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"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*

Ambani vs. Ambani: Need for Policy Correction

Rivalry among siblings is as old as the tale of Abel and Cain. Indian history, especially that of businesses families, provide numerous examples of such discord, the most recent being the dispute between Ambani brothers. The dispute concerns the price of natural gas, that has flared into an ugly public rift.

Should the sibling rivalry matter that much to the nation? Actually, it should, since large quantity of gas is available in the Krishna-Godavari (KG) Basin that it is going to affect the nation's fortunes.

Whatever be the outcome of this settlement, we can be assured that there are relevant lessons policymakers and regulators need to learn from this latest episode of sibling rivalry.

As per the claim made by Reliance Natural Resources Limited (RNRL) led by Anil Ambani, Reliance Industries Limited (RIL) headed by Mukesh Ambani had made a

contract to supply gas at US\$2.34 per mmBtu (million metric British thermal unit) for 17 years. However, later RIL asked for a revised rate of US\$4.21 per mmBtu which was approved by the Empowered Group of Ministers (EGoM). There is, therefore, a huge difference in the price approved by the EGoM and that stipulated in the contract.

Another major issue is the adverse impact of the contractual revision on the financial viability of the National Thermal Power Corporation (NTPC), a public sector company, and other power companies. With the price approved by EGoM, RIL has reneged on the agreement to supply gas @ US\$2.34/mmBtu, to NTPC.

The controversy deepens further, with RNRL ceasing to pay charges to RIL for marketing margin, since RIL is involved in exploration, production as well as supply of gas. The issue needs to be addressed by the sector regulatory authority, i.e. the Petroleum and Natural Gas Regulatory Board (PNGRB) which is the mid stream and down stream regulator in the sector.

This sibling rivalry also questions whether pricing of natural resources should be controlled by the government or an independent sector regulator such as the PNGRB? Ideally, the government should function as a catalyst for fair regulation through public-private partnerships (PPPs) rather than an owner with complete discretion. Importantly, the government should also review existing policy so as not to harm the potential investors in the sector and at the same time take care of consumer interest. The Indian regulatory and policy framework in regard to petroleum and natural gas is still evolving – care should be taken to ensure that characteristics such as competitive neutrality, fairness and a tendency to eschew undue interference in the market mechanism are cultivated.



POWER

Leeway for SEZs

Centre Admits Power Deficit

With the entire country faced with a precarious power situation, the government has admitted to a “gap” in the demand and supply position. Countrywide, the demand was 110958 MW against a supply of 97355 MW, a deficit of 13603 MW. Power cuts, violent protests, unscheduled load shedding and blackouts in many parts of the country are likely to continue for some time.

Power generation is not adequate to meet the total requirement and one of the reasons for the shortage is increased demand of electricity outstripping growth generation and capacity addition. *(TH, 05.07.09)*

Huge Investment

The power sector as a whole requires a huge investment and there is a gap of around Rs 500,000 crore in financing the power generation capacity addition projects. For a time bound financial closure of the projects, it is suggested to increase the exposure limit of banks, foreign institutional investors and non-banking companies. To ease the financing crunch, external commercial borrowing by financial institutions may be brought under the automatic route.

Power major NTPC Ltd would float a bulk tender worth Rs 21,000 crore for greenfield capacity addition of 7,260 MW. NTPC is also likely to sign an accord with Reliance Industries Ltd for the supply of KG Basin gas to plants other than Kawas and Gandhar. *(BL, 10.09.09)*

He is Responsible

Gajendra Haldea is the man behind India’s Electricity Act, the model concession agreement for highways and several other critical documents in India’s infrastructure sector. Understandably, many blame the adviser to the deputy chairman of the Planning Commission for holding back various projects.

So, at the CII National Highways Development Conclave, CII National Council on Infrastructure Chairman, Vinayak Chatterjee introduced Haldea saying, “Now, I would welcome the

The commerce ministry is pushing for removal of licensing requirements needed to distribute power to factories, business outsourcing units, software developers and social infrastructure like hospitals and malls located inside Special Economic Zones (SEZs). However, a SEZ developer will have to obtain a licence if power distribution falls outside the zone. This move will help in cutting down the long-drawn licensing requirements needed for obtaining a licence for power distribution.

The guidelines issued by the ministry spelt out norms for building power plants inside the tax free industrial enclaves meant for exports, the guidelines maintained that the developer will have to obtain a distribution licence, as mandated by the Electricity Act of 2003. Uninterrupted power and a state of the art distribution network are crucial to make SEZs lucrative to prospective clients. *(FE, 24.08.09)*



man on whose doorsteps the entire non-performance of the sector (roads rests.” Haldea smiled and the audience was in splits. *(BS, 17.07.09)*

Behind Schedule

At a time when the government is trying hard to add power generation capacity of over 78,000 MW during the current Five-Year Plan, projects of over 45,000 MW currently under construction are running behind schedule. According to Central Electricity Authority (CEA) projects behind schedule include around 35,000 MW of thermal power projects and rest 10,000 MW of hydropower projects.

The government failed to meet the targets for the 9th and 10th plans. In order to meet this shortfall, the government has set up a target of adding around 5,600 MW of fresh power generation capacity by the end of August 2009, out of which over 2,000 MW has already been commissioned so far. *(BS, 18.07.09)*

Mega Power Policy

The new mega power policy may extend excise waiver and import duty exemption to plants planning expansion, benefiting state-run majors such as NTPC and a slew of private players whose existing plans are slated to add extra capacity of around 15000 MW by 2012.

The existing policy allows tax exemption on equipment purchase made by hydel projects of 500 MW and above and thermal projects of 1,000 MW and above. Import of capital goods gets exemption from customs duty, and a waiver of excise duties is available. The new policy would ensure that level playing field is provided for the entire planned capacity of a project and is not restricted only to initial capacity. *(ET, 15.07.09)*

Inflated Power Bills

The Delhi Electricity Regulatory Commission (DERC) is not convinced by distribution company BSES’ justification for the hugely “inflated” bills, which are high only because of “weather conditions” that led to an increase in power consumption. The regulatory body has asked BSES for an explanation.

According to DERC sources, the Commission is unhappy with the discom’s argument. “DERC is just not convinced”. In its reply to the Commission, the discom has written what it has been saying in the media all along – the temperatures were abnormally high this summer and the power consumption rose drastically. The Commission has now decided to ask the discom to submit a detailed analysis of bills of the aggrieved consumers. *(TH, 10.09.09)*

OIL & GAS

Gas Benchmark Index

Targeting a reference price, the central government is finally working towards creating a benchmark index for gas prices. The creation of the proposed gas price index would help develop the gas market and bring clarity in gas pricing for future contracts and consumers. Nodal pipeline company Gas Authority of India Ltd. (GAIL) is conducting a study in consultation with the petroleum ministry to develop the index.

The move comes as a long-drawn battle is on in courts to settle the price at which gas should be sold. The index will be based on the consumer trends of various segments, though there may be many obstacles here. *(ET, 16.07.09)*

Gas Pricing Freedom

Companies like state-run Oil and Natural Gas Corporation (ONGC) and RIL should be given freedom to fix natural gas price that move in tandem with changes in international crude oil prices. The government should give freedom to producers to market their gas provided the price determination is on a transparent basis.

Advocating further liberalisation of gas markets in the country, the former finance secretary, Vijay Kelkar called for improving regulatory regime. He cited the Australian

regulatory model, which has very detailed provisions for pricing, production pipelines, operations, including the tariffs and safety as also enforcement of competition policies to curb potential abuse arising out of possible monopolistic power. Kelkar said to create competitive national gas market, a national gas pipeline grid – NATGAS must be built. *(ET, 24.08.09)*

Age of Nationalisation Over

As the Ambani brothers carry on with their public spat over gas from the Kaveri-Ganga basin, the government rejected a demand from the Left parties to take over the gas fields of RIL. Responding to a demand for nationalising natural resources and assets, Petroleum Minister Murli Deora said: “The age of nationalisation is gone.”

Broadly, members across political spectrum raised five issues: government’s plans to nationalise the gas fields; propriety of a private squabble over national assets; pricing policy of gas, particularly that of the gas from KG basin D-6 fields; regional disparity in distribution of gas; and plans to make a special allocation for Andhra Pradesh where the KG basin is located. *(ET, 07.08.09)*

New LPG Connections

Oil companies will soon be preparing detailed plans to increase the number of cooking gas connections by 55 million, especially

in the rural areas by 2015. Minister of State for Petroleum and Natural Gas said the three companies (Indian Oil Corp, Hindustan Petroleum Corp and Bharat Petroleum Corp) had to prepare a year-wise and state-wise road map for attracting new customers as targeted by the ministry’s vision 2015 paper.

He said if the target of 55 million new customers was met, it would increase the coverage to 75 percent of the country’s population. The focus would be on those states which have very low liquefied petroleum gas (LPG) coverage, so that more rural areas are covered. *(BS, 15.07.09)*

Integrated Energy Policy

The Oil Ministry is proposing an increase in price of natural gas produced by ONGC and Oil India from fields given to them on nomination basis.

The Integrated Energy Policy (IEP) suggests that as the shortage of natural gas was likely to continue, its price and allocation should be “independently regulated on a cost plus basis, including reasonable returns.”

The price of natural gas being charged by public sector undertakings like ONGC and GAIL are not based on cost plus regime. As regards price of gas from KG Basin (D-6), gas fields owned by RIL, are a mix of fixed price and variable component linked to oil prices. *(BS, 01.09.09)*

Cut VAT on Piped Gas

In the wake of bringing 10 cities under the piped gas supply network in the country every month, the 12 percent VAT (value-added tax) on natural gas should be lowered to four percent to facilitate the affordability of piped gas to the consumers, said L Mansingh, chairperson, PNGRB.

The chairman said the proposal has already been submitted to EGoM for their review. To clamp down unfair pricing regime of gas by oil companies, he mooted the idea of unbundling method followed by the US regulating agency, where the producing, transportation and distribution companies cannot venture into each others’ business.

Referring to security threat on the gas pipelines, he said electronic surveillance technologies like supervisory control and data acquisition system will be incorporated across the gas networks to enable precision detection of pilferage or sabotage among the nation-wide pipelines.



(FE, 13.08.09)

COMMUNICATION

Spectrum Watchdog Ruled Out

The Department of Telecom (DoT) has ruled out setting up of an independent regulator to manage spectrum-related issues. Telecom Regulatory Authority of India (TRAI) will give recommendations on the issues and the Wireless Planning Council (WPC) will act as the nodal agency to decide on the allotment and quantum of spectrum to the operators.

However, the DoT would work for strengthening the WPC to empower it legally for monitoring, valuation, pricing, relocation and withdrawal of spectrum to manage the radio waves. If this requires placing the Spectrum Act before Parliament, the DoT will do so. The WPC is currently responsible for regulating and managing spectrum allocation. (FT, 15.07.09)

Broadband Revolution

Rural workers under the National Rural Employment Guarantee Act (NREGA) will now help usher in a broadband revolution in the country. In an innovative and ambitious project, the government has hit upon the idea of tweaking the scheme to lay a 12-lakh km, countrywide optic-fibre network over the next five years.

