform. But strategic development policy approaches are on the agenda and in this column we will chip away at them. These relate, among others to making agriculture grow faster in an uncertain world, open economy macro strategies, technology policies for industry in a globalising world, organisational systems for public sector functioning and newer institutions with mixes of public and private initiatives, the South Asian region, and larger questions of energy and water. These policies need to be integrated with the questioning being raised on institutions all over the world. It's not going to happen if the establishment in India is wedded as it is to its own grooves and its global friends now in disarray.

The inability of any ranking Indian authority to comment intelligently on Obama's America or the intellectual turmoil in Europe and the propensity of the Delhi intellectual establishment to stick to its earlier interlocutors is full of bathos. But pathetic as it is, it also stops us from reinventing our future, apart from reducing our influence in the region and the world. That has to change as we get out of another election.

* *Former Union Minister. The article appeared in the Financial Express, on May 08, 2009.*

India Shows us the Curse of 'Black Money'

– Raymond Baker*

www.wordpress.com

Trade mispricing is the driving force behind most of illicit capital exiting developing countries

India's opposition party leader L K Advani sparked a political conflagration with pre-election campaign remarks that India was losing tens of billions of dollars each year in illicit financial outflows, or "black money". He asserted that the National Democratic Alliance would vigorously pursue recovery of these lost assets if voted into power. With the rolling election now in progress, the issue of India's missing billions has grown progressively thornier, as both sides vie to take the moral high ground.

Whatever the outcome of the election, India's problem has broader implications both for the developing world and for efforts by the Group of 20 developed and developing nations to craft an effective post-crisis economic plan for the global financial system.

In his discussion of black money, Advani cited our estimates of illicit capital flight, which suggest total illicit outflows from the developing world of US$1,000bn a year. India ranked fifth highest at US$22bn-US$27bn a year, coming in behind Russia (US$32bn- US$38bn), Mexico (US$41bn-US$46bn), Saudi Arabia (US$54bn-US$55bn) and China (US$233bn-US$289bn).

Mainland China's massive outflows were predominantly the result of trade mispricing – a common practice whereby multinational corporations manipulate figures on commerce and earnings to minimise tax liabilities. A popular means of tax evasion for companies, trade mispricing is the driving force behind most of the illicit capital exiting developing countries.

Second-ranked Saudi Arabia and fourth-ranked Russia were exceptions to the trade mispricing rule because of their status as oil exporters, oil being difficult to misprice. The proceeds of criminal activity, corruption and corporate tax evasion, these flows are clandestine in nature and usually end up in financial centres featuring low regulation and high secrecy. This makes it tricky to study illicit financial flows.

India is the latest of several nations to raise the alarm about illicit capital flight. Following high-profile scandals involving Liechtenstein and Switzerland, the Group of 20 nations has demanded greater co-operation in tackling the shadow financial system. Made up of tax havens, jurisdictions allowing secrecy, disguised corporations, anonymous trust accounts, fake foundations and assorted money-laundering mechanisms, it is designed to move money and obscure its sources.

What have thus far remained absent are the concrete reforms needed to dismantle this shadowy network and enforce greater transparency and accountability in the global financial system. The G20 is poised to accept the OECD standard for exchange of tax information, a well-meaning but weak approach to the problem. While the much-publicised post-G20 arrangements by several havens to sign tax information exchange agreements are welcomed, these agreements are extraordinarily cumbersome. The onus remains on the requesting nation to prove that the information sought is "foreseeably relevant" to suspected crime or tax evasion.

Furthermore, havens and jurisdictions supporting secrecy are not required to provide information they do not normally collect. Under the OECD standard, all elements of the global shadow financial system can remain in place.

What needs to happen now is for the G20 to broaden its dialogue on information exchange agreements, international co-operation and international financial protocols. Most effective in curtailing the massive illicit outflows from developing countries would be a requirement for automatic cross-border exchange of tax information on personal and business accounts and country-by-country reporting of sales, profits and taxes paid by multinationals.

The global recession is expected to have a severe impact on developing economies and undo years of poverty alleviation efforts and economic gains. The desire to offset this predicted impact is sincere. But until efforts are made to dismantle the shadow financial system and mandate more co-operative and rigorous reporting, success will remain as elusive as India's missing black money. India has shown that this issue resonates with voters. Politicians in other developing country democracies would be wise to take note.

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* *Director of Global Financial Integrity. Abridged from an article that appeared in the Financial Times, on April 24, 2009.*

Bottlenecks in T&D

Trade & Development (T&D) bottlenecks are expected to hamper the Centre's ambitious target to achieve 78,575 MW of power capacity during the Eleventh Plan period. Unless there is a robust transmission and distribution infrastructure in place, it is difficult for the government to woo big ticket investments from the private players, who are looking at major role to play in the T&D sector.

To attract and facilitate private participation in a big way, it requires a well-structured project identification and selection process in place. To make private participation more successful, it is also imperative for the government to assign risks to those who can handle them best, the analysis added. *(FE, 07.06.09)*

Separate Governance Code

A report by the Committee on Financial Sector Assessment, appointed by the Reserve Bank of India (RBI) and the government said, "It is recommended that a separate corporate governance code for unlisted companies may be brought under the Companies Act, which takes into account the interests of stakeholders in such companies".

There is also a need for enhancing the focus on unlisted companies to strengthen the overall system, said the committee. "The role and responsibilities of the ministry of corporate affairs may be crystallised in the Companies Act itself, especially in the case of mergers and amalgamations", the report added. *(FE, 07.04.09)*

Upgraded Growth Forecast

The OECD, a club of rich nations (30) raised India's growth forecast to 5.9 percent for 2009. "With the gradual recovery of the global economy and easier financial conditions, growth is projected to gradually regain momentum", said OECD.

The report said, "The new government will face the need to restore fiscal discipline, speed up structural reform and increase sales of public sector assets". The report further said the extent of the deterioration in the fiscal position prior to the slowdown has reduced the scope for "discretionary fiscal policy action". *(BS, 24.06.09)*

Single handed Regulation

Indian retail sector should be governed by a single central authority that not only makes policies but ensures their proper implementation instead of the current practice of multiple authorities, according to Associated Chambers of Commerce and Industry of India (Assocham).

A survey by the chamber revealed that over 95 percent of organised retailers have opposed retail sector being jointly regulated by the ministries of Commerce and Industry and Consumer Affairs.

