PolicyWatch

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

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HIGHLIGHTS

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

Catch the Signal of Change

Is India a banana republic or a dirigisme economy? Neither. Firstly, we are not a small country with a single export item, and we are neither a state-controlled economy. However, there is a preponderance of both elements in our governance system. In a colloquial sense, we are no better than a banana republic, where public interest is given the short shrift and crony capitalism rules.

The state does control a large part of our economy, and has failed in allocating them in a fair manner to the best possible bidder, whether it is minerals or oil or spectrum. And private interest overrides public interest, coupled with unjust enrichment of the polity, *babus* and businesses.

The doctrine of public interest has been reinforced again and again in all recent Supreme Court judgments. The latest one on cancellation of 122 mobile telephony 2G licences has been the most daring and forward-looking. This order will have an impact on other sectors as well as the whole governance system. The apex court is doing what the government should have done.The government has been behaving in a cavalier fashion, for obvious reasons. There has been no check on what it has been doing - or not - at all levels in our government system.

In the case of the cancellation of the 122 licences, the court has asked the government to use the auction route and settle the matter within four months, rather than do it at their leisure. The government may ask for more time from the court, since they cannot do it so swiftly.

This is rather odd, that if the 122 licences could be awarded within a record time on a first-come-first-served basis, why it would be so difficult to conduct auctions within the time period. The limited time period is to ensure that serious parties, rather than rent-seekers, can bid.

To deal with this awkward situation, it has also been suggested that a hybrid model be adopted, wherein bidders can offer a bid with a one-time payment and a periodic payment for usage linked with earnings and spectrum-usage charges. The Ashok Chawla Committee on Allocation of Natural Resources, in its May 2011 report, has also recommended the delinking of spectrum with licences, though not precisely recommending this method.

Reverting to the issue of spectrum auctions, the apex court has directed that Telecom Regulatory Authority of India (TRAI) should formulate recommendations for grant of licences and allocation of spectrum through an auction process.

Nothing prevents TRAI to suggest the aforementioned hybrid model, with safeguards, as the most pragmatic one. A counter-argument would be that such a system is not being followed anywhere.

But as the noted jurist Lord Denning said, "If we never do anything which has not been done before, we shall never get anywhere. The law will stand still while the world goes on and that will be bad for both."

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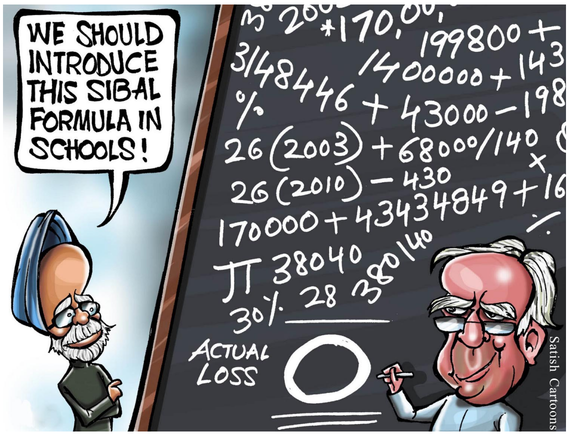
Spectrum Auctions - 'Jhatka' Or 'Halal'?

– Shyam Ponappa*



The choice is between sudden death and a slow one

Why do people advocate spectrum and licence auctions? Is it because they think auctions work? Is it the appeal of an ideology, like capitalism or socialism? Or is it because governments often collect large sums, and auctions seem fair and transparent? Yet, while desiring high government collections, people really want reasonably-priced good infrastructure, and continue to rail against government waste. Let's review some so-called "successful" auctions and what followed.

A contrarian move in France is noteworthy for its prescience and insight. CEO Martin Bouygues of the third mobile operator, Bouygues Telecom, refused the government's demand of US$4.5bn as the fee for a 3G licence, making it the only mobile communications company in Europe with no investment in 3G. While his opposition was ignored, by 2002, the French government dropped its asking price by more than 85 per cent to induce Bouygues to accept a 3G licence.

1994: The US spectrum auction – Prior to 1994, the US used to allocate spectrum on demonstrated capacity and merit. The spectrum auction in 1994 netted record bids. The Federal Communications Commission chairman reportedly said: "Auctions have proven once again to be a success not only by awarding licences to those that value those most, but also by decreasing the national debt." Then disaster struck, with a number of "successful" bidders declaring bankruptcy.