The proposed network would vest with a newly created National Optic Fibre Authority and would be leased to telecom players to provide broadband connections on a large scale, particularly to villages. The idea

is to give broadband penetration a massive boost and further propel growth in the communications sector as every 10 percent growth in broadband services leads to one percent growth in gross domestic product (GDP). (FE, 16.08.09)

Increased Revenue

With Indian mobile operators adding over one crore subscribers every month, the total mobile service revenue is likely to grow at a compound annual growth rate of 12.5 percent to cross the US\$30bn mark during 2009-13. India would remain the world's second largest wireless market after China in terms of mobile connections.

Mobile market penetration is projected to increase to 63.5 percent in 2013 from 38.7 percent in 2009. The Indian mobile connection market has more than 93 percent pre-paid connections and it is expected to grow to more than 96 percent of the connection base by 2013. (TH, 19.06.09)

Online Grievance Redressal

TRAI is working on an online consumer grievance redress platform that will enable subscribers to lodge their complaints against any service provider through the Internet or an SMS.

The platform will automatically direct the grievance to the particular service provider after which the regulator will set a time for resolution of the problem. The Chairman said,

“The regulator needs to be seen as being effective in addressing consumer-related issues. As of now, there seems to be no real platform where consumers can voice their grievances and be assured of redress. We are looking at setting up an online mechanism that will make it easier for subscribers to get their problems addressed and will also allow us to keep a track of the status of the grievances.” (BL, 05.06.09)

MNP to Miss the Deadline

Subscribers anxiously waiting for mobile number portability (MPN) to begin in September 2009 are in for disappointment as the government is set to miss the deadline by a couple of months due to unpreparedness on operational issues like porting charges, billing and unique routing number.

It was unanimously agreed between operators and DoT that with the present level of preparedness, there was no way that MNP can be implemented in the four metros along with Tamil Nadu, Maharashtra, Karnataka, and Andhra Pradesh by September.

The MNP enables subscribers to retain the mobile number while changing the service provider. TRAI had issued the draft regulations on MNP, which among other things stipulated a 90-day lock-in period for subscribers with an operator before porting. (FE, 14.07.09)

Merger Talks Again

Bharti Airtel and South African telecom major MTN, for a second time extended the deadline for their exclusive talks for a US\$23bn complex cash-cum-stock swap deal, which would create the world's third largest telecom firm by subscriber base. The second consecutive extension has raised concerns among the investor community over the terms of the deal with sources maintaining that MTN shareholders do not seem to be enthused with Bharti's offer and no middle ground seems to have been found yet.

There is speculation that the entire structure of the deal can also be re-worked. Issues like representation on the board and governance structure are also believed to have held up the deal. (FE, 20.08.09)

Inter-operable Boxes

Direct to Home (DTH) operators could be asked to provide inter-operable set-top boxes to their customers with the Competition Commission of India (CCI) seeing *prima facie* merit in a complaint filed by a consumer organisation that it is in violation of competition laws.

There are over 15 million DTH subscribers currently among five private DTH operators — Dish TV, Tata Sky, Reliance Big TV, Sun Direct and Airtel Digital TV. Apart from directing DTH operators to make their boxes inter-operable, the CCI, under Section 27 of Competition Act, 2002, may also penalise them 10 percent of the revenues of the last three financial years. Technical experts say DTH subscribers may be able to switch from their current service providers to new DTH players by installing an add-on device called a transcoder to their set-top boxes. (BS, 10.08.09)



● TRANSPORT

Private Airlines may Lose Rights

Toll Premium may be Cut

The National Highways Authority of India (NHAI) is working on a proposal to scrap the 30 to 35 percent premium on toll charged on highways that bypass cities. NHAI has also suggested that the extra toll that private concessionaires charge for roads on which they have spent between Rs 50 crore and Rs 100 crore should be scrapped. Currently, no toll is charged on roads that cost less than Rs 50 crore to upgrade or construct.

The move will significantly reduce transport costs. Reducing toll to boost traffic flow, therefore, is one solution to the problem. It is not, however, clear whether concessionaires have to be given compensation for a reduction in tariffs or whether they will be compensated by higher traffic volumes. *(BS, 05.08.09)*

Ambitions Maps

The Union Minister for Road, Transport and Highways, Kamal Nath has laid out an ambitious agenda for the National Highways Development Programme (NHDP). The target is to secure an investment of Rs 1,00,000 crore during the next three quarters. As much as Rs 70,000 crore is expected from the private sector. However, the experience with PPPs so far suggests that these objectives are unrealistic. They cannot be realised without drastic improvements in the current policy.

This poor performance is attributed to two factors: the lack of capacity in the public sector to form and manage PPPs; and an inconsistent policy. PPPs are mismanaged at every level starting from project development to the execution of contract. Deficient planning is a major cause of cost overruns in road projects executed through conventional unit-rate contracts. Clarity and consistency are prerequisites for a successful policy. *(ET, 28.07.09)*

Expensive Airports

India's privatised airports are among the most expensive international airports in their category. Delhi has been rated as one of the most expensive and Mumbai among the least expensive airports in an

A new policy on ground-handling services at airports would restrict passenger check-in, baggage screening and refuelling to select specialised players, a move that private airlines have strongly opposed saying this will force them to axe around 8,000 employees engaged in such services.

The government had deferred the policy twice in the face of the resistance, but it could be implemented soon with mounting security concerns. The draft policy allows only three agencies, state-owned Air India, the airport operator (such as Airports Authority of India, GMR and GVK) and a private agency selected through competitive bidding, to do ground handling for airlines. The proposed policy is scheduled for implementation at six metro airports, Delhi, Mumbai, Kolkata, Chennai, Bangalore and Hyderabad. *(ET, 18.08.09)*



apple-to-apple comparison between international airports handling 20 to 35 million passengers annually.

The comparison is for international flights only. The cost includes charges paid by airlines and the fees paid by passengers. As per the findings, Bangalore and Hyderabad are among the most expensive airports for both narrow and wide-body aircraft operations in comparison with airports which handle 2 to 15 million passengers annually. As per the findings, cost at Airport Authority of India-owned Ahmedabad, Kolkata, Chennai airports are the lowest. So is the privatised Cochin airport. *(HT, 19.08.09)*

Greenfield Merchant Airport

India's first greenfield airport to be set up as a joint venture with Changi Airports International (CAI) of Singapore will be ready by 2011-12. The project is set to come up as part of a Rs 10,000-crore airport city in Durgapur. CAI, through its subsidiary, Changi Airports India Pte Ltd, has already picked up a 26 percent stake in Bengal Aerotropolis Projects Ltd (BAPL) which will implement the project, making it the first investment by CAI in an Indian company.

The airport would have the ability to handle Airbus category of aircraft. BAPL hopes to begin construction by 2010. It is slated to be the country's first greenfield merchant airport project. *(TH, 18.07.09)*

National Agency on Road Safety

The government has proposed to set up a National Road Safety and Traffic Management Board to ensure road safety and better traffic management. A draft cabinet note in this regard has been circulated to the ministries and departments concerned seeking their comments.

An act will be passed to facilitate the formation of the board. The proposed bill in this regard also plans to create state level road safety and traffic management boards. *(PTI, 28.07.09)*

Rules for Road Freight Law

In the new draft rules, the penalty to be charged in case of loss of freight was changed from Rs 20 a kg to 12 times the transportation fee. The transport booking companies are against the net worth clause of Rs 20 lakh needed to get a company registered under the Act. The clause says that in case of discrepancies, the licence will first be suspended and then revoked. The transport companies want a fine to be charged.

It aims at regulating the common carriers, limiting their liability, and declaration of the value of goods delivered to them to determine their liability for loss or damage. This Act makes registration of common carriers, who register goods and are the link between the truckers and the persons who get their goods booked, mandatory. *(BS, 13.09.09)*

MIXED BAG

Banking Services for All

A high level committee set up by the Reserve Bank of India (RBI) has recommended to draw up a roadmap to provide banking services, in any form, to every village with a population of over 2,000, at least once a week on a regular basis by March 2011.

State governments were asked to ensure road and digital connectivity to all centres where penetration by the formal banking system is required, expedite use of IT solutions for disbursement of National Rural Employment Guarantee Scheme (NREGS) and social security payments and extend support to banks in the recovery of their dues.

(TH, 25.08.09)

Identity for Pooors

“The Unique Identity Authority of India (UIDIA) is targeting an enrolment of 600 million people in the next four years”, Chairman Nandan Nilekani said. Enrolment will be voluntary in the initial years because the authority does not want to exclude anybody because of the lack of a Unique Identity Number (UIN).

After the sixth year, the number of enrolments are expected to slow down and gradually taper by the tenth year. Nilekani said UIDIA will follow a standardised enrolment process which will include the name, address, date of birth and biometric identification through finger printing.

He added that the objective will be to include infants and school students too. For those with disabilities, the database will include the biometric details of the guardian.

(ET, 10.09.09)

Groundwater Depletion

Four north Indian states – Punjab, Rajasthan, Haryana and Delhi – are depleting at least 30 percent more of their groundwater resources than previously estimated by the government, says US National Aeronautical and Space Administration, or Nasa.

The scientists concluded that groundwater depletion in the region was equivalent to a net, irreplaceable loss of 109bcm, or nearly 20 percent of India’s annual water consumption of 634bcm.

(Livemint.com, 13.09.09)

Another Safety Net on Cards

A new authentication system will soon be in place to provide extra safety to online card transactions. The RBI has made it mandatory for all online card transactions to have an extra level of authentication. For Visa Card users, for example, the new rule would mean they will have to register under the ‘Verified by Visa’ service being offered by their banks. ‘Verified by Visa’ is a new way to add safety when buying online.

Adding a password to the Visa card, ‘Verified by Visa’ ensures that only the cardholder can use the Visa card online. The cardholders need to

set up their ‘Verified by Visa’ password and activate their cards through the issuer. The new system would make unauthorised transactions nearly impossible.

(BL, 15.07.09)

Reservations for Single Regulator

The RBI has reservations about the unified market regulator approach recommended by the Raghuram Rajan Committee report on Financial Sector Reforms. The RBI Governor said that the responsibility for financial stability cannot be fragmented across several regulators; it has to rest unambiguously with a single regulator, and that single regulator optimally is the central bank. And second, there is need for coordination across regulators on a regular basis and for developing a protocol for responding to a crisis situation.

By being the regulator of interest and exchange rate markets, the RBI is in a position to exercise oversight of institutions, markets and products, to monitor market developments and maintain financial stability at the systemic level. This is an arrangement that has stood the test of time and protected our financial stability even in the face of some severe onslaughts.

(BL, 11.09.09)

Lack of Accountability

The government’s decision to conduct a quarterly Cabinet review of infrastructure projects is welcome to the extent that it would bring the tardy pace of implementation into sharper focus. Ever-changing policy, delays in land acquisition, time-consuming clearances, energy linkages for power projects, and skills shortage are largely the reasons why infrastructure projects get delayed.

The key issue is the lack of accountability, both on part of the government agencies involved in project approvals and the private party involved in implementing the project. The government needs to send a strong signal that it wants progress on infrastructure and would not tolerate any subterfuge. But before that, it needs to restore the sanctity of contracts, by respecting contracts and getting the private sector to abide by agreements.