Assocham said multiple governance agencies in the sector have caused confusion which needs to be eradicated. While the Department of Commerce is responsible for making policies for retailing, their implementation is watched under the Consumer Affairs Ministry. This causes distortions and ambiguities in growth of retail. The report suggests the government to make a comprehensive 'National Retail Policy' under which retailing should be facilitated with only one nodal agency. *(BL, 03.05.09)*

Consumer Friendly Laws

India has been ranked as the country with the world's most consumer friendly intellectual property (IP) laws since its copyright regulations allow citizens great freedom to access and utilise information for educational and development purposes. This emerged in a study of 16 countries undertaken by the Malaysia-based Consumers International, which calls itself the "world's only global consumer advocacy body".

The study praises India's Copyright Act as being "a relatively balanced instrument that recognises the interests of consumers". It points out that "neither has India rushed to accede to the World Intellectual Property Organisation (WIPO) Copyright Treaty". *(ET, 07.05.09)*

Growth Projections by WB

The World Bank (WB) has projected an eight percent growth for India in 2010, which will make it the fastest-growing economy for the first time according to its Global Development Finance Report.

The report calls on governments around the world to be vigilant when drawing up strategies to reverse the recent expansionary monetary and fiscal policies once the world economy takes off.

The bank has urged rich countries to boost the flow of credit to developing nations to help speed up economic recovery. Since global growth will only return to its full potential by 2011, the gap between actual and potential output, unemployment and disinflationary pressures continue to build, the report adds. *(ET, 23.06.09)*

Energy Shortage

"India will continue to face both energy and peak shortages in 2009-10", according to the Load Generation Balance Report for 2009-10 released by Central Electricity Authority (CEA). The eastern region will be surplus in energy while all other regions will face energy shortage. The peak shortage will prevail in all regions varying from 6.3 percent in the eastern region to 15. 5 percent in the northern region.

...No coal in thermal power stations. Naxals and terrorists have taken away explosives meant for mining.

According to CEA, there will be surplus energy in northern region states having predominantly hydro systems during the monsoon months while shortage conditions would prevail during winters. States with hydel power will be surplus in energy during monsoon period, while they will face severe shortage conditions during the winter low flow months when the generation from hydro schemes dwindles to the minimum. *(FE, 04.05.09)*

Resurging Asian Economies

Asian economies may be the first to emerge from the global crisis because the region's banks hold fewer toxic assets than lenders elsewhere, said Zhao Xiaoyu, vice-president of the Asian Development Bank (ADB). Zhao said European and American financial institutions are selling valuable Asian assets to get hold of cash and improve their balance sheets.

ADB predicts that economies in Asia excluding Japan will grow 3.4 percent in 2009 and six percent in 2010. ADB report said, improving trade finance is one of the keys to an early recovery in the region. The financial crisis has prompted banks around the world to reduce lending to emerging markets and cut credit lines to importers and exporters.

(Livemint.com, 10.04.09)

Stress Stressing Treasury

Work-related ailments like heart diseases, strokes and diabetes will likely cost India's exchequer around US$160bn during 2009-15, an industry lobby study jointly prepared by Assocham and PricewaterhouseCoopers (PwC).

Though India is a fast-developing country, it is yet to create facilities to mitigate tension and high blood pressure from work-related stress, which often leads to cardiovascular diseases, says the report.

According to the report, to prevent chronic diseases, Indians should reduce tobacco intake, eat healthier diet and exercise regularly.

(BS, 10.05.09)

Babudom – A Curse

In a damning judgement on the babus, the Political and Economic Risk Consultancy (PERC), which released the survey report said, "India's suffocating bureaucracy was ranked the least efficient" and virtually slammed babudom as India's biggest curse where working with the country's civil servants was a "slow and painful" process.

"They are a power centre in their own right at both the national and state levels, and are extremely resistant to reforms that affect them or the way they go about their duties", PERC concluded.

(ET, 04.06.09)

Falling Standards in the 'August Houses'

"The unseemly behaviour of people's representatives in the 'August Houses' and their unethical misdemeanour are a cause for high concern", says the Citizens Report on Governance and Development 2008-09 by the National Social Watch Coalition. The performance of the 14th Lok Sabha as it comes to an end is a telling tale on the "falling standards", according to the report.

The report says that there is not a single session during these two years that has not lost valuable man-hours on account of unruly incidents such as slogan-shouting, walkouts and boycotts. The year 2008 even witnessed the virtual abrogation of a whole session of Parliament. The report points to a "new high" in the corruption and criminalisation of legislators witnessed in the cash-for-vote scam.

(TH, 07.04.09)

Unstable Policy Regime

According to the 2009 Ernst and Young (E&Y) Business Risk Report, the continued instability in policy regime makes the business scenario uncertain for national and international oil companies.

"A fragmented energy policy creates ambiguity, forcing oil and gas companies to repeatedly make decisions in uncertain environment and deters long-term planning", the report said.

It said the oil and gas sector has been impacted globally by the economic downturn, which has created new risks for the industry threatening the near-term survival and prospects of a number of oil and gas companies.

(TH, 25.06.09)

Redefined Employment Strategy

According to a report 'The Challenge of Employment in India – An Informal Economy Perspective', the slowdown should not be blamed for the lack of jobs, instead rapid growth of the past decades should be blamed.

The Indian economy's rapid expansion has actually widened inequality, shrunk job opportunities and reduced wages, according to the report. The report highlights structural weaknesses in India's labour market, such as illiteracy and lack of skill development etc.

(Livemint.com, 09.05.09)

Poor Performers

Performance of celebrities from business, sports, and film, as parliamentarians has been disappointing: in fact, their track record has been "abysmally poor" as far as contribution to parliamentary democracy is concerned, according to a report by National Social Watch Coalition.

Of the 80,000–odd questions asked in both the Houses, their contribution is not even one percent. Govinda did not attend the Lok Sabha, while Dharmendra and Shyam Benegal did not ask a single question. Hema Malini fared better with 10 percent attendance and asked 179 questions while Bimal Jalan asked just one question; his attendance was 20 percent and was active in debates 10 times.

Vijay Mallya asked 126 questions; his attendance was a poor seven percent. Dara Singh's contribution — 131 questions, zero participation in debates and 14 percent attendance. Navjot Singh Sidhu was uncharacteristically quiet during debates while his attendance was six percent. Jaya Prada and Jaya Bachchan fared the best among the lot. Jaya Prada asked 178 questions and Jaya Bachchan 159, the latter being more active in the debates. *(TH, 12.04.09)*

How much Cash Leaves India?