1994: India telecom licences – In 1994, India auctioned telecom licences. Chaos followed owing to overbidding and default. Thereafter, the sector struggled from one contention to the next, with the government and operators deadlocked by 1998. The New Telecom Policy of 1999 provided a breakthrough, tossing aside the auction bids in favour of shared revenues. Interestingly, the TRAI estimated that auction fee foregone till March 2007 was over ₹19,000 crore, whereas actual revenue collections were double, at ₹40,000 crore; by March 2010, the collections were 80,000 crore.

2000: The UK 3G auctions – The 3G auction in the UK was hailed as a spectacular success, reaping bids of about US$35bn.

2000: The France and Germany 3G auctions – Germany followed, netting US$67bn, and the finance minister quipped that the auction was for unexpected revenue to pay the national debt. France demanded a flat fee of US$4.5bn per licence. The dotcom bubble burst in March 2000, followed by communications and technology companies a year later, and the bidders went into a tailspin. The collapse nearly bankrupted not only British Telecom owing to the enormous debt it incurred for the bids, but the entire industry worldwide.

In terms of results, the auction "failures" – the Netherlands, Switzerland, Sweden, and "non-auction" countries like South Korea, Japan and Finland (until 2009) – have the best broadband services.

Kapil Sibal's appointment as India's telecom minister has brought hope, with prospects of radical improvements in infrastructure, especially broadband, with a clean hand. Sibal's recent pronouncements on a new telecom policy, however, raise the spectre of another deadlock. Here are two examples:

(a) Adequate spectrum will be provided to all service providers: This is feasible not through slivers of spectrum for many operators, but only if there is a common carrier access, that is, all operators can access spectrum for a reasonable fee. There is no indication of what "adequate" means, nor of pooling or sharing spectrum. Let's hope the domain experts have been heard and not shouted down on "adequacy".

(b) Spectrum henceforth will be awarded only on a market-based mechanism: If the criterion for success is high bids and not delivered services, in effect, this means auctions, and the result is likely to be dismal. Those enamoured with auctions focus on the success of bids, ignoring the purpose of spectrum/licence allocation, which is service delivery resulting in consumer surplus (societal benefits). If the operators choose to roll over and accept authoritarian decrees, the conflict will be between government and the public interest.

The issues that need comprehensive transformation are spectrum and network sharing for service delivery at least cost. The government and Sibal have the opportunity to choose an approach resulting in excellent delivery including broadband at reasonable prices.

* *Distinguished Fellow, Investment Banking, Centre for Internet & Society, Bangalore. Abridged from an article that appeared in the Business Standard, on February 03, 2012*

• COMMUNICATION •

Setting Up of Telecom Fund

In line with the government's efforts to boost the domestic manufacturing of telecom equipment, the working group on the telecom sector for the 12th Five-Year Plan has recommended setting up of a ₹10,000 crore Telecom Promotion Fund to provide soft loans to Indian manufacturers of these equipment and also the operators who deploy them.

Along with soft loans, the working group has also proposed an entrepreneurship fund on the lines of a venture capital fund, which would attract young entrepreneurs to venture into start-ups and promote Indian products abroad.

Making recommendations on a host of issues, the working group has identified the telecom sector as a laggard when it comes to presence in the international telecom standards.

(FE, 19.01.12)

Teledensity in India Rises to 63%

There are more households with telephones in the country than those which have access to things such as bicycle and television. According to the Census of India 2011, about 63 percent of Indian households in the country now have a telephone connection compared to just 9.1 percent in 2001. Penetration of telephone as a mode of communication surpasses that of television and radio which is at 47.2 and 19.9 percent, respectively.

There are 24.6 crore households in the country of which 15.5 crore have a telephone connection. There are 13.1 crore households with only mobile and just under a crore houses with only fixed line phones. Nearly 1.4 crore houses have both mobile phones and a fixed line mostly of which are in the urban areas.

(BL, 13.03.12)

USO Subsidy to Rural Users

The Prime Minister's Office has asked the Department of Telecom (DoT) to consider a proposal to give subsidy directly to mobile users in rural areas from the Universal Services Obligation fund.

Under the existing system, DoT gives subsidy to the operators for rolling out infrastructure in rural areas. According to the proposal mooted by the Planning Commission, mobile users in rural areas would get a subsidy of 20 percent on bills of less than ₹300 a month. In addition, a one-time subsidy of ₹250 could also be given at the time of new connections in rural areas.