(ET, 07.08.09)

No 50:50 public-private JVs

No equal joint venture (JV) between a private firm and a government company will be allowed in the infrastructure sector under the new PPP guidelines. The new rules also prohibit regulators and government entities such as Port Trust, Airports Authority of India, Railways, NHAI from undertaking construction and management of PPP projects through JVs. This will create a situation where the regulator also acts as a regulated entity in the JV in their area of operation.



The new guidelines bar a 50:50 JV between private and public entities as well as public and public entities, as such shareholding pattern creates confusion over accountability and escapes scrutiny from government agencies.

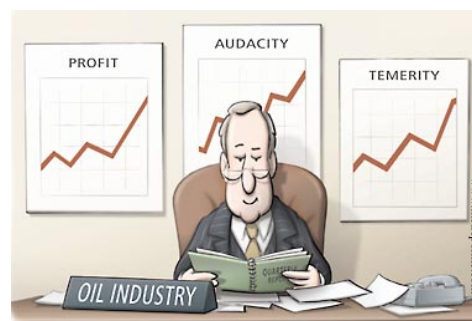
(ET, 10.08.09)

Natural Gas Reforms Key to Energy Security

– Vijay Kelkar*

India is on a “growth turnpike”. Barring the last 12 months of growth interruption thanks to the global financial crisis, India’s growth rate in recent years had accelerated to nine percent per annum. India is going to be the “next growth miracle” of the global economy, and in the next decade or so, with “better governance and appropriate policies”, it can, in fact, become the fastest growing economy in the world.

Within the energy sector, however, it is natural gas which will be of strategic importance to our country, and hence, the need for a new natural gas policy.



Amongst all the policies, reforms of the energy sector will be decisive for accelerating growth as well as for promoting economic security. What oil was for the 20th century, natural gas will be for the 21st century.

The present policy approach for gas seems to be derived from a mindset that India is relatively “gas-short”, and this scarcity is attempted to be met through rationing. Ironically, this approach only reinforces the shortage phenomenon as this discourages supply and enhances demand as prices are not allowed to play their full role.

The other conceptual shortcoming of the present framework is that when people think about gas, it is thought of as something distinct from crude oil, while, in reality, both being hydrocarbons, they are close substitutes.

As buyers and sellers usually adopt long-term contracts, our own policies need to be stable and the authorities should always honour explicit or implicit commitments as this reduces policy uncertainties and encourages buyers and sellers to enter into long-term commitments.

The present pricing policy framework is not leading to more rapid development of the natural gas sector in India – whether in terms of creating supply or demand.

How do we achieve this paradigm shift? Firstly, and most importantly, the policymakers will have to change their perspectives or their mindset by recognising three important factors. Both oil and gas being hydrocarbons are close substitutes and these markets move in tandem internationally where the infrastructure for gas is well developed. Secondly, although oil and gas are both hydrocarbons, one is liquid and the other gaseous and, therefore, requires different logistics in terms of supply infrastructure. Hence, these two energy infrastructures create different market structures, which has some regulatory implication.

The third factor is that India is potentially a “gas-abundant” country. I am using the word “abundant” compared with availability of oil and compared with the present projections of demand for gas in the next 20 years.

In addition, we should give freedom to producers to market their gas, provided the price determination is at arms-length and on a transparent basis which avoids transfer pricing or deliberate underpricing. This would mean, inter alia, long-term prices to be linked to international crude oil prices providing transparency like in our liquefied natural gas (LNG) contracts.

Natural gas is different than oil because of its transportation requirements. Large pipelines are required to transport gas, and once such pipelines are created, the market structure can become locally monopolistic. To create a competitive national gas market, we require a national gas pipeline grid, NATGAS grid.

But working of this NATGAS grid will have to be supervised by a regulator for ensuring transparency, competition and safety. One possible way of promoting gas markets could be that even where the inter-state pipelines are under the private sector, 25-30 percent of capacity of such pipelines can be “crown” capacity, which can be either on “carried interest” or “participating interest” basis, and such capacity will be available to any buyer or supplier of gas with the toll charges which are determined by the regulator.

This will enable the development of a gas market in India where third-party suppliers and buyers can use the common carrier; gas prices all over India will converge, barring inherent transportation costs; and it will vastly improve the bargaining power of our country in organising large-scale gas imports, whether in the form of LNG or gas through pipelines.

* Former Petroleum Secretary & Chairman of the Finance Commission. This is an abridged presentation of the lecture delivered by him at the Rajiv Gandhi Institute of Petroleum Technology in Rae Bareilly. The Lecture appeared in Livemint.com, on August 25, 2009.

Roti, Kapada, Makan and Mobile

– Nripendra Misra*

There is plenty of evidence to show that telephony, internet and broadband penetration have a high correlation with GDP per capita. One estimate is that if a country has one percent higher mobile subscriber rate, its GDP per capita is enhanced up to US\$200. In case of broadband, the increase is around US\$1,500.

There are also enough surveys to establish that access to information and communication technologies boosts social interaction, infrastructural transformation and business opportunities. Not to mention more transparent governance that addresses public agenda speedily.

Teledensity in urban India is above 70 percent, with rural areas lagging behind at around 16 percent. If an effective mechanism isn't developed to increase telecom penetration in rural India, all sorts of economic spinoffs – better education, improved market access for products, improved employment opportunities – will remain a distant dream. But different agencies offer widely divergent pictures of what the future will look like.

One CII study estimates that there will be 700 million subscribers by 2012, with teledensity of around 60 percent, with 40 percent of the rural population owning a phone and with total revenues reaching US\$54bn. The average revenue per user will decline but be made up through higher minutes of usage, with rural telecom emerging as the new growth constituent.

Another 2007 study also estimates that India will cross 700 million subscribers by 2012, adding that for every 10 mobile handsets added per 100 people in a developing country, the country's GDP growth rate would

Like roti, kapda and makan, the mobile handset is critical to this population's productive engagement.



rise by 0.6 percent. This study, too, recognises rural India as offering key potential for growth in connectivity.

At the other extreme, a research paper published in February 2009 finds that Indian wireless has already entered a lower growth trajectory and predicts lower average revenue per user (ARPU), depressed margins and higher cost of infrastructure for the future. All three reports have based their projections on the growth pattern of rural telephony. Unfortunately, the economic inter-linkages created by the purchasing power of rural folks – with telecom being an affordable item in the rural household budget – have been grossly underestimated.

It's self-evident that a telephone connection is essential for rural

India's prosperity. Like roti, kapda and makan, the mobile handset is critical to this population's productive engagement. The government has created a Universal Service Obligation (USO) Fund for the development of rural telephony. This Fund has a huge unutilised balance, and TRAI has recently recommended its revamping. The suggested strategy requires a major change in the context of convergence, which will benefit consumers provided we are able to stimulate packaged services for rural subscribers.

If e-medicine, e-education, e-governance, e-marketing, mobile banking and e-commerce are to become available to the rural community, both on community and personal basis, the government deliverers of these services must also converge via reliable broadband and high speed connectivity. This will enable rural consumers to choose from a wider range of communication services from a wider range of providers. These will come from the world of telecom, cable TV, satellite TV and many will involve internet access.

If the government has to offer supporting infrastructure for such developments, it must develop a framework along the lines of 'Missions' sponsored for other economic activities. A practical idea would be to convert the present USO Fund framework into such a Mission, with wide inter-disciplinary reach. This would entail expenditure on content creation in different regional languages, subsidised consumer premises equipment, financial support for infrastructure in rural areas and chaupal-like service centres. All this will be feasible if the Mission is given 100 percent central assistance.

* Former Chairman, Telecom Regulatory Authority of India. The article appeared in *The Financial Express*, on August 18, 2009.

Revamped Coal Prices

Coal pricing may see a complete revamp and the sector may enter into a free trade zone, if suggestions of the Planning Commission are implemented. "Coal prices should ideally be left to the market and trading of coal, nationally and internationally, should be free," the Commission said.

Although coal prices were de-regulated in 2000, its price is fixed by state-owned companies under the guidance of the Coal Ministry. Reviewing the Integrated Energy Policy, the Plan panel said, "High quality exportable coking and non-coking coal, should be sold at export parity prices as determined by import price at the nearest port minus 15 percent." It further added "since a substantial amount of coking coal is imported, domestic coking coal should be priced at import parity price".

(FE, 30.08.09)

In Search of Clarity

The only certainty in life is death and taxes but the grim irony is that their outcomes may be obscured until you get there. Look no further than the goods and services tax (GST), whose character was an opportunity to create a single, unified market in India where firms did not have to jump across opaque and complicated state-level tax codes.

But that prospect has been shattered. The state-level GST will be a convoluted and diluted system with three rates: a standard rate, an essential commodity rate and a precious metals rate. That does not include a list of exempted items and entire classes of goods – petroleum products and liquor which are outside the purview of GST.

GST was supposed to simplify tax codes across states but business will continue to suffer tax obfuscation.

(Livemint, 17.09.09)

Far Reaching Reforms

Investment promotion bodies like Invest India can do little to attract foreign investment into the country if the government continues to dither on reforming regulations and governance at both the central and state level.

The robust foreign direct investment (FDI) and Foreign Institutional Investor (FII) numbers should not make the policymakers complacent. Such inflows have been achieved in spite of unfriendly rules and regulations. Imagine the potential with improved procedures and governance. The government has the mandate to carry out far-reaching reforms, and it should do so without wasting much time.

(ET, 12.09.09)

Capital may Crowd

Even as the RBI Governor D Subbarao recently held out an assurance that the massive borrowing by the government this fiscal would not impinge on the private sector's fund requirements, former RBI Governor C Rangarajan has expressed the view that tapping the market at such a scale was likely to have an impact on the corporate world by way of crowding out capital and hardening of interest rates.

Dr Rangarajan pointed out that while the GDP growth would be about 6.5-6.7 percent in 2009-10 and go up further to seven-eight percent during the next fiscal, anything above that would be difficult in the current environment. Additional domestic demand would have to be created to

help those sectors which have been severely impacted by the slowdown.

(TH, 08.08.09)

Goodies for All

The foreign trade policy is likely to cut costs for exporters and importers by lowering various fees, such as licence and application fees, paid by them. The policy is expected to announce incentives for export of labour-intensive products to identified markets and a relaxation in service industry's obligation to export under the export promotion capital goods (EPCG) scheme that allows import of machinery at lower duty.

The commerce department may also lay down a road map for complete paperless transactions by switching to the electronic data interface, on condition of anonymity.

(ET, 24.08.09)

Visa-on-arrival

Tourism Ministry has proposed visa-on-arrival to tourists from nine countries – Cambodia, Netherlands, Finland, Argentina, Laos, Japan, Germany, South Africa and Brazil. The proposal aims to improve tourist inflows from foreign countries that has come down following a slowdown in the world economy.

Earlier, the tourism ministry had proposed to give visa-on-arrival to the nationals of 18 countries. The home ministry rejected the proposal on security grounds. The government currently grants multiple entry long-term visa of five years to the nationals of 18 countries. Some of the countries which enjoy multiple-entry long term visa are Spain, Switzerland, Iceland, Norway, New Zealand, Japan, South Korea, Argentina, Chile, Brazil, Mexico and Vietnam.