– Dev Kar *

Global Financial Integrity (GFI) recently published a report entitled 'Illicit Financial Flows from Developing Countries: 2002-2006' as part of a project financed by the Ford Foundation. This report, which was well received by academia, governments and non-governmental organisations, came to be widely discussed in the Indian media. The report found that black money to the tune of US$22.7-US$27.3bn a year has been leaving India over the five-year period, 2002-2006. It should be noted that even the upper range of GFI's estimates likely understates the outflow of black money from India. After all, economic models cannot capture all the channels through which money can be transferred illegally out of a country.

Even the upper range of GFI's estimates likely understates the outflow of black money from India

A few examples will suffice. It is well known that illicit hawala transactions are an important way by which residents can swap the rupee for foreign exchange. A US state department report estimates that hawala transactions in India range between US$13bn and US$17 bn annually, and present a security threat to the country.

Economists capture the outflow of black money in two ways — by estimating outflows that are unrecorded in the country's external accounts and the ways through which residents can accrue foreign exchange abroad by under-invoicing exports and over-invoicing imports. Both these models can show illicit outflows as well as illicit inflows.

Traditionally, economists have tended to take the direction of flows as they are and simply netted out inflows from outflows in a straightforward manner. However, we found the traditional method wanting in a number of ways.

First, it generated large swings from net outflows of black money to net inflows for a large number of countries, whereas one would not expect such outflows to simply turn around without supportive economic policies or a decline in pervasive corruption. That's not how black money behaves in real life. Second, the traditional method also generated some strange regional patterns such as Africa being a net receiver of about US$12bn annually in black money. We, therefore, rejected the traditional method in favour of an approach that looks at outflows and inflows for a country in a much more realistic way.

Instead of taking an "automatic" net position with regard to inflows and outflows in each year, the GFI method looks at how illicit flows behave over the entire five-year period and includes only those outflows that are sufficiently large. According to the GFI approach, illicit flows must meet certain criteria — they must flow out of a country in a persistent manner (at least three outflows within a five-year period) and outflows must be large enough to rule out data problems. Both conditions must hold simultaneously for each country.

Even though, as a result of these conditions, GFI's estimates of illicit flows from developing countries are quite conservative, they have now come to outstrip official development assistance by a factor of 10:1. If for every dollar in official development assistance, an amount of US$10 leaves a developing country through the back door, it is time that both donor and recipient countries adopt policy measures to address the serious long-term implications for poverty alleviation.

Even the upper range of recent estimates likely understates the outflow of black money from the country. We are now studying the absorption of these illicit outflows into offshore financial centres (OFCs), tax havens (most of which are also OFCs), and traditional onshore banks. Available data suggests that deposits in OFCs have been growing very fast; external deposits in the Cayman Islands alone, the largest OFC, has grown from US$722.6bn at the end of 2002 to nearly US$2tn by the end of the first quarter of 2008 — before coming down to US$1.7tn by the end of third quarter 2008 as a result of the global financial crisis.

While all these deposits are not necessarily illicit, a substantial proportion are, given that large transfers of private capital in contravention of foreign exchange controls make those transfers illicit. The stock of illicit money worldwide is huge, given that the Cayman Islands is just one OFC out of a conglomeration of financial institutions engaged in that business. This means that national governments and regulatory agencies of developing countries would not only need to adopt policy measures to stem the outflow of black money, but the G20 as well as international regulatory agencies would also need to make the absorption of black money much more difficult.

* *Lead Economist at Global Financial Integrity, Washington, DC and a Former Senior Economist of the International Monetary Fund.* *Abridged from an article that appeared in the Live Mint on April 30, 2009.*

Bigger does not mean Better

– Kaushik Das*

Government is a "negative" concept. If one goes back to history to understand the motive for the formation of the government, it becomes clear that it was built by the public primarily to protect and provide justice to the public against unlawful acts such as external aggression, theft, rape and vandalism. The government was, therefore, not envisaged to be "positive" in its role but to operate as a passive body — to only weed out or to prevent negative acts in a civil society, under the rule of law.

The only other crucial role of the government, apart from protecting and providing law and justice to its citizens, was the provision of public goods through the collection of taxes. All other goods and services were expected to be provided by the forces of the free market, operating under the universal doctrines of division of labour and knowledge.

At this point, it should be noted that the government does not have its own source of income. All the expenditure of the government has to be funded through taxes collected from citizens. If the state has to spend more and more on its citizens, it has to increase taxes from the already high tax burden to fund its additional expenditure. But given the fact that raising taxes is politically suicidal, the government funds additional expenditures by resorting to borrowing money by issuing bonds or by printing money. The result is inflation and the crowding out of private investments, which is a net deadweight loss for society.

What some section of society gains due to the seemingly benevolent acts of the government gets more than negated by the ill effects of running fiscal deficits and inflation. Inflation is a form of tax: What the government gives with one hand, it takes away from the other.

In this context, it is interesting to note that wherever there is intense market competition, there is no inflation. Prices of mobile phones, DVD players, television sets and airline tickets have been falling over the years due to cut-throat competition in these sectors, thus benefiting consumers. Meanwhile, wherever there is a government monopoly, there is inflation, reducing the real income of citizens and leaving them worse off.

Moreover, the government running state-owned enterprises with public money is a sheer waste of resources. One small example can make this point clear. Suppose the government collects Rs 100 as taxes from its citizens to provide protection, law and justice and public goods to them. Now, say the government spends Rs 40 out of this tax money to run the state-owned enterprises. This means that Rs40 less is available for the core functions of the government, which will never be compensated by the private companies due to free-rider problems.

A bloated government only hinders development, impeding free and competitive markets

But if the government did not run these state-owned enterprises, then the private entities would have gladly come and filled the void. Therefore, the government trying to do more and more with limited tax money means that we as citizens will get fewer and fewer benefits. One cannot expect to get great security from the state if the government is using the limited tax resources in certain fields where private people would have invested gladly.

One should remember that the institution of government is not immune from the principle of diminishing marginal utility. With every additional increase in the unit of the government, the utility starts reducing; and after a point, a big government just turns out to be more of disutility than utility. So, it becomes clear that if citizens want an effective government, they have to demand a smaller government. In other words, so far as the institution of government is concerned, people should appreciate that "less is more".