(BL, 12.01.12)

New NTP on the Anvil

The new telecom policy, which is expected to do away with roaming charges for subscribers, will be announced by June 2012. The government is in the process of finalising the new National Telecom Policy (NTP).

The draft policy also proposes to implement one-nation full mobile number portability along with providing the telecom industry the status of an infrastructure sector, which will help ease credit flow to companies for funding rollout plans or expansion activities.

The draft has been approved by the Telecom Commission and the DoT is in the process of seeking cabinet approval.

(ToI, 15.03.12)

700Mhz for 4G in the Offing

Paving the way for another round of spectrum auctions in 2012, an Empowered Group of Ministers (EGoM) decided to earmark the 700 Mhz band for offering fourth generation (4G) mobile services.

Telecom Minister, Kapil Sibal said that this will make more spectrum available for broadband players such as Reliance Industries for offering high speed video and data services. He added that the issue relating to vacating airwaves between 1700 Mhz and 2000 Mhz spectrum bands is yet to be resolved. This band is currently being used by the Defence forces.

(BL, 05.03.12)

DoT Favours Open Auction of 2G

In a move that could pave the way for open auction of the 2G spectrum released from 122 cancelled operators, a draft Cabinet note prepared by the DoT has recommended the spectrum price be discovered through an auction involving "existing players and new parties".

Though the draft note is based on decisions taken by the Telecom Commission finalised before the Supreme Court judgment cancelling 122 telecom licences, it is important as it reflects a view in favour of an open auction.

According to TRAI estimates, about 28 MHz of spectrum would be available on average in each circle, and whether the auction price would go higher or lower would depend on the number of players in the race.

(BS, 08.02.12)

TRAI to set up Complaint Centre

The Telecom Regulatory Authority of India (TRAI) has made it mandatory for telecom operators to set up a Web-based system whereby consumers can track the status of their complaints.

The Hindu Business Line

The regulator has also asked operators to appoint an Appellate Authority to look into unresolved consumer complaints. Under the Telecom Consumers Complaint Redressal Regulations 2012, the regulator has done away with the need for nodal officers at the circle level.

These regulations replace the earlier 'Telecom Consumers Protection and Redressal of Grievances Regulations, 2007'. Under the new rules, operators have to establish a complaint centre with a toll-free "Consumer Care Number". The centre will be responsible to address all the complaints received by them. Provisions have also been made at the complaint centre to establish a Customer Care Number which could be accessed from any other service provider's network.

(BL, 05.01.12)

• TRANSPORT •

Railways Hikes Freight Rates

While reducing the freight rate of iron ore for export purposes, the Railways has hiked the freight rates of foodgrains and fertilisers by four percent with immediate effect ahead of the Railway budget.

In 2010, the Railways increased the freight rate of some commodities like sugar and petroleum products by four percent but exempted foodgrains and fertilisers from the hike by placing these two commodities by creating a separate head.

Through another decision the Railways have decided to reduce the cost of distance based charge of transportation of iron ore for export purpose by ₹475 per tonne which will work out to a reduction of up to 16 percent depending upon the distance transported. *(TH, 07.03.12)*

Plastic in Road Laying

Encouraged by the use of plastic in road laying in Tamil Nadu, the Centre is mulling a national level policy on its usage on roads. The Environment and Forests Minister, Jayanthi Natarajan said that using plastic in laying roads will increase the life of roads. A national level policy has been prepared on this.

The Minister stressed on the importance of common man's participation in conserving biodiversity and protecting the environment and suggested that people look at car-pooling, preferring public transport and smart usage of electricity as they are interlinked with the environment. *(BL, 27.01.12)*

Allow FDI in Domestic Airlines

As the debt-laden civil aviation industry battles hard to stay afloat, the government would kickstart the process to allow foreign airlines 49 percent stake in Indian carriers, signalling a major shift in the UPA government's policy. The decision was taken at a meeting between Finance Minister Pranab Mukherjee and Civil Aviation Minister Ajit Singh.

The meeting also decided to immediately release ₹150 crore for the payment of a portion of pending salaries and allowances of Air India employees, including pilots. According to Singh, FDI was one of the factors which would help the already stressed Aviation Industry to survive the current financial crisis. *(TH, 18.01.12)*

A New Policy for Aviation

The Civil Aviation Ministry has started working overtime to formulate a new policy to cater to the latest concerns of the aviation industry, especially issues relating to its sustainability like jet fuel pricing, infrastructure, airfare pricing, safety and security.