(ET, 22.08.09)

Reviving Doha Round

The convening of the two-day mini-ministerial World Trade Organisation (WTO) meeting in New Delhi is a positive signal to get the stalled Doha Round negotiations going again and India's efforts in this direction are laudable. The mini-ministerial meeting, which is likely to be attended by Trade Ministers of around 40 countries, may iron out differences in perceptions and lay the groundwork for a balanced and successful outcome of the Doha Round.

Speaking at a meet with industry representatives organised by FICCI and CUTS, Dr Harshvardhan Singh, Deputy Director-General WTO said that an early agreement on a global trade deal will only be possible with more cooperation of all the countries.

(BL, 24.08.09)



PPPs under Scanner

The Comptroller and Auditor General (CAG) of India, who has finalised a plan for auditing PPPs, is likely to oversee the work of developers executing infrastructure and other projects jointly with the government. CAG has prepared a framework for inserting a clause in the government's PPP agreement with private developers subjecting them to audit by the government's auditor soon.



Besides the financial aspect, the CAG will also scrutinise the commercial assumptions as well. Scrutiny of the project by the CAG is expected to bring more transparency in the way PPP projects are operated.

(ET, 21.07.09)

CAG Pulls Up Railways

The CAG has hauled up Indian Railways for not separately accounting various surcharges on both passenger and freight traffic that it introduced during 2004 and 2009. It kept increasing the passenger and freight fares by imposing charges and surcharges, while keeping the basic fares intact (by and large), claiming that it had not increased fares.

Indian Railways need to account for development charge separately to arrive at the amount collected, so as to enable proper accounting and application. Moreover, CAG has accused the Railway Ministry of understating the amount it raised under development charges.

(BL, 03.08.09)

Lesson for Others

The Central Bureau of Investigation (CBI) registered a case under several sections of the Indian Penal Code against top Food Corporation of India (FCI) officials on

charges of corruption, abuse of official power and criminal conspiracy.

A special team of the CBI's Anti-Corruption Branch interrogated that the area managers who allegedly confessed to having paid "illegal gratification" to the general manager and deputy general manager during monthly review meeting to ensure smooth running of their offices and avoid frequent transfers/harassments.

(TH, 20.09.09)

Nip the Evil in the Bud

In a bid to crack down on closely-guarded corporate frauds in early stages, the Ministry of Corporate Affairs has kick-started its early warning system on company frauds, with initially about 50 companies coming under the government's radar.

The early warning system, which has been set up through the use of a sophisticated computer network and involves the functioning of multiple regulators including Securities and Exchange Board of India (SEBI) and various departments under the Corporate Affairs Ministry.

The initiative gained speed after the emergence of the multi-crore financial fraud in the erstwhile Satyam Computer Services which went untraced for seven years before its promoter B Ramalinga Raju decided to confess the wrongdoings in the company.

(ET, 10.09.09)

Combating Corruption

The Union Minister for Law and Justice said that the Centre would consider amending Articles 309, 310 and 311 of the Constitution thus removing protection and safeguards in prosecuting corrupt public servants. The Minister was of the view that prior sanction should not be necessary for prosecuting a public servant "who has been trapped red-handed or found in possession of assets disproportionate to known sources of income."

The fight against corruption is not only a moral imperative but an economic necessity for a nation aspiring to emerge as a global player.

(TH, 14.09.09)

Vigilance Against Corruption

The Central Vigilance Commission (CVC) has disclosed the names of 123 government officials, which includes three IPS officers, against whom it has suggested sanction for prosecution or imposition of penalty for alleged corruption. Complying with the provisions under the Right to Information Act, the commission has posted the names of the accused on its website.

Every month the commission takes out a list of government officials against whom it has recommended corruption proceedings. CVC has decided to regularly post details of cases that are pending for over four months for prosecution. It has also decided to post cases where it has advised issuance of sanction for prosecution during the month and cases where imposition of suitable major penalty has been advised.

(ET, 18.09.09)

Final Norms

Insurance Regulatory and Development Authority (IRDA) is ready with the final guidelines on corporate governance for the sector focusing on key areas such as lock-in period for promoters, whistle blowing policy, governance structure and disclosures. As per IRDA guidelines, promoters of insurance companies would have a lock-in period of five years. Insurers have to report compliance by the next fiscal year.

Also, insurers have to put in place a whistle blowing policy that would allow employees to raise concerns about possible irregularities, governance weaknesses and financial reporting issues among others.

The auditors have to report in a timely manner to IRDA. It suggested the unlisted insurers to familiarise themselves with corporate governance structures and requirements appropriate to listed entities to facilitate smooth transition during their eventual listing.

(BL, 06.08.09 & FE, 10.08.09)

There's Need For an Informed Debate on Disinvestment

– Pradip Baijal*

State policy reserved a very large number of industries for the public sector until 1991. The reforms of 1991, and subsequent years, have reduced this number to around five today. The most sensitive item in this list, nuclear power, is also likely to be opened up to the private sector. Public sector reservations have been dismantled the world over, even in China and Russia.

China opted for large-scale privatisation in the 1990s. When it could not privatise a public sector industry, it allowed the entity to die and replaced it with a new private sector incarnation. The changeover did lead to massive labour problems, but these were masked by the enviable growth of 10 percent each year that China has enjoyed for around two decades now. China did not have mature stock markets or a private sector then. This led to very poor recoveries from privatisation.

Russia was no different. It also lacked developed stock markets or an efficient private sector when it allowed a large number of public industries to be taken over by their employees or political favourites, through distribution of free or very low-priced vouchers to the public and employees/favourites. It was expected that these industries would become efficient after the change, and their employees and the public would make huge profits, leading to political support for disinvestment and privatisation.

Since the new owners did not possess an entrepreneurial background, most of them failed, leading to public disillusionment and charges of favouritism. I remember the days when even a tea shop used to be government-owned in Russia, but the dismantling of the entire public sector apparatus meant that the government



Privatisation or disinvestment are not administrative or economic issues anywhere; they are more political issues in all countries.

earned less from privatisation than what India did from disinvestment in the past two decades.

In India, the “argumentative Indian” has only allowed a very gradual change and we are even now struggling to find the right answers. Hence, public opinion and parties in power determine the process of change.

Nothing has happened in the last five years. Even before that, the process was full of roadblocks but whatever was achieved during the last two decades was remarkable, as the returns would show. Of course, privatisation led to higher incomes for the exchequer in comparison with disinvestment of minority public sector stakes in the market.

When I was secretary, disinvestment, during 2000-2003, I found that the entire political debate for and against privatisation and disinvestment was confusing, emotional and presented by different interest groups on the basis of infirm data.

I collated the data and presented it in a book, *Disinvestment in India: I Lose and You Gain*. I find that there is a lot of debate on disinvestment today and we must find the right answers, based on data and not rhetoric.

The issues today, to the best of my understanding, are:

- There are enormous expectations that the government should raise investment in education, health, agriculture, infrastructure and many other priority sectors, and more funds should flow to the rural poor.
- There is already a plus-10 percent fiscal deficit, which can have an adverse impact on our economy and growth process and must be plugged.
- There are many electoral promises that need to be kept and these would cause huge expenditure.
- Should these resources be raised by higher taxation or by reallocation from other sectors to priority sectors? Are there any sectors that can permit a massive reallocation of resources or should we do sizeable disinvestment to raise funds?
- Earlier experience has clearly shown that the sale of shares in a non-privatised industry yield 5-20 times lower returns. Should the taxpayer's shares be sold cheap to hold control of public industries, particularly in sectors where massive private investment has been allowed already, and the fiscal gap plugged by direct or indirect taxation on a helpless taxpayer? Or should these industries be privatised for higher earnings?

Should we use proceeds from privatisation – and it is possible to raise trillions of rupees – for future higher growth or should we waste the opportunity and put off a decision? The stakes are too high and there must be informed debate before we make our choices.

* Secretary with the Disinvestment Ministry during the term of the National Democratic Alliance Government. Abridged from an article that appeared in the *Livemint*, on July 01, 2009.

Reduced Alliances

Indian companies were involved in 136 mergers and acquisitions (M&As) in the first half of 2009, down 54 percent when compared with the first half of 2008, according to a study by Venture Intelligence, a Chennai-based research service focused on private equity and M&A transaction activity in India.

Over 50 percent of the deals in the first half were domestic acquisitions against 40 percent in the same period in 2008. The most preferred destination for Indian acquirers was the US, with seven of the 31 outbound targets in the first half of the year located in that country, followed by the UK. The IT & ITES and manufacturing industries accounted for the most number of acquisitions during the first half with an 18 percent share each, the study says. (FE, 20.07.09)

Holes in DMRC

The CAG of India accused the Union Government of “deliberately delaying” the tabling of a CAG report on the Delhi Metro Rail Corporation (DMRC) in Parliament. The CAG also picked holes in DMRC’s testing requirements by revealing that the Corporation scaled down the requirements in some contracts as these were falling behind schedule.

The Urban Development Ministry indicates that there is no clarity over who DMRC is accountable to. The report lays threadbare several departures from established practices, it does not suggest any mala fide on the part of the DMRC. (TH, 25.07.09)

Domestic Assistance

India’s large infrastructure needs can potentially be funded domestically although external capital will continue to play the role of an important supplement, a Goldman Sachs report said.

Private savings alone can make available around US\$550bn over the course of the next decade, while the government may provide around US\$1.1tr, the report said. India may require US\$1.7tr in the next decade starting 2010 to meet its infrastructure demand to keep pace with economic

growth and urbanisation. Higher infrastructure spend would also be on account of inclusion of three new infrastructure sectors in their study – Irrigation, Water Supply and Railways.

(BL, 16.09.09)

Wisdom of Goods

A study released in the journal *Proceedings of the Royal Society: Biological Sciences*, shows that ants can accomplish a task more rationally than ourselves. Humans and animals simply often make irrational choices when faced with very challenging decisions, note the study’s architects Stephen Pratt and Susan Edwards. “This paradoxical outcome is based on apparent constraint: most individual ants know of only a single option, and the colony’s collective choice self-organises from interactions among many poorly-informed ants”.

In the study, researchers found that in collective decision-making, the lack of individual options translated into more accurate outcomes by minimising the chances for individuals to make mistakes. A “wisdom of crowds” approach emerges, Pratt believes. (BL, 25.07.09)

Paradox of Growth!

“Whilst India celebrates its booming economy, the country remains one of the most malnourished in the world today,” the World Bank said in a study on undernourished children in South Asia. “The survey findings highlight that neither economic growth nor food security is likely to be sufficient to lower the prevalence of malnutrition,” the report said.

Stating that the level of malnutrition in India is nearly double that reported in sub-Saharan Africa, the Bank said it is unlikely that the United Nations’ Millennium Development Goal of halving the incidence of underweight by 2015 will be met. Malnourishment rates are highest among scheduled tribes and scheduled castes. Child malnutrition in rural areas is also much higher, the World Bank said. (FE, 05.08.09)

Browning of India

The first official report in eight years on the state of India’s

environment says that nearly half of the country’s land is degraded “due to erosion, soil acidity, alkalinity, salinity, waterlogging and wind erosion”. Research shows that groundwater is being depleted at a horrific rate in north India due to human activity rather than climate change. These are worrisome trends and long-term risks to growth and livelihoods.