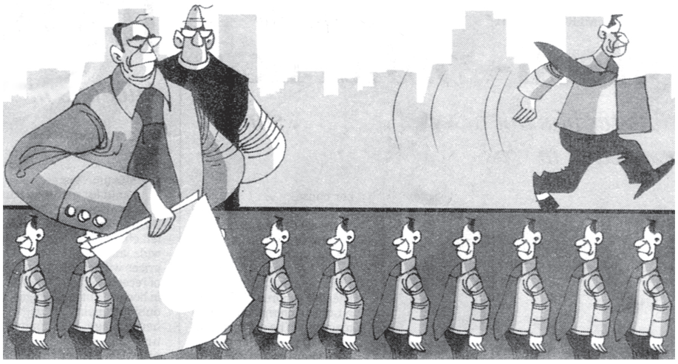
So, wealth generation or development is not a state subject; rather, it is clearly a market subject. Put simply, development requires private saving, private investment and entrepreneurs working under the forces of free market competition – not under the umbrella of a big welfare state.

* *An economist with Kotak Mahindra Bank. Abridged from an article that apperaed in Live Mint, on June 22, 2009.*

Getting the Right People

– Jamini Bhagwati*

The recent general election results have provided continuity and stability needed for India to pursue its development goals. However, niggling doubts have been expressed about our collective will to pursue wide-ranging reforms. Although Indian decision-makers are probably well aware of the many prescriptive recommendations and the political economy factors which impede development, it is still tempting to make suggestions for improvements.



Business Standard

With reforms hard to come by, having competent people man discrete projects may be the best option

Clearly, systemic improvements are needed for far-reaching and sustainable change. Appointing able technocrats and managers can make a tangible difference provided they are given adequate elbowroom. For instance, E Sreedharan had a lot to do with the successful completion of the Delhi Metro project. One of the principal bottlenecks for infrastructure projects is land acquisition. This must have been equally true for the Delhi Metro but it got done reasonably quickly and the Metro is now expanding towards Gurgaon and Noida.

More generally in the infrastructure sector, we could appoint technocrat managers to implement specific projects on a build-operate-turnover (BOT) basis. Biographies of decision-makers and historical studies are replete with examples of how many important achievements were based on the efforts of individuals or small groups. It follows that while we make every effort towards systemic reforms, it is important that we select the right project managers and empower them.

On a separate note, it is to be expected that some of our brightest students will continue to go abroad for studies and many of them will settle down in developed countries. It is also evident that additional avenues for well-paid employment would open up over time as the economy grows. In the interim, we should be able to provide adequate seats for technical and management studies on a cost-plus basis.

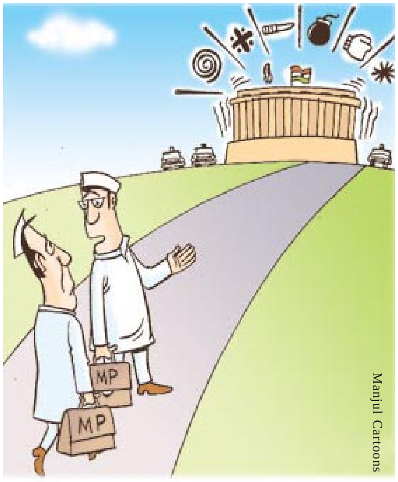
In the decades immediately after independence India chalked up several achievements in building infrastructure, steel plants and setting up institutions of higher learning and technical excellence. Some prominent examples are the Damodar Valley Corporation, Bhakra Nangal and Nagarjuna Sagar dams, Bhabha Atomic Research Centre (BARC), All India Institute of Medical Sciences (AIIMS) and the IITs. Public opinion is divided about the cost at which these dams and institutions were set up and the continued need to retain them in the public sector.

More recently, power projects, such as Dabhol and long-established research institutions have been criticised respectively for cost overruns, delays in completion and descent into mediocrity. To build a culture of honest implementation as distinct from seeking perfection in policymaking we need to publicly fete and lionise those who implement major projects and not just those who lay the foundation stones. Everyone remembers Homi Bhabha since BARC is named after him but there is much less name recognition of those who implemented major infrastructure or educational projects in India.

To summarise, since it is difficult to get the ideal reform packages through, getting the right people to execute discrete projects may be the next best alternative. The right people could be selected by multi-disciplinary teams including government and private sector representatives. Thereafter, it is crucial to hold the same team or a sub-group accountable for implementation. Obviously, this would not solve our widespread public health or primary education problems.

However, any additional infrastructure or capacity in the health/education sectors which does not place a burden on government finances should be welcome. This would be more helpful than yet another set of recommendations on macro-economic reforms or faster liberalisation of the financial sector. For instance, proposals have been made about education and food vouchers for the socially and economically disadvantaged. The next step could be to put projects together in these two areas.

* *Ambassador of India to the European Union, Belgium and Luxembourg. Abridged from an article that appeared in the Business Standard, on June 19, 2009.*



Let's go and debate issues... in some news channel studio

Food Security Law

The Centre, which is currently discussing with states and experts the proposed National Food Security Act, has estimated that the subsidy bill will be around Rs 29,000 crore to cover 6.59 crore families below poverty line (BPL), if they are given 25 kg of rice or wheat each month at Rs 3 per kg.

The Centre had told states that it might not guarantee cheaper food grains to the 11.52 crore above poverty line (APL) families if the proposed law is enacted, as it would require 320 lakh tonne of grains every year for the BPL families. The food and agriculture minister said that the food subsidy bill might not increase even if the promise of providing 25 kg of rice or wheat to the poor at Rs 3 a kg is implemented. *(FE, 17.06.09)*

Checkmate!!

Bowing to public sentiment, the government for the first time said it will make a new law for mandatory declaration of assets by Supreme Court and high court judges. The law minister said the judiciary appeared prepared to declare assets provided there were "adequate safeguards".

The Supreme Court had refused to accept a Central Information Commission ruling which had asked it to furnish details under the Right to Information (RTI). The Supreme Court challenged the ruling in the Delhi High Court and a verdict is expected soon. The Law Ministry was working on a separate bill to set up a mechanism for probing cases of corruption against judges, since presently there was no provision "short of impeachment".