Associated Chambers of Commerce & Industry of India suggested a separate air cargo policy to tone up infrastructure, formulation of a regulatory framework and induct modern technology in the fast-growing industry. Projecting that 200 freighter planes would be required in the next 20 years, it said the government should upgrade infrastructure, attract domestic investment and ease FDI norms. (*ibnlive.in.com, 27.01.12*)

Regulator for Highways

As the government increasingly builds highways on public private partnership (PPP) basis, the Road Transport and Highways Minister, C P Joshi favours a regulator in the sector to take care of quality of service provided to the highway users.

With users paying tolls to use highways, their expectation for certain quality of service parameters such as lower waiting time is bound to go up. Currently, there is lack of a concrete, implementable institutional framework for addressing user complaints.

Since early 2011, the National Highways Authority of India (NHAI) has provided a link on an online social networking site – facebook – where users can provide feedback. The feedback or complaints are usually forwarded to the officials concerned. But, the concessionaires are not required to provide inputs. *(BL, 15.02.12)*

Financial Subsidy to Shipyards

The Shipping Ministry, while arguing that soaring costs and adverse tax structure have severely reduced the competitiveness of Indian shipyard sector, has sought the approval of a Committee of Secretaries on extending a financial subsidy to struggling shipyards. It has also pitched for exempting the sector from the purview of service tax and according infrastructure status to it.

The Shipping Ministry pointed out that currently the maritime trade in India remains largely dependent on foreign vessels given the domestic capacity constraints and nations like China, Japan and South Korea have stolen the march by hugely developing their domestic shipyard industry.

Based on the projects, the Ministry's subsidy proposal entails an expenditure of ₹7243 crore for initial five years from 2012-13 to 2017-18. *(FE, 29.03.12)*

Transparent 'Air Fares'

The Directorate General of Civil Aviation (DGCA) directed all airlines to immediately withdraw from a scheme under which travel portals offer discounted air tickets but do not reveal the name of the carrier till the payment is made by the customer.

Known travel portals have been offering 'opaque fares' which enables a customer to buy highly discounted tickets without knowing the carrier's name until he or she makes the full payment.

This violated provisions of the 1937 Aircraft Rules and other circulars relating to transparency in the display of air fares. *(FE, 28.03.12)*

• OIL & GAS •

Shale Gas Policy by 2013

By the end of 2013, India will have a national policy on exploration of shale gas, an unconventional natural gas resource trapped in sedimentary rocks that would substantially reduce the country's dependence on imports. The government has started a consultation process with the concerned ministries and departments to formulate a policy.

The announcement of shale gas policy will depend on completion of the consultation process with all the concerned authorities, including environmental safeguards required to be put in place under the regulatory regime for shale gas exploration and production. *(TH, 14.03.12)*

Gas Output Slide to Hit Prices

Consumers running their vehicles on compressed natural gas (CNG) and households using piped natural gas (PNG) in their kitchens should get ready for frequent hikes in prices of these fuels.

Since the price difference between imported and domestic gas is huge, an increased dependence on imported gas would mean a higher cost for consumers of CNG and PNG.

Amidst this hike in CNG and PNG prices, state-owned oil companies are preparing to increase petrol prices by ₹4-5 per litre with under-recovery on the fuel shooting above ₹6 per litre.

With the demand for CNG increasing rapidly, Indraprastha Gas Ltd has said that the company has no option but to source costly LNG at over three times the cost of domestic gas to maintain the supplies to consumers. *(HT, 28.03.12)*

Petrol Prices to Rise

Even as automobile manufacturers are considering increasing the prices of their products, an increase in auto fuel prices is also imminent. Oil marketing companies say prices of motor spirit or petrol may be increased in April 2012 itself.

There was a strong case to increase the diesel price, too, though that would depend on a green signal from the political quarters.

Although no clear-cut measures were announced on fuel price deregulation by Finance Minister Pranab Mukherjee in the Union Budget, a statement from Prime Minister Manmohan Singh after the Budget presentation made it clear that a rise in prices of petroleum products was on the cards. *(BS, 18.03.12)*

Carmakers to Invest in Diesel

Indian carmakers are likely to step up investments to make more diesel cars in order to stay in the game, as they battle a slump in demand triggered by a series of interest rate and fuel price hikes over the last few months.