Environment Ministry plans to set up a US-style Environmental Protection Agency as well as special green courts. But law and regulation is only half the answer. There is also need for economic incentives to raise the cost of pollution and groundwater usage. (Livemint.com, 17.08.09)

Speedy Trial

The Law Commission of India has recommended division of the Supreme Court in four regional benches at Delhi, Kolkata, Mumbai and Chennai/Hyderabad besides another one at Delhi to adjudicate on matters involving only constitutional questions.

The Commission in its report said that the four regional or “cassation benches” will review the orders of various high courts in the country and work as “judicial courts of last resorts” having the power to review and quash the decision of any court below it.



In the latest report the panel recommended division citing “an unbearable load of arrears” on the apex court, recently crossing the 50,000 mark. The report said while the apex court is burdened, the litigants too end up spending a lot of time and money travelling from far-flung areas to reach Delhi for hearings. (PTI, 07.08.09)

Sad Tale of Retail

– Rajiv Kumar*
– Nirupama Soundarajan**

First, came the Parliamentary Standing Committee recommending a ban on both foreign and domestic corporate investment in the retail sector. Our political leaders, it seems, are quite all right with the current state of the unorganised retail sector – where the working conditions leave a lot to be desired, productivity levels are generally low and business and pricing practices least transparent.



It is indeed disappointing to see several recent pronouncements that effectively imply status quo on policy towards the retail sector in India.

Next, the current FDI policy on retail would remain unchanged. This is most unsatisfactory because in the absence of a real policy, we can neither regulate the sector adequately nor provide the needed protection to small farmers and producers.

This study was based on the largest-ever survey of all relevant stakeholders in the retail business. The survey covered 2,020 traditional retailers across 10 major cities, 1,318 consumers shopping at both organised and traditional retail outlets, 100 intermediaries and 197 farmers. In addition, 805 traditional retailers not in the vicinity of “supermarkets” in the four metros were surveyed as a “control sample”.

One of the study’s main findings was that modernisation of retail will result in various positive externalities such as improvements in logistics and infrastructure and efficiencies in the supply chain. Traditional retail relies on several layers of intermediaries, each of which adds its margins and commissions, so that there is a significant differential between farm-gate and shelf prices. Traditional retail results in close to 40 percent wastage while modernising the supply chain and using clean and scientifically designed warehouses and cold chains will result in immediate gains.

Another significant gain will be the additional generation of better quality employment at all levels of the modern retail supply chain. The retail trade in India currently employs 37 million people. Organised retail, through front and back end operations alone, is expected to generate 1.7 million jobs in the next five years. If the supply chain is modernised, it would double employment opportunities by creating jobs in small manufacturing, food processing, construction, cold storage, warehousing, sorting, packing and labelling. Other findings of the study were:

1. Given the huge future expansion in retail, both traditional and organised retail outlets will coexist. One estimate is that by 2011-12, given GDP growth, the total value of business handled by the traditional retail sector will be 84 percent of total share and that of the organised retailers will be 16 percent.
2. There was no evidence of a decline in overall employment in the traditional retail sector as a result of the entry of organised retailers. In fact, there was a marginal rise of 0.8 percent in employment for the traditional retailers.
3. Consumers shop from both kinds of outlets and want both to exist.
4. Organised retail is relatively more beneficial to low-income consumers, as they cherry-pick their products, track discount schemes and, thereby, save more.
5. A majority of traditional retailers are keen to stay in the business; they compete and do not see themselves being pushed out.
6. Profit realisation for farmers selling directly to organised retailers is 60 percent higher compared with selling in the *mandi* (market).
7. The closure rate for traditional retailers due to the presence of organised retailers is only 1.7 percent, which is much lower than the average rate of business closure abroad.
8. Given the expected increase in GDP and concomitant volume of retail (15 percent of GDP), it will be difficult for the traditional sector, given its space constraints and poor infrastructure, to meet the needs of the growing urban population.

China has steadily modernised its wet markets, or its traditional open-food markets, with the help of organised retailers and has provided excellent infrastructure for its hawkers and small retailers. The same experience has been replicated across Southeast Asia.

Similarly, the Indian government must take parallel action to improve the infrastructure for wet markets, hawkers and vendors on the one hand and facilitate the entry of both foreign and domestic retail houses in the domestic markets on the other. The investment policy allowing modern corporations to enter the market can be carefully framed to ensure “fair trade” principles and explicit encouragement for small producers’ cooperatives. In the absence of policy, the sector’s growth will be haphazard and distorted.

* Director, Indian Council for Research on International Economic Relations (ICRIER)

** Research Associate, ICRIER. Abridged from an article that appeared in the *Livemint*, on August 06, 2009.

Confiscation of Corrupt Cases

Taking note of the demands for enhancing penalties and punishment under the Prevention of Corruption Act, Chief Justice of India, K G Balakrishnan appeared in favour of a statutory provision for confiscation of assets of persons convicted of offences under the PCA.

The rationale behind the same is that if a public official amasses wealth at the cost of the public, then the state is justified in seizing such assets. Procedural delays in granting sanction and difficulty in marshalling a large number of witnesses were the major hurdles to achieving meaningful convictions.

Anti-corruption agencies were already finding it difficult to grapple with 9,000 pending cases due to shortage of designated courts. There is a need for speedy sanctions since the prosecution becomes ineffective if the sanction is delayed.

(TH, 13.09.09)

Retirement Age Limit Extended

The government is actively considering raising the retirement age of all central government employees, including those in the armed forces, from the present 60 to 62 years. The Finance Minister has submitted a

report to the PM outlining all the pros and cons of the move, including the cascading effects on government employment and the huge savings, at least for two years, on account of retirement payouts.

If the PM does decide to raise the retirement age, state governments and Public Sector Units (PSUs) will mirror this action. If the decision is finally taken, it will only be the third time the government will have raised the retirement age.

(BS, 12.08.09)

New Guidelines

Babus eyeing deputation in companies with minority government-shareholding for attractive remuneration are in for a rude shock. New guidelines on establishing JV companies in infrastructure sector clearly specifies that any entity where government holding is less than 50 percent is a private entity. In such case, there is no rationale for government officials to be posted in such companies

The new guidelines will soon be implemented and will be applicable on all officials of central ministries, departments and statutory entities. But, no government official can hold any position in a firm set up under

PPP where the government and the private entity have equal shareholdings.

(ET, 11.08.09)

Policy may Revive

The government is working to revive a ministerial panel which was set up to finalise a national pharmaceutical policy that seeks to vastly expand the number of drugs under price control. The draft policy contained a proposal to bring all 354 essential drugs under price control. At present, 74 essential drugs are under the direct price control of the National Pharmaceutical Pricing Authority.

D G Shah, Secretary General of lobby group Indian Pharmaceutical Alliance said the draft policy is at variance with the recent economic survey's proposal to limit price control of medicines to only those drugs which have less than five manufacturers. But healthcare activists are concerned that doing so would lead to unbridled increase in prices of medicines.

(ET, 16.07.09)

Effective Monitoring

The PM, Dr Manmohan Singh, said the country had still to realise the "full potential" of the National Rural Employment Guarantee Act (NREGA), the implementation of which has been uneven across states.

Dr Singh said some states have shown good results, while some others are lagging behind. "We still have miles to go before we achieve its full potential" he said and referred to the setting up of a 'Delivery Monitoring Unit' at the PM's office to monitor the NREGA programme.

(BL, 10.09.09)

Empowering Women

Noting that low female literacy was impeding growth, Prime Minister (PM) Manmohan Singh launched a major initiative in the education sector, saying that the government will take all steps to empower women socially, economically and politically.

It had been observed that infrastructure development in economic sector and female literacy in social sector were "the two critical factors impeding India's steady climb to a higher and sustainable level of growth", said the PM.

(PTI, 09.09.09)

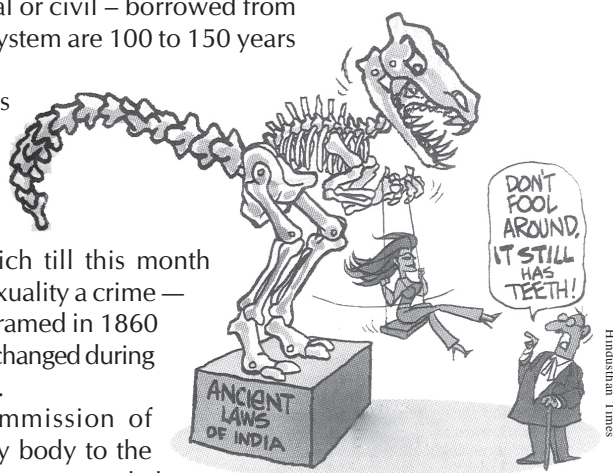
Laws Older than the Country

There are about 2,000 laws in India but nearly two-thirds of them have not been used even once during the last 60 years. All major laws in the country – criminal or civil – borrowed from the British legal system are 100 to 150 years old.

Countries across the world regularly update their laws, except India. Section 377 of the IPC – which till this month declared homosexuality a crime – is a law that was framed in 1860 and had not been changed during the last 159 years.

The Law Commission of India, an advisory body to the Law Ministry, has recommended the repealing of irrelevant laws and "updating of the important ones". The oldest law in the country was made in 1836 and is still in force. The Indian Telegraph Act, 1885, came into force when the concept of television and other electronic revolutions was not heard of. It is time to change these laws, say experts, but the question is when?

(HT, 23.07.09)



More Money for Stealing – The Budget Refuses to look Failure of Governance in the Face

– S L Rao*

To achieve efficiency and minimise waste we need accountability of individuals in the delivery system, strong institutions, decentralisation, a speedy penal justice system and severe punishment to thieves.



India has made some progress in the economy, but much less than other countries in its human development. This is because of a failure of governance at all levels – legislatures, ministers, the entire bureaucracy and regulatory institutions.

When Barack Obama unveiled a stimulus package to revive the American economy, he included in it, apart from expenditures to restore the health of the banking system and on rebuilding the infrastructure, spending on health, education and other social indicators of human development. When Pranab Mukherjee does the same in his budget, some like me criticise him. That is not because these expenditures are not necessary in India. It is because of our demonstrated incapability of spending the funds available efficiently and honestly. Drastic changes are needed in the institutional mechanisms of the administrative system for this purpose.

This is the principal cause of India's abysmally low ranking on the UNDP's *Human Development Index*. It is not that our governments do not spend money on sanitation, safe drinking water, nutritious food for the poor, on healthcare centres and hospitals, medical and nursing education. But contractors do sub-standard work when cleaning drains and ditches, food meant for the poor gets diverted to the market or to the undeserving, government doctors and nurses at government health-centres are often absent, medicines are not available, and medical and nursing education is known to have corrupt practices.

Education is no different. Corrupt practices in recognising engineering colleges, management and computer institutes are well known. School education is another dismal story of poor execution in spite of massive funding. Teachers are of poor quality; in many cases, teachers do not attend, or sub-contract their work to others.