(HT, 26.06.09)

New Chapter in the Book

In a move aimed at forging consensus and saving time, maritime regulator, Director General of Shipping (DGS) has suggested the long-pending Shipping Trade Practices Bill be included as a new chapter in an existing law. The regulator's suggestion is seen as a bid for the consensus among stakeholders and will help the new government frame the law soon.

The Bill aims at more transparency in container freight charges to promote competition and lower costs without actually regulating prices. The existing draft says service providers will have to be registered in India to be able to do business in the country. They will also have to display their fees – including a break down of costs – either on their premises or web site.

(Livemint.com, 19.05.09)

Bottlenecks to Implementation

The enactment of Collection of Statistics Bill, 2008, which makes data compliance compulsory and defaults punishable, may have to wait for some more time. The Bill that replaces Collection of Statistics Act, 1953, has hit a roadblock with state governments failing to respond to the draft guidelines formulated by the Ministry of Statistics and Programme Implementation (MOSPI).

The Collection of Statistics Bill, 2008, passed by both the houses seeks to empower state agencies to search companies for data, and penalise company executives who fail to submit required data in a timely manner. The department has sent draft guidelines to all state governments and once there is a response, the final guidelines will be drafted before enacting the Bill. *(ET, 11.04.09)*

Good Governance

The new Companies Bill has made it mandatory for firms to adopt the first two secretarial standards (SS) issued by the Institute of Company Secretaries of India (ICSI). The institute has come up with tenth secretarial standard that deals with board's report, wants the government to make all the standards mandatory for companies. The best-governed companies have been following these standards voluntarily as a good governance measure.

The new companies bill that has been tabled in Parliament says, "every company shall observe such secretarial standards as may be prescribed with respect to general and board meeting" under clause 107(10). SS1 and SS2 deal with annual general meetings and board meetings.

(BS, 02.04.09)

New Bill Likely

The Clinical Establishment Bill, which makes display of licences in clinics mandatory, is expected to be passed in the next session of Parliament, Dental Council of India President and Padma Bhushan award winner Brigadier Anil Kohli said.

"After a lot of discussions and deliberations the documents were sent to the Union Health Ministry, which had studied it and tabled in Parliament. This will help in eliminating the menace of quacks operating the clinics and ensure proper treatment'', he added. Dr Kohli said the Centre should also make mandatory, appointing a dentist in all primary health centres in the country to provide treatment to people in rural areas. *(webindia123.com, 10.04.09)*

New Legislative Teeth

Finally the Ministry of Corporate Affairs (MCA) has decided to recognise the role and powers of serious fraud investigation office (SFIO) in the revised Companies Bill. 50-60 new posts have been sanctioned thus providing it with the much-required legislative teeth. Currently, SFIO does not find any mention in the Companies Act, 1956.

With the number and magnitude of corporate frauds increasing, the Vepa Kamesam Committee has also suggested the ministry to give SFIO the power to collect evidence from abroad through Letters Rogatory. A Letters Rogatory is a formal request from a court to a foreign court for judicial assistance. *(FE, 25.06.09)*

Model Code of Conduct

Nearly half of Kerala's Plan allocation for 2008-09 would go untouched, thanks to the model code of conduct that could give Kerala the dubious distinction of leaving the largest unutilised balance by a state for any fiscal year. The trouble stems from the decentralised model of Plan utilisation practiced by the state.

Almost 40 percent of the Rs 7,700-crore Plan funds are earmarked for civic bodies. But the civic bodies are simply not equipped to take on such huge expenditure at a fast clip. The only "relief" for civic bodies is that expenditure for housing schemes were provided a 15 percent carry forward option. But here too, the provision is for expenditure in works accounts. *(FE, 03.04.09)*

Increased Transparency

Mega projects of the Chandigarh Administration have come under the scanner of the Home Ministry. The Home Ministry's directive will affect acquisition of more than 150 acres, worth over Rs 33,750 crore. This scrutiny has put on hold further land acquisitions and instructed the administration to conduct a special audit of these projects to assess the transparency of the process followed in allotting government properties.

These projects are already under investigation by the Central Vigilance Commission. Manimajra Farmers' Welfare and Environment Protection Society President, H S Johl said, "the special audit will bring transparency in the working of the Administration, which had been giving a raw deal to the farmers by implementing anti-people policies". There has been a demand of an independent, unbiased investigation into the land acquisition. *(TH, 10.04.09)*

Finishing Unfinished Task

Shaken by the swine flu pandemic, the Maharashtra government has decided to revisit an unfinished task. The government will soon set up a committee to draft legislation to regulate the state's poultry industry which has been badly hit since the outbreak of bird flu in 2006.

The government has yet to make up its mind over formulating a separate Act to regulate the piggeries. The proposed Act is expected to provide for registration of the poultry units and their breeding farms. It may also give search and visit rights to the government officials.

(ET, 20.05.09)

Jobs for Social Uplift

Without leaving job creation to market forces, India needs to grow at nine percent consistently for the next eight years to achieve near-full employment by 2017. The country will need policies with focus on unorganised sectors, employing 94-98 percent of the workforce.

The commission, headed by noted economist Arjun Sengupta, said that there is also a need of well-designed set of policies and programmes to be adopted and implemented. The share of informal workers in the workforce is not likely to decline hence, the problems of quality employment will continue to persist.

There has been very little expansion in employment and enhancement in earning capacity of the poor and vulnerable section of the population. *(BS, 01.05.09)*

Key to Revival

Democracies have a far better chance of sustaining economic reform than one-party states, says Prime Minister Manmohan Singh. He has pressed the long-term success of the world's largest democracy over the potential fragility of the fastest growing large economy under communist party rule.

He said that "our system is slow to move but I am confident that once decisions are taken they are going to be far more durable". Singh warned against protectionism saying that withdrawal of capital resources from developing countries by large banking institutions was worrisome.

(FT, 01.04.09)

Seamless Marriage

The Manmohan Singh government, which is expected to earmark over Rs 50,000 crore for the right to food programme in the coming budget, has already completed preliminary work on refashioning the food security system.

Government officials said the Centre would be in a position to clear the Food Security Act, statutorily guaranteeing 25 kgs of food grain to the neediest consumers at a price of Rs 3 per kg, by early 2010. A seamless marriage of current realities and the provisions of the proposed legislation would also mean smoothing out the existing wrinkles in food grain availability and accessibility.

(ET, 26.06.09)

Tough Balancing Act

Indian government has laid out plans for a wave of market-oriented economic reforms and a simultaneous push to improve the welfare of the poor – a tough balancing act that could strain the capacity of the bloated, sluggish state. The outline of the policy priorities came out in an address by President Pratibha Patil.