Maruti, India's largest carmaker by sales, had anticipated the market trend much earlier in 2007 when it started making diesel engines. Now, it wants to add more capacity. It has already inked a deal with Italian carmaker Fiat SpA to source three-lakh diesel engines and in addition is planning a second diesel engine plant at its Gurgaon facility.

Hyundai, world's fifth-largest carmaker which operates a wholly-owned subsidiary in India, is in the final stage of rolling out an ₹400-crore greenfield plant that will make 1.5 lakh diesel engines every year

Maruti's new plant will entail ₹1,000 crore investment and would initially start with a capacity to produce one-lakh diesel engines per year.

The rationale to establish and scale up diesel facilities comes on the back of pragmatic shift by Indian customers for cheaper price fuel that also offer better fuel mileage to petrol cars. Diesel is around 40 percent cheaper to petrol in the Indian market. *(ET, 19.03.12)*

Changes in New Urea Policy

The Fertiliser Ministry may introduce changes in the new urea investment policy to reduce the potential burden of offering incentives for new plants and subsidising the price of gas used as feedstock.

The policy seeks to give urea manufacturers a minimum 12 percent post-tax return on capital. The Fertiliser Ministry has proposed that the government compensate companies if the price of gas exceeds US$14 per million British thermal units.

Under the policy, incentives will be provided to urea units grouped under three broad categories – greenfield, or new plants; brownfield expansion of existing plants; and for improving plant efficiency to boost output.

As a part of the policy, the government is now contemplating making it mandatory for companies setting up new plants to seek gas linkages via the Petroleum Ministry. *(Mint, 02.03.12)*

Subsidy on LPG Cylinders

The government provided a subsidy of ₹4.38 a litre on PDS kerosene and ₹320.38 per cylinder on domestic LPG as on March 01, 2012. This information was given by the Minister for Petroleum and Natural Gas, S Jaipal Reddy to the Rajya Sabha.

He also said that the total subsidy on PDS kerosene and domestic LPG during 2009-10 and April-December 2010 is ₹4,391 crore and ₹29,525 crore, respectively. The Minister further said that consumers get PDS kerosene and LPG cylinders at a subsidised price. The subsidy is transferred to the public sector oil marketing companies – IOC, BPCL and HPCL.

In order to avoid the leakages in the system, the government is working out modalities for cash transfer of subsidies using the AADHAR platform operated by Unique Identification Authority of India. *(BL, 08.03.12)*

• POWER •

Power Exempted from Auction

In a landmark development, the government has exempted power sector companies from going through the auction route for the allocation of coal blocks for captive use. The new system is expected to induce "transparency and objectivity" in the overall coal block allocation process. In the first phase, 54 blocks would be offered to both power and non-power users, under the new dispensation.

Under the new system, while coal blocks would be allocated to companies in sectors other than power through an auctioning method, where bids would be invited over a floor price, power sector companies seeking blocks would be selected on the basis of electricity tariff for the power plant connected to the block.

(BS, 10.02.12)

FDI in Power Exchange Business

The government will soon allow foreign investment in the country's fledgling power exchange business. The Foreign Investment Promotion Board and the Department of Industrial Policy and Promotion have come around the view that the overall foreign investment in the sector may be capped at 49 percent, at par with the level for the commodity exchanges. Of the 49 percent, 26 will be FDI and the balance, foreign institutional investment.

The policy is expected to give comfort and clarity to foreign investors and help existing bourses get funds to scale up their operations. Currently, there is no clarity on whether foreign investment is allowed in power exchanges as this activity is not defined in the note on foreign investment in commodity exchanges.

(FE, 29.02.12)

APP Seek Tweaking of Norms

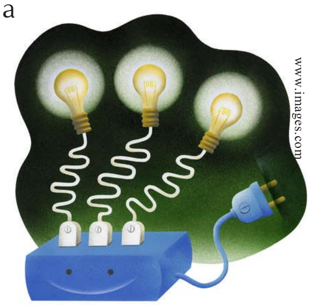
A power producers' group has demanded clauses to offset changes in international laws, with regard to ultra-mega power project contracts, while opposing tariff renegotiation after the financial bids are opened.

The Association of Power Producers (APP) want changes in international law to be part of the *force majeure* provisions – which excuse a party from liability in the event of chance or unavoidable occurrences – for the upcoming ultra-mega power projects (UMPPs). The grouping of prominent power producers has also expressed their opposition to tariff renegotiation after the opening of financial bids for UMPPs.