Drugs controllers exist at national and state levels to ensure drugs quality, and that they are made in hygienic conditions, yet, repeated surveys show that over 40 percent of medicines in India are fake, dangerous to sick people.

For years, the Food Corporation of India procuring foodgrains for the public distribution system is corrupted by officers who pay for higher quality than they actually procure. The handling, storage and distribution result in the loss

of grains. Millions of bogus ration cards enable diversion of cheap grains for sale in markets, depriving many poor of the grains.

The NREGS is well-conceived, guaranteeing 100 days' employment annually at a guaranteed wage. The government admits what many surveys have shown: rarely do those who come for employment get paid their full entitlement; there are no assets built; sometimes contractors are paid the money and import labour to do the asset-building, depriving the local of his entitlement.

Independent regulatory commissions for electricity, telecommunications and tariffs for ports have only partially fulfilled expectations. The problem is the lack of commitment by governments. Such 'reform actions' are often only on paper, with little support or preparation to make them effective. State governments, in particular, have little interest in giving up power to independent regulators. The Central Government was influenced for over seven years by its monopoly interstate transmission company not to implement a law that allowed private entry into the sector.

These are only some instances of our democratic system having excellent laws or regulations or procedures or institutions, but not the commitment or will to implement them or penalise violations. In this situation, surely the first priority of the government must be to set this implementation system right, with the procedures, people, penalties and supervision, before throwing more money into the same inefficient programmes. The Finance Minister does not think so in the 2009 budget.

* Former Director General, National Council for Applied Economic Research. Abridged from an article that appeared in *The Telegraph*, on July 13, 2009.

National Green Tribunal

The National Green Tribunal (NGT) – a fast track court for speedy disposal of environment related civil cases will soon become operational. The minister had introduced the NGT Bill, 2009, in the Lok Sabha which will be referred to a standing committee for examination and is likely to become law soon.

The Tribunal will not take over 5,000 ongoing green cases at various courts in the country, however, all new cases shall be required to be filed only before the NGT. It will have jurisdiction over all civil cases relating to environment and would also provide for relief and compensation to victims of pollution and other environmental damage. It shall be the “endeavour” of the Tribunal to dispose off applications and appeals within six months of filing, according to the Bill. *(BS, 05.08.09)*

3-tier vs. 2-tier System

The Law Commission suggested setting up of a three-tier structure to deal with all disputes in the field of education. The Educational Tribunal Bill provides for a three-tier system. It would deal with all disputes between students and institutions, teachers and institutions.

The proposal is to set up a tribunal in each district, so that complaints from that area can be heard. The tribunal will have the power to deal with grievances of faculty and employees against the management or governing body. The states have objected the three-tier system and would prefer a two-tier system – at the state and national level. *(ET, 06.08.09)*

A Vital Fundamental Right

The Fundamental Right to Education, enacted in December 2002, can be operationalised with Parliament passing The Right of Children to Free and Compulsory Education Bill (RTE). Every child in the 6-14 age group will have a right to free and compulsory education in a neighbourhood school till Class VIII.

The Bill makes it mandatory for unaided schools to reserve 25 percent of their seats at the entry level for students from the disadvantaged sections in the neighbourhood. No school can collect capitation fee and subject children or their parents to any form of screening, nor can they deny admission to a child for lack of age proof and no child can be detained or expelled till the completion of elementary education. Penalties will be imposed for such actions. *(TH, 06.08.09)*

New Law for Share-croppers

The D Bandopadhyay Commission on land reforms in Bihar has suggested to the state government to enact a new Act to protect “bataidars (share-croppers)”, besides capping land ceiling and computerisation of land records. However, the recommendations of the commission will not be binding on the state government, its suggestions would come in handy for taking a final decision on complicated issues.

He informed that a committee of experts would look into the possibility of giving legal rights to ‘bataidars’. Bandyopadhyay said land reforms were necessary for economic and agricultural growth of Bihar where the number of landless people was huge. *(TH, 01.08.09)*

100 days of Parliament

If a proposed legislation eventually sees light of the day, then Parliament will meet for a minimum of 100 days every year, something that has not happened in the Lok Sabha for the last 21 years and in the Rajya Sabha for 35 years. The proposal, first moved in the Rajya Sabha was a private member’s Bill (proposal made by Mahendra Mohan, MP, Rajya Sabha).

Since the proposed Bill seeks to make constitutional amendments – it will require a two-thirds majority. Analysts say apart from fixing minimum days, Parliament should also have the right to convene on its own for its effective functioning. The dates of Parliament are effectively decided by the government of the day. *(Livemint.com, 31.07.09)*

Model Bill

A Model Bill for regulating the real estate sector is expected to be finalised by August-September timeframe, the Minister for Housing and Urban Poverty Alleviation, Kumari Selja, said.

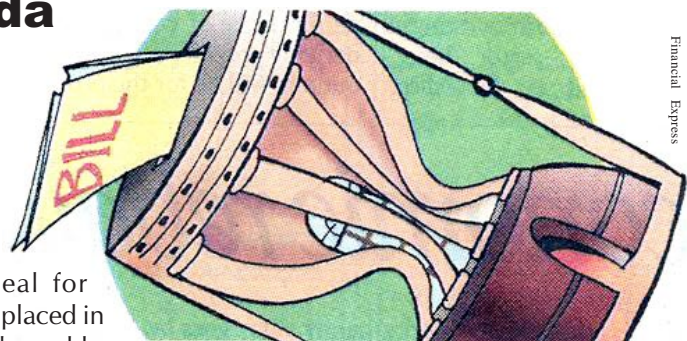
The Model Bill would propose a regulator and aim to address the concerns of consumers as well as the real estate industry. The Bill would focus on affordable housing and also address regulation and registration.

The model legal framework for according property rights to slum dwellers would draw on the best practices both within and outside the country and be circulated to states and union territories to enable them to establish their own legal frameworks suiting local conditions. *(BL, 01.07.09)*

Land Bill off the Agenda

The Lok Sabha secretariat issued instructions to all the relevant sections of Parliament that the copy of the Land Acquisition (Amendment) Bill 2009 should be withdrawn and that “no further action” was to be taken on the Bill.

The Land Bill and the Rehabilitation and Resettlement (R&R) Bill — both aimed to ease the land acquisition process and secure a better deal for farmers and other land-losers — are unlikely to be placed in Parliament during the current session. At the heart of the problem is a clause that allows the government to acquire up to 30 percent of the land after private players buy the remaining 70 percent to meet contiguity requirements. *(BS, 06.08.09)*



Financial Express

The 'Right to Information': Secret to Good Governance

– Pradeep S Mehta*

The RTI allows the public to inspect works, documents, and records; take notes, extracts or certified copies of documents or records; take certified samples of material; and obtain information in the form of printouts, diskettes, floppies, tapes, and video cassettes or in any other electronic mode.

OF COURSE, IT'S YOUR FUNDAMENTAL RIGHT. WE'RE ONLY MAKING MINOR AMENDMENTS...



While researching a proposed international agreement on investment in late 1990s, I asked the Swedish delegate for their government's submissions in the negotiations being conducted by the rich nations' club: Organisation for Economic Cooperation and Development (OECD) in Paris. He gladly handed over copies of the Swedish submissions, but said that he cannot give me copies of other government's submissions. The freedom of information culture in Sweden allowed sharing of such information, often times treated as highly confidential by most governments in the world.

Sweden was the first country in the world to pass an access to information law in 1776. Since then there has been a steady increase in public demand at the global level for legislation that stresses upon transparency, openness and accountability on part of the government. In response to such justified demands around 68 nations had responded by enacting suitable laws by 2006.

In India the right to information is constitutionally guaranteed in an indirect manner through the Right to Freedom of Speech and Expression and by the fact that there is nothing in the Constitution that prevents the introduction of a law ensuring freedom of information.

In India, free flow of information has always been constrained by factors such as the Official Secrets Act, 1923, a culture of secrecy among the bureaucrats and illiteracy and lack of awareness among the people.

The first attempt towards legislation in India that enabled free flow of information was made through the Indian Evidence Act, 1872. A century and a quarter later much more significant steps were taken with the enactment of the Freedom of Information Act (2000), and the Right to Information (RTI) Act of 2005.

The Freedom of Information Act (2000) was especially important since it superseded the Official Secrets Act of 1923. Yet, the law suffered from a number of disadvantages: no specification of punishment for officials withholding

required information; retention of wide discretionary powers by government officials to withhold information including file noting as well as Cabinet papers on sensitive subjects such as security, foreign policy, defence, law enforcement and public safety standards.

Due to these flaws in the Act, it could never be implemented effectively, however, it did act as a stepping stone to an act with more teeth: the RTI Act of 2005 which also superseded the Official Secrets Act.

In an improvement over the previous Act, the RTI lists out penalties for unresponsive behaviour on part of the public authorities. Another important feature of this Bill is the provision for Information Commissions – independent high-level bodies at both the Central and State levels, entrusted with the task of creating awareness among the public about the importance of this Bill.

The trouble with any such progressive law is that one can draft a good piece but the government dilutes its intent by appointing compliant bureaucrats as their heads. The study shows that the heads of all State Information Commissions (SICs) are retired IAS or IPS officers and most of them are not at all enthusiastic about their jobs.

In one case in Rajasthan that we at CUTS were pursuing, there was a malafide by the whole system. File notings were not given in spite of a clear request. Our appeal at the SIC was dismissed without hearing us. Only after some stern talking that we could get all the notings, but the SIC did not pass any order at all. The notings were quite revealing, wherein a senior officer laments the manner in which their system functions thus shattering the faith of the common people etc.

While we proudly claim ourselves to be the largest democracy in the world, it becomes imperative that the accountability machinery, the cornerstone of any representative set up, remains well-oiled. Clearly there is enough room for the RTI to evolve further.

* Secretary General, CUTS International. Abridged from an article that appeared in the Hindustan Times, on September 07, 2009.

Ensuring Benefits Reach the Poor

– Pramod Dev M.*

The harsh reality is that India does not possess appropriate systems of governance or practices in public service delivery that could efficiently reach out to the poor and ensure distributive justice.

As projected widely, Budget 2009-10 rewarded the *aam admi*, especially of the rural areas, as a gesture of gratitude for the mandate to the Congress party and its allies. Rightly so, the Budget has enhanced funds for development schemes to unprecedented levels. To pick a few, the nine flagship schemes and Bharat Nirman programme alone have a total outlay in excess of Rs 1,40,000 crore.

However appealing this thanksgiving may be, one is somewhat sceptical about whether it will really change the condition of India's poor. This ominous thought emanates from the country's mediocre record in the implementation of various development programmes at the ground level, where a concoction of inefficient government machinery, corruption, and asymmetric information problem has been rendering development programmes ineffective over the years.

A field study by CUTS International in 2008 found that in many rural areas the systemic deficiencies such as selective information flow and corruption often result in entire funds and deliveries under development schemes being siphoned off. Even in the case of NREGS, the CAG audit report in 2008 has reported serious shortcomings and corruption in implementation.