Faced with slowing economic growth and a ballooning fiscal deficit, Patil said the government intended to accelerate growth and "steadfastly observe fiscal responsibility". The government would expand welfare programmes, including a rural employment generation scheme, low-cost housing schemes, and a food security law that would ensure low-cost food grains to the poor. The market-oriented programmes are expected to be revived. *(FT, 05.06.09)*

CAT in Action

Justice Arijit Pasayat is gearing up for his new responsibility as the first chairman of the Competition Appellate Tribunal (CAT), a forum which will hear appeals against orders of the Competition Commission of India (CCI). According to him, the ultimate goal of competition law in the country is to ensure that there is free and fair competition in the market and that the consumer is benefited.

Unlike in the case of courts, the matters that will come up before CCI and CAT would be complex in nature and bitterly fought. The stakes involved would be high in these cases. So, the possibility of the Commission and the Tribunal getting overburdened with cases are unlikely.

The Competition Act is an anti-trust statute. There are other statutes in the country, which deal with consumer protection. Therefore, overlap is bound to happen but with time, these issues would be settled.

(ET, 22.05.09)

Watchdog in Steel Sector

Alleging the government of distorting competition in the steel sector, a CCI-sponsored study has suggested the competition watchdog should investigate the Hot Rolling (HR) coil industry, which is dominated by a few top producers.

The study prepared by Indicus Analytics said, "The CCI should investigate and take a view on how to deal with potential anti-competitive behaviour in one segment of the industry ... the HR coil segment is quite apt since it has high concentration level". HR coils are a vital steel input for consumer industries like automobiles.

The study further added that the CCI should also probe in captive mining and priority allocation of mines to some players, which is an indirect means of subsidisation.

(FE, 28.04.09)

Blessed Alliances

All mega mergers and corporate restructuring deals in the country will soon require the competition regulator's approval as the government has set a three-month deadline for introducing such a regulation.

Once enforced, competition law provisions on mergers would require all mega deals – domestic, cross-border and totally offshore – to seek the approval of CCI. The regulator can ask the parties involved to modify or keep certain businesses out of the deal to ensure fair competition in the market.

The competition regulator will scrutinise big transactions only as per the deal size prescribed in the law. Different thresholds have been prescribed for individual and group companies depending on their exposure to domestic and overseas markets. *(ET, 08.06.09)*

Perseverance Pays

After a long wait of five years, India's official anti-monopoly body, the CCI, would finally become operational. Sections three and four of the Competition Act were notified by the government earlier to enable CCI to start its enforcement activities.

While section three deals with anti-competitive agreements, section four deals with abuse of dominant position. However, sections five and six dealing with M&As have yet to be notified, as the Commission is still said to be studying the effects of these sections.

An independent body responsible for investigating mergers, market shares and conditions, besides regulating firms, CCI would ultimately replace the Monopolies and Restrictive Trade Practices Commission (MRTPC). MRTPC will continue to deal with pending cases for two years before being dissolved.

(BS, 19.05.09)

CCI Rejects Complaint

CCI has refused to entertain telecom equipment maker Nokia Siemens's complaint alleging non-transparency in BSNL's tender, on the grounds that the firm has not followed the proper procedure to file case with the CCI. This comes on heels of the Delhi High Court dismissing Nokia-Siemens Network's (NSN) petition asking it to file the petition with the regional courts of the areas for which the tenders were floated by the telecom PSU BSNL.

The Finnish telecom equipment maker, according to the CCI sources, did not follow the proper procedure of filing complaint with the CCI and so the competition watchdog will not take up the matter. Also, the application was sent by Nokia Siemens through an e-mail before May 20, 2009, when the government notified sections of CCI Act pertaining to anti-competitive agreements and abuse of dominance. *(BL, 26.05.09)*

Failed SMSes Buzz the Alarm

The investigation arm of MRTPC, the country's anti-trust body, has launched a probe against 10 cellular service providers, including state-owned ones, for allegedly charging customers for Short Message Services (SMSes) that are not delivered. The investigation by the office of the Director General of Investigation & Registration follows a complaint by a customer.

SMSes account for nearly 10 percent of the revenue for mobile service providers. Even a small number of SMSes not delivered but paid for would amount to a large sum given the popularity of the service among the huge subscriber base of 392 million. If investigations indicate "unfair trade practices", a case will be registered against the service providers. *(BS, 06.05.09)*

Whatever form they are in, No Mercy for Cartels

– Augustine Peter*

During times of adversity, the market players might have the temptation to break the rules of the game to stay afloat. Markets can be subjected to manipulation by enterprises in different ways. The most common form of such manipulation is through questionable agreements among competitors – enterprises who must be competing in the market agree not to compete.

This is the case when airlines connecting two city pairs agree on fares to be charged; or when cement manufacturers agree to raise or share the markets. Also, this is the case when the Organisation of the Petroleum Exporting Countries (OPEC) decides to limit production, driving the prices up internationally. The case is no different when contractors collude to bid for public work projects.

Such practices have been termed 'hard core cartelisation' because such agreements bring benefits only to their perpetrators and 'dead weight' losses to all other market players, including competitors and consumers.

The adverse effects of cartels are primarily on consumers. This is through over charging. It has been found that the median cartel overcharge in the past was 17-19 percent for domestic cartels and 30-33 percent for international cartels. Such cartel mark up may vary from time to time. It has also been found by researchers that nearly one third of the cartels studied were able to raise price 200 percent or more above the unit cost of production and distribution. A single international cartel viz. the vitamins cartel overcharged consumers in developing countries alone to the tune of US$1.71bn. Competitors outside the cartel also suffer and they stand the chance of getting eliminated in the whole process.

Cartelisation is more common in concentrated industries. The smaller the number of players, it becomes more easy for them to collude. Homogeneity of products facilitates such collusion. Contestable markets are less prone to cartelisation; when entry and exit are easy and costless, collusive behaviour would not have the desired effect. Regularity and frequency of orders for products or services dealt in by competitors facilitate collusive behaviour on their part.