(BS, 02.03.12)

Panel to Resolve Power Woes

Prime Minister Manmohan Singh has tasked a committee of secretaries (CoS) headed by Principal Secretary Pulok Chatterjee with quick resolution of the issues confronting the power sector like a worsening fuel shortage and the dichotomy between the rising cost of imported coal and the power purchase pacts.



The move underlines the PM's intervention in key ministries that have been struggling to sort out these issues. Singh asked the CoS to try and ensure that all relevant issues are resolved within three months, failing which there would be another roundtable with the industry. The demand-supply gap for coal in the domestic market has increased alarmingly in recent months with massive capacity addition plans afoot in the power sector and production stagnation at Coal India.

(FE, 18.01.12)

Rise in Power Bills

With the coming of April households across India should be prepared for an average one-third rise in electricity bills as distribution firms seek to raise tariffs to share increasing fuel cost and revenue gaps with consumers.

While most proposed distribution reforms remain on paper, some consumers in Mumbai may be asked to pay as high as ₹11 per unit of power consumed and an average household consuming over 500 units in Andhra Pradesh may end up paying addtitional ₹7 in 2013.

Tamil Nadu's distribution utility has demanded a 64 percent rise in energy charges for 2012-13. Besides, most distribution firms have proposed to raise or modify other components of electricity bills like fixed and demand charges, as per the analysis of tariff petitions filed with electricity regulators show.

(ET, 05.03.12)

Renewable Energy Fund Soon

The government is considering setting up a separate corpus out of the existing national clean energy fund to help finance renewable energy projects. The proposal is that the government will set up the corpus out of the money collected in the clean energy fund and, then, seek matching contributions from multilateral agencies like the World Bank as well as the private sector.

The move is in line with key suggestions made by a Parliamentary panel, the Estimates Committee of Lok Sabha, to expedite harnessing of the country's renewable energy resources. The committee is mandated to provide inputs to the government for economic policy-making. The money from the fund will be used to provide interest subsidy to renewable power project developers.

(FE, 05.03.12)

Open Access not Cheap

The open access regime allows the consumers to source power from any surplus producer. It is a major policy step in reducing the demand-supply gap. The transparent price discovery mechanism offered by the power exchange helps bring together the buyer-seller at market determined prices.

With the recent Ministry of Power order regarding the open access system – which deems all 1 MW and above consumers eligible for open access and ends the regulators jurisdiction on fixation of energy charges – the electricity trading market is due for a major transformation. This will have major implications for all players, from utilities to consumers.

(FE, 06.02.12)

• MIXED BAG •

RBI Favours KYC Portability

The Reserve Bank of India (RBI) is of the opinion that more than account number portability, customer would be better served by a facility to shift accounts without having to repeat the "know your customer (KYC) procedure". The Finance Ministry is considering asking banks to look at account number portability.

The RBI has already looked at the concept and come to the conclusion that it would be a technological challenge and much simpler to implement once every account holder has a number issued by the Unique Identification Authority of India (UIDAI).

Introduction of savings account number portability is also expected to help customers change their banks without having to go through know your customer (KYC) norms again. The Government has already, allowed portability of mobile phone numbers and health insurance policies.

(ToI, 03.01.12)

Cos. to Reveal Monthly Sales

The Securities & Exchange Board of India (SEBI) is planning to make it mandatory for companies to disclose their monthly sales, turnover or production figures first to stock exchanges before giving it to industry associations or the media.

Presently, rules do not specify how companies should publish this data. While some companies file this data first with the bourses, many others send it to industrial bodies. SEBI's move is aimed at providing a level playing field for investors as anyone who wishes to get information about the company is more likely to look up for the same on the websites of the stock exchanges. *(ET,13.02.12)*

Water Policy Hints at Tariff Hike

The draft National Water Policy 2012 favours a hike in tariffs. The policy proposes "reversal of heavy under-pricing which it says leads to wasteful use of both electricity and water".

It proposes that a system to evolve benchmarks for water use for different purposes be developed to ensure efficient use. Project financing has been suggested as a tool to incentivise efficient and economic water use.

Proposing greater private role in the sector, the policy says water-related services should be transferred to community and/or private sector with appropriate "public private partnership" model. *(BL,01.02.12)*

Guidelines on Bancassurance

The draft guidelines on bancassurance put out by the Insurance Regulatory Development Authority recently, if implemented in word and spirit, will turn out to be cumbersome for the industry and make the process of providing customer service more difficult for companies.