Most of the squandering of funds occurs mainly because of the flawed methods of selection of beneficiaries, often using the Below Poverty Line (BPL) cards. Distribution of BPL cards itself has come to epitomise corruption as most well-to-do families in the rural areas possess BPL cards.



Moreover, the evolution of impregnable networks in rural areas comprising local elites, officials and elected representatives that manage information on different programmes creates a vicious circle to ensure that development schemes do not deliver to the targeted beneficiaries.

It is startling to note that much of the money spent in the name of the poor may actually be reaching the well-to-do, or worse, is fuelling the black economy.

The near complete failure of development schemes in achieving targets is in fact a pointer to the level of alienation of the real stakeholders from governance and policy making in India, which inherently follows a top-down model.

Historically, policymaking has remained the exclusive domain of a few informed and powerful citizens. It is a matter of concern that policies and programmes, both at the Centre and States, are designed and implemented without adequate consultation with, or participation of, the real stakeholders from rural areas such as the poor, small farmers and women.

If the development schemes have to deliver for the poor in India, the government has to tackle the systemic problems by introducing efficient participatory methods of designing and implementation of schemes and distribution of public funds.

Hence, it is imperative to democratise development programmes by ushering in higher levels of accountability. Currently, multiple agencies are responsible for the implementation of development schemes resulting in lack of coordination, heightening costs of implementation and, above all, low accountability. Though the CAG carries out thorough audits of the government schemes, they are selective and the findings come out bit too late, as the funds are already wasted.

The need is to put in place an exclusive mechanism to conduct concomitant review of the development schemes and programmes while they are being implemented. It could be called National Accountability Commission that functions as a well-networked, independent authority to detect and set right any anomaly immediately.

The objective should be to put in place a concrete mechanism to cleanse the system off its current deficiencies, emulating the work of the Election Commission of India in the past two decades. Unless something similar or better is in place, the poor of this country is going to realise repeatedly that the promised bounties are nothing but chimera.

* An Independent Researcher based in New Delhi. Abridged from an article that appeared in *The Hindu Business Line*, on July 15, 2009.

Filing of Complaints at Low Cost

Anti-competition watchdog Competition Commission of India (CCI) has slashed substantially the fee for filing complaints by individuals and non-government organisations (NGOs) to Rs 5,000 from Rs 50,000 making it affordable for the “*aam aadmi*”. Consumer associations and cooperative societies too can lodge their complaints at the discounted fee. Companies having a turnover of less than Rs one crore would be required to pay a filing fee of Rs 20,000 while fee for others would be retained at Rs 50,000.

Following operationalisation of the CCI, people can file complaints with regard to anti-competitive practices and abuse of dominance by corporate houses. High fee should not be deterrent for the common man to approach the Commission.

(PTI, 01.09.09)

High-voltage Gas Dispute

The CCI Act empowers CCI to look into cases pertaining to abuse of dominance, and anti-competitive practices, such as the high-voltage gas dispute between the Ambani brothers, which is before the Supreme Court. CCI said it will look into the case provided someone forwarded a request.

Although Anil Ambani of RIL did not mention CCI, he had expressed the hope that CAG and CVC will, examine all relevant facts, and take appropriate action against the guilty persons, if they find that huge losses have been caused to the public exchequer.

(FT, 19.08.09)

Whistle-blowers Exempted

To prod companies involved in cartel-like behaviour to disclose ‘vital information’ on such collusion to the regulator, the CCI has decided to waive the penalty on ‘whistle-blowers’ even to the extent of 100 percent. The whistle-blower, whose identity would be kept confidential, would however have to provide information before the CCI initiates a probe in the matter.

Anti-trust or competition regulators worldwide have a tough task nailing down cartels since there is little information available in the nature of written agreements between

companies that indulge in such behaviour. The leniency provisions, which empower the regulator to waive penalties on whistle-blowers, have come handy for regulators in other jurisdictions in the recent past.

(IE, 25.08.09)

Fast tracking of M&A cases

CCI would try to clear the M&A cases referred to it as fast as possible, members of the new anti-trust body said. The government is planning to refer all the M&A cases to CCI to ensure there is no abuse of competition law arising out of such matters.

Geeta Gouri, CCI member, said the government has so far not come out with a notification making it mandatory for corporates to refer M&A cases to the commission but it is likely to do so soon. The commission has received only two cases so far, she said.

(ET, 03.07.09)

CCI to Curb Abuse of Dominance

Governments of developed countries have long recognised the need to regulate and maintain a level playing field to enable free and fair competition. Accordingly, they had enacted laws to prevent cartelisation, abuse of dominant position in the market and other unfair practices by market leaders.

India has, however, lagged behind in this respect, and passed the Competition Act only in 2002, and appointed the Competition Commission only in 2009. The Commission is empowered to deeply study various macro-level issues in individual industries and service sectors, both *suo moto* and in

response to complaints from industry stakeholders.

If malpractices mentioned in the Competition Act are clearly established after investigation, then the Commission has powers to issue a ‘cease-and-desist’ order, penalise corporates guilty of market-rigging or cartelisation up to three times of their profits, and prosecute them in the courts.

(WD, 08.07.09)

Rampant Bid-rigging

The CCI has found that a raft of government departments are losing thousands of crores of public money while procuring goods due to a faulty bidding mechanism. Some of the departments that have fallen under the CCI’s radar for lack of competitive best practices include the Indian Railways and coalfields, among others.



Besides affecting the end-consumer’s interest, these anti-competitive practices take a toll on the public exchequer as public money is flushed out to wrong hands. But the competition regulator wants to first develop awareness of the competition law among government agencies before acting tough. CCI is also planning a national conference that will encourage a debate on the need for having a procurement policy that is competition law friendly.

(ET, 29.08.09)

Scrap MRTPC

With the CCI becoming functional with a full-time chairman and several members for about five months, there is little sense to keep the Monopolies and Restrictive Trade Practices Commission (MRTPC) alive.

The Centre must repeal the MRTP Act, 1969 at the earliest. The MRTPC continues to receive new cases, adding to its backlog. The Competition Act (Section 66) provides for repeal of the MRTP Act and transfer of all undecided cases, other than those pertaining to unfair trade practices, to the CCI. Cases pertaining to unfair trade practices are to be transferred to the National Commission constituted under the Consumer Protection Act, 1986. It is important the Centre moves quickly so as not to undermine the effectiveness of the CCI. Further, the role of the CCI needs to be widely publicised so that aggrieved parties move it for adjudication in contentious cases.

(ET, 01.07.09)

M&As: Will Competition Act be Showstopper?

- Abir Roy & Nishchal Joshipura*



The Competition Act empowers the CCI and the high court to make modifications to the scheme of merger/arrangement and a modification made by either of the regulators viz. CCI or high court would render the review undertaken by the other infructuous.

Recently, the substantive provisions of the Competition Act, 2002 relating to (i) prohibition of anti-competitive agreements and (ii) abuse of dominance have been notified. It is expected that the substantive provisions of the Competition Act with respect to regulation of combinations (mergers, amalgamations and acquisitions) will also be notified soon.

Section 60 of the Act states that its provisions will override all other provisions contained in any law. However, Section 62 states that these provisions are in addition to and not in derogation of any other law.

Thus, applying the principle of harmonious construction, where there is a direct conflict between the provisions of the Competition Act and any other law, the former will prevail, and where there is no conflict, provisions of both laws will apply together. But there are many areas of

potential conflict between the provisions of the Competition Act and other Indian laws and regulations that are discussed below.

Companies Act, 1956

Sections 391–394 of the Companies Act, 1956 governs reconstruction and amalgamation of companies. The Companies Act requires the high court of appropriate jurisdiction to approve the merger and sanction the same which usually takes four-six months.

However, the maximum time that can be taken by CCI under the Competition Act is 210 days, which can be extended further under certain conditions. This would mean that the CCI could legally utilise the maximum time period available to it, thereby further extending the time period within which mergers may be sanctioned by the various regulatory authorities.

Takeover Code

The approval period of 210 days provided for in the Competition Act would impose additional financial obligations of the acquirer when the combination triggers open offer under the Indian Takeover Code.

When the acquirer is unable to pay the shareholders participating in the open offer within 15 days from the date of closure of the offer owing to non-receipt of any statutory approval, the extension of time to make such payment is subject to the acquirer agreeing to pay interest to the shareholders for the delayed payment.

The Competition Act requires the CCI to *prima facie* opine on the proposed combination with a turnaround time of 210 days. Thus, legally the CCI is entitled to a time period of 210 days to form its opinion, which could obligate the acquirer to pay interest to the shareholders under most circumstances, if the two

enactments are triggered simultaneously.

Preferential Allotment Guidelines

A practical difficulty arises in cases of preferential allotments that are governed by Chapter XIII of the SEBI (Disclosure and Investor Protection) Guidelines, 2000 commonly known as DIP guidelines which provides that preferential allotment needs to be completed within 15 days from the date of passing of the resolution.

Telecom Sector

On the basis of TRAI's recommendations, the DoT issued revised guidelines for intra-service area merger of cellular mobile telephone service/unified access services (CMTS/UAS or licenses). Thus, there is a possibility of an overlap of the regulatory framework between the DoT and the CCI.

The Guidelines issued by the DoT provides that the combined market share of any merged entity shall not be more than 40 percent. The guidelines also provide that no merger shall be allowed if the number of service providers reduce to less than four in the relevant market. The DoT guidelines will be in addition to the provisions of the Competition Act, and any provision which is repugnant to the provisions of the Act will be redundant in light of Section 60 of the Act.

The inter-play of the Competition Act and other legislations governing combinations will significantly increase the transaction timelines potentially leading to a slowdown in M&A activity. Such issues will have to be closely scrutinised by the regulators such that Competition Act acts as a facilitator for businesses and not a show stopper.

* Associated with Mumbai-based law firm Nishith Desai Associates. Abridged from an article that appeared in *The Economic Times*, on July 16, 2009.

Caution Over Aggression

– Subir Gokarn*

The Economic Survey for 2008-09, published recently, raised my hopes that the finance minister would take full advantage of the opportunity offered to him to lay out an ambitious reform roadmap over the next five years. The one message that I took from the Survey was that the new UPA government was open to even some of the more radical reform ideas that have been floating around for a while, but never seemed to make it past the political filters.

I did not realistically expect to see many of these in the Budget, but still felt that the speech would broadly endorse a series of reforms. But, going beyond that to the nitty-gritties of the revenue and expenditure announcements, I did not expect to see very much tinkering. The economic situation is simply too delicate to warrant bold gambles with either.

In the event, Mukherjee apparently decided that the nitty-gritties were the more important aspect of the exercise. Disinvestment received several lines of text, worthy of a big initiative like the Rs 25,000 crore mentioned in the Survey, but all it got was a little over Rs 1,000 crore credit for the year. Likewise, the speech was silent on the increase of the FDI cap in insurance, which probably means that the issue will continue to hang fire. The tax reforms that were announced, such as the abolition of the Fringe Benefits Tax, the Commodities Transactions Tax and the surcharge on the personal income tax are all very welcome, but are hardly earth-shattering.