On the other hand, when orders are lump sum or erratic, collusion does not make business sense. When demand is elastic, collusion cannot be a sustainable proposition because with increased prices more and more consumers would leave the market, making collusive price rise unprofitable for the colluders. Collusion is easy among equals. This is because sharing of the cartel gains is easy when the colluders are of similar market size. This makes oligopolistic markets like cement and civil aviation more prone to cartelisation. In case of 'bid rigging' or 'collusive bidding,' collusion is facilitated in the presence of multi-market contacts because of the increased likelihood of regular supply of order.

'Hard core cartelisation' brings benefits only to their perpetrators and 'dead weight' losses to all other market players, including competitors and consumers

Presence of excess capacity induces cartelisation. This is the reason why cartels are suspected to be more active in times of recession. When rivals are also saddled with excess capacity the price reduction strategy to achieve fuller utilisation of capacity might appear both unattractive and ineffective. Collusion, aimed at keeping prices high enough to cover the costs of unutilised capacity, becomes an attractive proposition, provided the competition watch dog is not making its presence felt.

In India, the MRTPC initiated cases against cement manufacturers, automobile tyre manufacturers and truckers etc. for cartelisation. However, the Commission was not found to be effective due to the inadequacies in its mandate and lack of teeth. This makes the new law, Competition Act, 2002 superior. It defines the term 'cartel', and also endows the CCI with sufficient powers of investigation and also provides for deterrent penalty.

CCI can order penalty to the extent of three times the profit on each of the members of the cartel agreement during the entire period of cartelisation or 10 percent of the turnover of each member of the cartel during the entire period of cartelisation, whichever is higher. CCI also has clear extra-territorial mandate with enabling provisions. The Act also enables it to charge 'lesser penalty' on cartel members who provide 'full, true and vital disclosure' on the cartel.

* *Economic Adviser with the CCI. Abridged from an article that appeared in the Economic Times, on April 09, 2009.*

E-redressal

The Administrative Reforms Commission (ARC) has said that all state governments should emulate the Centralised Public Grievances Redress and Monitoring System (CPGRAMS), which has been launched by the Department of Administrative Reforms and Public Grievances (DAR&PG) in 2007 for receiving, redressing and monitoring public grievances.


www.google.com

Through CPGRAMS one can lodge a grievance 'online' and it enables the person to track his or her grievance being followed up with departments concerned. It also enables the DAR&PG to monitor the grievance. People can access it online through www.pgportal.nic.in.

ARC is of the view that a similar system should be installed at the state and district levels because a decentralised system would benefit a larger number of citizens, on one hand, and also help in improving the effectiveness of field offices, on the other. *(HT, 03.05.09)*

One Piece of the Pie

Inefficiencies in citizen services such as delayed passports or election identity cards or hassles in paying property tax could be a thing of past once the Centre's e-governance model is put in place. Obtaining reimbursement from Employees State Insurance Corp (ESIC) which provides healthcare and insurance services to workers, will be a quick and easy process.

This initiative would be a vast improvement from what currently exists but still it is just one piece of the pie since there is a need for people to embrace the new efficient system fully. E-governance will also tackle the crunch within judiciary system through e-courts developed by the National Informatics Centre (NIC). *(FE, 02.04.09)*

Experiment Comes a Cropper

Delhi *Jal* Board's experiment allowing consumers to apply for water connections online has come a cropper. The concept failed to take off for lack of adequate infrastructure to support the experiment. However, the Board is not willing to give up yet. It is exploring the possibility of introducing the concept at the recently launched *Jeevan* centres, one-stop shops for government-citizen dealings in the Capital.

The water utility had in August 2007 extended to consumers the facility of applying for new water connections online. The move was aimed at making things simpler and saving the consumer from having to make numerous trips to *Jal* Board offices. The Board has been trying to improve its services by allowing consumers to opt for the online process of making applications, tracking their complaints and even making payments. *(TH, 11.04.09)*

Long-Awaited Redemption

E-governance may be the government's long-awaited redemption for the common man. E-governance, if done right, can help rural *Bharat* join mainstream India by bringing them the same knowledge inputs and access.

In simplest form, it will provide all government services through a computer or mobile platform to the common man. This help and much more can now be sought through common service centres (CSCs) – the lowest level of the three-tiered National e-Governance Programme.

At full performance, 100,000 CSCs will be accessed by 600,000 villages and will empower people in rural areas to create their own opportunities so that citizens will not need to migrate from the interiors to the big cities. *(FE, 07.04.09)*

E-acutions – A Problem

Contrary to common belief that Information Technology aids immediate transfer of information, tea brokers operating at Coonoor Tea Trade Association (CTTA) are accusing 100 percent e-auctioning. "Even the CTTA officials do not have details. In the past, we used to have such information a fortnight ahead. Now, we are required to upload the information on the system at the auction hall. But, we are unable to get a wholesome picture of the market even a couple of days before the auction", an auctioneer complained.

They also do not have information on the highest bids received for different grades. There is insufficient information about the bidding progress by name of the buyers. "Compared to the manual outcry auction, the present e-auction poses an information black-out", an auctioneer said. *(BL, 15.05.09)*

Paperless Work

The Ministry of Corporate Affairs (MCA) is planning to introduce e-stamps in lieu of the current stamp paper. Once implemented, it will become simpler for companies to pay the stamp duty electronically, thus saving on time and effort of obtaining the stamps and delivery time of papers to Registrar of Companies.

The ministry would put this plan in place soon and it would be accessible through the MCA-21 portal. MCA 21 is an e-governance mode for companies that comes under the Companies Act, 1956 which is intended to facilitate online filing and access to corporate data on round the clock basis. *(FE, 22.06.09)*

Late Bloomers

India – long considered a digital laggard for its low Internet penetration – is set for explosive growth in web usage. Rapid growth of mobile telephony in India has helped Internet usage to rise by 50 percent. Internet penetration in India is regarded as one of the worst in the world.

Google is working on products in multiple Indian regional languages to enable web users to type in their own language. For people who do not have access to the Internet, Google is also developing a telephone search service. As part of this service, users can telephone a computer that can interpret their requests using voice recognition software and provide answers. *(FT, 07.04.09)*

Extend Capacities, Not Subsidies

– Pradeep S Mehta* and Siddhartha Mitra**

Stop-gap measures such as subsidies and exchange rate management to enhance the marketability of exports, without addressing core issues of efficiency and competitiveness cannot be used repeatedly—medicine that suppresses the symptoms of the disease, without targeting its root cause can ruin the health of the system in the long run.