The industry is, therefore, divided on the draft guidelines, under which the regulator segregated the country into geographical zones and allowed insurance companies to partner with different banks and non-banking financial companies (NBFCs) in different states for selling their products.

Currently, a bank can tie up with only one life and a general insurer for selling insurance products to its customers. *(BL, 04.01.12)*

Regulator for Auditors

Supporting SEBI's proposal for an independent auditing regulator in India, global auditing and consultancy major PricewaterhouseCoopers (PwC) said that there is an urgent need to have a strong and powerful watchdog for this business.

PwC India Chairman, Deepak Kapoor stated that it is a great suggestion on the SEBI's part, but the decision has to be taken by the government, including by the Corporate Affairs and the Finance Ministry. Separately, SEBI plans to put in place a proper mechanism "for enforcing compliance with auditing standards by the auditors of listed companies". *(BL, 28.01.12)*

Credit/Debit Top Complaints

While lenders are keen on diverting basic banking facilities from the traditional branch model to the automated electronic route, the area needs more attention in terms of efficiency, according to the annual report on the Banking Ombudsman released by the Reserve Bank of India (RBI). The call centres set up by banks to address customer grievances are not able to fulfil their objective effectively.

According to the report, 24 percent of the total complaints received by banks in 2010-11 pertained to transactions carried out through automated teller machines (ATMs), debit and credit cards.

Complaints filed in this category primarily related to unsolicited cards, charging fees on 'free' cards, abusive calls, skimming of cards, excessive charges, wrong debit to accounts and non-dispensation of money from ATMs. *(BS, 25.02.12)*

Uniform Legislation for Banks

The Financial Sector Legislative Reforms Commission is considering a single, harmonised and uniform legislation applicable to all banks and giving the Central Bank the power to sanction takeover of a co-operative bank by commercial banks.

The fact that different banks are governed by different laws has resulted in an uneven playing field and this need to be addressed. The Commission was set up by the government earlier in 2012 to recommend radical overhaul of laws governing the financial sector.

A single, harmonised and uniform legislation applicable to all banks will provide transparency, comprehensiveness and clarity besides ease of regulation and supervision to the RBI. *(BL, 27.12.11)*

Give Infrastructure a Lift

– Manish B Agarwal*

In contrast to most years, the mood going into this year's Budget is sombre – reflecting investor concerns on the macro challenges and the loss of policy traction over the past few months. Investments in infrastructure have slowed sharply, owing to:

- Weak investor confidence on governance issues and uncertainty about the global economy.
- Increased interest rates and higher inflationary pressure.
- Hindrances to project execution.

While the intent to continue to move ahead with fiscal consolidation is clearly expected from the Budget, the government will have to balance its act carefully, to counter the burden of high oil prices and meet growth expectations. The task before the government is to put in place conditions to help revive the capex cycle, moderate the borrowing target, propose a higher outlay for infrastructure sectors and measures to enhance external fund inflows into infrastructure projects. In this context, our wish-list below highlights the key enablers for fast tracking investment activity in the infrastructure sector:

A wishlist for fast-tracking investment in the sector

Infrastructure Debt Fund

- One of the objectives of the IDF is to channel foreign low-cost-long-tenure financing into the infrastructure sector. Given India's current credit rating, a credit enhancement mechanism to support the IDFs would be necessary to sufficiently meet this objective.
- Amendment to clarify that any interest income earned by IDFs and distributed to its unit holders (who are non-resident) will be eligible for the beneficial tax rate of five percent, especially since the tax regime provided for IDFs in the Finance Act 2011 is not in line with the regulations issued by the Securities and Exchange Board of India and the Reserve Bank of India for raising IDFs both under a fund route and a non-banking financial company route.

General tax incentives

- Extension of 80IA benefits for infrastructure projects until the Direct Taxes Code implementation is required.
- Recognition of the limited liability partnership structure for infrastructure projects can help make it a favoured route for private
- investments and ease lending restrictions to such entities, which can then become tax-efficient vehicles for investment in infrastructure projects.
- In 2010-11, 1.5 million retail applications were received for infrastructure bond issues and ₹3,200 crore was successfully mobilised from them. Extension of the deduction on investments under infrastructure bond scheme in notified long-term infrastructure bonds under section 80 CCF, along with an increase of tax-deduction from ₹20,000 is likely to be effective in raising long-term funds for the infrastructure sector. The need for a vibrant bond market continues to be a hurdle to adequately utilise this route to reduce the asset-liability mismatch issue in infrastructure financing.
- In projects where user-charges are not linked to costs (toll roads, metros, water supply), the incidence of MAT does impact viability of projects. While credit can be availed on the minimum alternate tax paid, in the subsequent years, the cash flow timing can impact IRRs by 1.5-3 percent.