On the expenditure side, as expected, a significant amount of Rs 39,000 crore was provided for the NREGS, which was given much credit for the UPA's electoral victory. There are also significant, but not dramatic,



The one dramatic fiscal measure was the adherence to the original timeline of April 2010 for the implementation of the Goods & Services Tax (GST), which most people expected would be postponed.

increases in commitments to rural roads, electrification and housing. The campaign promise to make low-priced food grains available to poor households has also been promised under the framework of a National Food Security Act. But, beyond these, the Budget speech is largely a listing of moderate increases or small new allocations for a variety of programmes.

The fiscal numbers clearly indicate that the finance minister simply did not want to take any chances. For example, the estimated increase in tax revenues is a mere 1.8 percent over the Revised Estimates for 2008-09, a far cry from the high buoyancy of just a couple of years ago. Even in difficult economic conditions, this seems rather pessimistic. The Survey did mention the need to amend the Fiscal Responsibility and Budget Management goalposts to accommodate business cycles. 6.8 percent may violate even those modified targets, but the speech was quite explicit in stating the government's intention to work this out.

There were three things in the Budget that I liked. The first was the desire to change the principle of the fertiliser subsidy from the gross quantity of fertiliser to the amount of nutrient. Effectively implemented, it will begin to address the critical issue of soil quality degradation which the existing policy has reinforced. The second was the additional incentive to farmers who meet their obligations to banks on time. If we are going to have waivers, at least let us create incentives in the opposite direction as well. The third was the limited investment tax credit for investments in cold chain, storage facilities and the like. Again, properly implemented with facilitating regulatory reforms and inter-state co-ordination, this will help to fill a big hole in the food economy.

Overall, as Budgets go, this one certainly scores in a realistic, house-keeping sort of way. But, its absence of a clearly articulated economic vision and strategy for the government detracts from its impact. I would have liked to see more of the Survey endorsed by and reflected in the Budget.

* Chief Economist, Standard & Poor's Asia-Pacific. Abridged from an article that appeared in the Business Standard, on July 07, 2009.

How India must Change if it is to be an Advanced Economy?

– Martin Wolf*

What will the world economy - indeed, the world - look like after the financial crisis is over? Will this prove to be a mere blip or something more fundamental? Much of the answer will be provided by the performance of the two Asian giants, China and India. Rightly or wrongly, it is widely accepted that China will continue to grow very rapidly. But what is the likely future for India?

Since 1980, the average living standards of Chinese and Indians have experienced a sustained and rapid rise. In one generation, India's GDP per head rose by 230 percent – a trend rate of four percent a year. This would seem a fine accomplishment if China's had not increased by 1,090 percent – a trend rate of 8.7 percent. Yet even if India has lagged behind, the change has been large enough for aspiration to replace resignation as the ethos of a large and rising proportion of Indians.

The recent past offers at least four further reasons for optimism. First, the rate of growth has been accelerating: over the five years up to and including 2008, the average annual rate of economic growth was 8.7 percent, up from 6.5 percent in 1999. Second, gross domestic savings up to 38 percent of GDP in the financial year 2007-08. Third, India's economy has globalised, with the ratio of trade in goods and services up to 51 percent of GDP in the last quarter of 2008. This is not far behind China's 59 percent of GDP.

Finally, the democratic political system, for all its frailties, works. Indian democracy is a wonder of the political world. The re-election of a Congress-led government, is widely believed that this reflects a choice of competence over caste and secularism over sect. Not least, the electorate registered approval of the competence



India now requires efficient, service-providing government by competent technocrats and honest politicians.

and integrity of Manmohan Singh, the prime minister.

Moreover, India itself must overcome three big challenges: maintaining, indeed strengthening, social cohesion at a time of economic and social upheaval; creating a competitive and innovative economy; and playing a role in its region and the world commensurate with the country's size and rising importance. In fundamental respects, India must turn itself into a different country.

In India a vigorous, albeit too often corrupt, democratic process has been superimposed on the “mindsets, institutional structures and practices inherited from the British Raj”. India has prospered despite government, not because of it. It is a miracle that the giant has fared as well as it has. But if this country is to prosper it must create infrastructure, provide services, promote competition, protect property and offer justice.

Just how far the transformation would have to go is shown by the “seven inter-generational issues” first, tackling disparities, not least among social groupings, but without further entrenching group-based entitlements and group-based politics; second, improving the environment, including the global environment; third, eliminating India's pervasive infrastructure bottlenecks; fourth, transforming the delivery of public services, particularly in India's ill-served cities; fifth, renewing education, technological development and innovation; sixth, revolutionising energy production and consumption; and, finally, fostering a prosperous south Asia and becoming a responsible global power.

For India, I conclude that even sustaining recent performance is going to be really hard. The era when the country could prosper just by stopping government from getting in the way is ending. Of course, many foolish interventions still need to be removed. The government also needs to refocus its limited energy and resources on its essential tasks. But it must also be able to perform these tasks far more effectively than it can today.

What I take for the world is that India, for all the huge challenges it confronts, is likely to continue its rise, if more slowly than the report assumes. The job of adjusting the familiar western ways of thinking about the world to the new realities has hardly begun. Within a decade a world in which the UK is on the United Nations Security Council and India is not will seem beyond laughable. The old order passes. The sooner the world adjusts, the better.

* Chief Economic Commentator, *Financial Times*. Abridged from an article that appeared in *The Financial Times*, on July 08, 2009.

Rising India Labours in the Shadow of Asia's Real Giant

– Shankar Acharya*

In recent years, the rise of China and India has become a salient feature of the global economic landscape. Conferences and books have proliferated with titles such as “China and India Rising” and “Dancing with Giants”. Although individual contributions have often delineated carefully the differing paths taken by these two populous Asian nations, there has been a general tendency to lump the two countries together in discussions of global economic issues ranging from international trade to climate change.

China and India are the only two Asian countries with more than a billion people and are open to international trade and capital flows since three decades. Both have demonstrated sustained and enviable economic growth since 1980. It is true that if current growth rates are maintained, both countries could join the US in the trio of the world's largest economies by around 2025, measured in purchasing power parity prices.

The pervasive bracketing of China and India too often masks critical differences between them and impedes a better understanding of the challenges posed to the world economic order by their economic expansion.

First, China and India today are at different stages of development though they may have had similar average incomes in the late 1970s. Their subsequent growth trajectories have changed the situation materially.

More importantly, the World Bank estimates that the proportion of people in extreme poverty had fallen to 16 percent in China by 2005, while it still remained above 40 percent in India. Over 40 percent of India's children under five remain malnourished, compared with seven percent in China. In short, China is no longer a poor country, whereas India still fits that description.

The second major difference between the two nations is the far greater impact of China on the global economy, especially in the present decade. This is due mainly to two reasons: first, China's much more aggressive strategy of export-and-foreign-investment-led industrialisation;

and second, the extraordinary pace of China's growth. Thus, between 2000 and 2007, China's merchandise exports almost quintupled in value to account for nearly nine percent of world exports, while India's export share increased sedately from 0.7 to one percent.

Similarly, China's primary energy consumption of commercial fuels over the seven years is more than double India's total primary energy consumption. Unsurprisingly, China's emissions were almost four times higher than India's (per capita terms). With China's economy three times as large as India's today and given her disproportionately larger footprint in international trade, capital flows, energy consumption and carbon emissions, China's potential role in helping solve the major global economic issues of the day is correspondingly greater.

Similarly, on the enduring issue of global imbalances, India can do little to ameliorate this problem while China can play a much bigger part by stimulating greater consumption and undertaking significant currency appreciation to contain and reduce her massive current account surpluses.

Both countries have an important stake in bringing the Doha round to a successful conclusion: China because she is one of the biggest trading nations; and India because her economic interests are better served by a liberal, international trading order than a system of regional blocs. On the contentious issue of greenhouse gases,

China's actions will obviously have much more significant consequences, given that her emissions are four times greater in both absolute and per capita terms.

In an important sense, the sequential rise of China and India has made things easier for the global economic community. The strains of accommodating one giant at a time have been substantial but broadly manageable. Had both these countries embarked on growth of 8-10 percent a year at roughly the same time, it could have been far more challenging for the international economic order - and perhaps more dangerous.

There is really only one new economic giant in town while the other potential giant, India, is still a relative stripling.



* Former Chief Economic Adviser to the Government of India. Abridged from an article that appeared in *The Financial Times*, on July 29, 2009.



ReguLetter

The July-September issue of the CUTS C-CIER newsletter ReguLetter encapsulates the 'BRIC Competition Conference: Need to Consolidate a Sound Start' in its cover story, which would add a new dimension to international cooperation on competition – especially by focusing attention on the challenges and requirements for competition reforms in the developing countries. It is expected to evolve as a platform for mutual learning through experience sharing among the partners and other members of this process.

The lead story is followed by regular sections focusing on news, views and policies related to corporate restructuring, regulations of utilities and finances, corporate governance etc. of different countries in particular, the developing nations. Besides, annual roundup of competition laws, mergers & acquisitions, corporate issues etc. is another highlight of the edition.

A special article by Charles Webb focusses on the potential problem of 'overt cartels'. The evidence of an overt cartel is often available in the form of published or easily obtainable trade association rules. The elimination of overt cartels is of vital importance, perhaps especially so for new competition authorities in developing countries.

About a Competition Law dwells on the competition scenario in Ethiopia, the institutions of competition law in the country and the scope of improvement in the law.



This newsletter can be accessed at:
<http://www.cuts-international.org/reguletterpdf/reguletter3-09.pdf>

Dossier

'Competition Distortions in India'

Effective competition plays an important role in developing countries. It is necessary for country's economic growth and delivering consumer welfare. However, with the exception of trade barriers, little is known about the scope and nature of impediments to competitive market outcomes in developing economies. India is no exception. Therefore based on the need, these periodic dossiers look at the interface of policy issues which has an impact on competition in India, which can be both negative and positive. News as published is used without verifying their accuracy. The purpose is to flag issues to the layman as well as to the specialised policymakers and regulators, rather than be judgmental about them. This would require greater analysis particularly in terms of cost and benefits.

Three editions of the dossier have been published which were quite successful and many comments were received on the issues raised. These can be accessed at our website: http://www.cuts-ccier.org/Competition_Distortions_India.htm. We would welcome your views and any comments on similar actions which go against the spirit of healthy competition.

India's Investment Environment

India is certainly an attractive destination for FDI especially given its huge consumer base but there are certain factors, which have prevented it from realising its true potential. More can be achieved through continued reforms that strengthen institutions, improve economic policies, ease administrative hurdles and create an environment favourable for private investment.

CUTS International has completed a study for Organisation for Economic Cooperation and Development (OECD) to analyse certain aspects of India's investment environment; and has been periodically tracking developments that aim to achieve investment policy reforms. As a follow up, CUTS has been preparing monthly updates on FDI policy changes in India, which are available at: http://www.cuts-ccier.org/India_Investment_Environment.htm

SOURCES

BL: The Hindu Business Line, BS: Business Standard, ET: The Economic Times, FE: The Financial Express, FT: The Financial Times, HT: Hindustan Times, IE: Indian Express; PTI: Press Trust of India; TH: The Hindu; WD: White Drums

The news/stories in this Newsletter are compressed from several newspapers. The sources given are to be used as a reference for further information and do not indicate the literal transcript of a particular news/story.

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