The emphasis has more often been on superficial tinkering with macroeconomic parameters such as the exchange rate and disbursals such as subsidies, rather than on permanent measures to shore up the supply side

Instead of ringing in changes in infrastructure design and regulation, human capital formation and trade facilitation, the emphasis has been on enabling producers/exporters to meet high costs through subsidies and costly sterilisation of dollar purchases. The increasing incidence of shocks emanating from the world economy makes the use of such an approach to export management more difficult as each crisis calls for a fresh dose of the mentioned expenditures. In short, while the adverse impact of such an approach on the economy's fiscal health is already noticeable, such effects might assume a far more serious magnitude in years to come.

Therefore, it's high time that there is a shift in focus towards long-term capacity building, which in turn leads to a permanent increase in efficiency and help the exporters to compete effectively in the international market, without relying too much on the crutch of government's fiscal support. One major reason that results in inflated production costs for exporters is poor infrastructure.

Reforms that help reduce tariffs in the power sector and increase the magnitude of power generation & distribution are urgently required. Elimination of distortions such as subsidy of household power consumption through inflated industrial tariffs is also the need of the hour.

The aborted agenda of highway reform has to be reactivated to facilitate faster, cheaper and safer transport of inputs and products. Our sea ports have to be brought up to international standards through the use of regulatory mechanisms that promote more competition among these — the associated decrease in costs for freight carrying ships would act as a boost for shipping and, therefore, economic activity around these ports. Obviously, exporters will benefit.

Use of dry ports is essential for a country like India — distances from the nearest sea port are often large and an inhibiting factor for trade, and long boundaries with neighbouring countries often provide considerable, albeit underutilised opportunities for international trade. The new government should put the setting up of such ports on the top of its infrastructure-creation agenda.

Along with improvements in physical infrastructure, major breakthroughs are required in trade facilitation efforts. These include a variety of diverse initiatives—from better information about procedures to more updated, accurate and easily accessible information about non-trade barriers employed by foreign economies to lower time in customs clearance at trading posts. A less myopic approach is, therefore, the need of the hour in this regard.

On the part of the civil society, it's important to realise that responsibility for developing a more enabling business environment for exporters rests with the Centre as well as the state governments. In 2002, the department of commerce notified a new scheme called ASIDE (Assistance to States for Infrastructure Development and Exports) to develop complementary infrastructure for exports, such as export promotion industrial parks, minor ports etc. Thus, state governments now not only have the wherewithal for boosting export related activity but also enough incentives to make efficient use of funds provided through this window.

To conclude, it's true that the central government needs to amend its approach to export management by adopting a series of reform measures, which focus on improving the supply side rather than compensating exporters on a recurring basis for costs enhanced by poor infrastructure. However, to be fair the central government has taken some important steps in this regard, which make the state governments powerful potential agents of the needed infrastructure change.

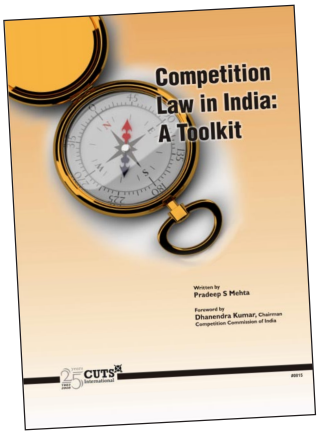
From now on the bouquets or brickbats, for success or failure in leveraging exports, must rain equally on both levels of government.

* *Secretary General, CUTS International.*

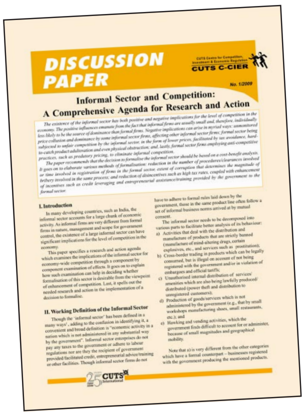
** *Director (Research), CUTS International.*

Abridged from an article that appeared in the Financial Express, on June 30, 2009.

Competition Law in India: *A Toolkit*



This toolkit, researched and compiled by CUTS and customised in the Indian context, is meant to provide a simple and concise handbook on various implementation issues surrounding the Competition Act 2002 (CA02). It provides the definitions, characteristics of and ways to deal with the trade practices which are forbidden by the CA02, which are relevant in the Indian market currently, with practical case studies which can help the readers understand the issues relating to competition in India.



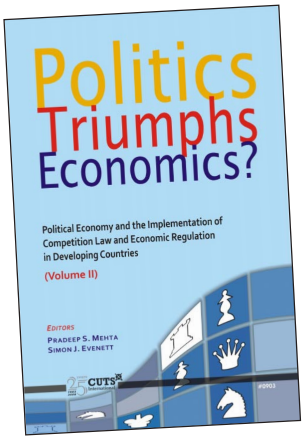
Informal Sector and Competition: A Comprehensive Agenda for Research and Action

The Discussion Paper recommends that the decision to formalise the informal sector should be based on a cost-benefit analysis. It goes on to elaborate various methods of formalisation: reduction in the number of procedures/clearances involved or time involved in registration of firms in the formal sector, extent of corruption that determines the magnitude of bribery involved in the same process; and reduction of disincentives such as high tax rates, coupled with enhancement of incentives such as credit leveraging and entrepreneurial assistance/training provided by the government to the formal sector.

This Discussion Paper can be viewed at:
http://www.cuts-ccier.org/pdf/Informal_Sector_Competition.pdf

Politics Triumphs Economics?

Political Economy and the Implementation of Competition Law and Regulation in Developing Countries (Volume II)



The volume published under the project entitled, 'Competition, Regulation and Development Research Forum (CDRF)' is compilation of nine papers which were presented at the symposium marking the culmination of the research efforts of the 1st research cycle of CDRF. The research papers covered the experiences of a wide range of developing countries as seen mainly through the eyes of developing country authors. Importantly, rigorous analytical techniques were used to draw generalisable policy implications, which were later on also communicated to a vast and heterogeneous audience of stakeholders in a simplified form through policy briefs and online forums.

This Research Volume can be viewed at:
http://www.circ.in/pdf/PoliticsTriumphsEconomics-Vol2.pdf

SOURCES

BL: Business Line, **BS:** Business Standard, **ET:** The Economic Times, **FE:** The Financial Express, **FT:** Financial Times, **HT:** Hindustan Times, **IE:** Indian Express, **ILO:** International Law Office, **TH:** The Hindu, **ToI:** Times of India

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