Sectoral incentives

- In 2010-11, major ports in India handled 160 million tonnes of bulk commodities (coal and iron ore) compared to just 114 million tonnes of containerised cargo. However, due to various reasons like high inland duties, freights and lower demand, exim bulk cargo traffic has been slowing down, which can affect the economics of India's ports. Hence, addressing issues specific to bulk commodities will reduce uncertainty for a significant portion of the traffic throughput of port projects, and help improve their bankability.
- As per the 11th Five Year Plan, there is a shortage of as many as 25 million residential dwellings in India, with close to 99 percent of the shortage in the economically weaker section and lower income group segments. Inadequate regulatory mechanisms, high cost of land, a stringent land acquisition process and lack of financing options have deterred private developers from creating supply to meet the demand. Therefore, a comprehensive package (covering policy, institutional and fiscal measures) for enabling private sector participation in affordable housing projects is the need of the hour.

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* *Executive Director and Head of Infrastructure Advisory, PwC India. Abridged from an article that appeared in* The Financial Express*, on March 06, 2012*

Integrated Energy Policy
Creating a New Energy System

– Vikram S Mehta*

Recently, the PM met the CEOs of 18 private power generation companies. The meeting had been sought by the businessmen. They wanted to apprise the PM and his Cabinet colleagues responsible for energy of the difficult conditions facing their companies. The supply of domestic coal was inadequate, imported coal was expensive, the state electricity boards did not have the financial muscle to absorb the higher import costs nor the political mandate to pass on these costs to the consumer, and the power generators were consequently squeezed in the middle and in dire financial straits. The businessmen made clear that unless the situation was rectified, the flow of capital into power generation would dry up and the already severe energy deficit facing the country would worsen. The decision of the PM is important because of the momentum it could generate for an integrated energy policy.

The PM's decision to formalise a regular dialogue between various energy ministries could be significant as India can no longer afford to look at this issue through a fragmented prism

The energy sector is currently in a state of transition. It is headed in a direction that will bring about changes comparable in impact to those engendered by the invention of the steam engine in the 19th century or liquid fuelled transportation in the 20th century. It is not possible at this point to put a time-line to this transition or to define precisely the architecture of the future energy system. But it is credible to posit that the combined impact of technology, increased investment in 'alternatives' and growing public sensitivity to the environment, will eventually radically reconfigure the existing order.

It can also be stated that the governments that wish to influence the direction and pace of this transition will have to formulate and implement their energy policy within an integrative and collaborative decision-making structure – one that aligns technology, infrastructure, markets, people and policy for all energy sources and facilitates partnerships between public and private stakeholders. This is particularly apposite for India as today it looks at energy through a fragmented prism. The integrated energy policy document prepared by the Planning Commission some years ago is gathering dust.

Change is seldom linear and unconstrained. It twists and turns and often takes one step forward as a prelude to taking two steps backwards. This is particularly true for the energy sector as it is hugely complex.

Technology *per se* has seldom been a blocker for the energy sector. Industry has almost always managed to find a technological answer to existing and emergent problems. One can be fairly confident therefore that technology will find solutions to the challenge of moving the world onto a low carbon trajectory. The problem is that technology alone cannot bring about such a move. It can provide the necessary conditions but it cannot meet the sufficient requirements. That will hinge on the creation of compatible infrastructure for bringing the technology to the market.

An opportunity now exists for India to leapfrog onto new energy architecture. The question is whether India can put in place the institutional structures to realise it? Can it create the enabling environment to steer the energy sector through the storms of its current travails and at the same time encourage technology and innovation, attract investment into 'smart' infrastructure and reshape consumption habits to in time reach its longer-term destination of a sustainable energy future built on modern 'clean' technology? The PM's decision to formalise a regular dialogue between the various energy ministries would be significant if it helped create such an environment.

* *Chairman, Shell Group in India. Abridged from an article that appeared in* The Financial Express, *on February 06, 2012*

Boosting Manufacturing Policy

Giving a boost to the National Manufacturing Policy (NMP), the government said units in the proposed mega industrial enclaves will be given highest priority for environmental clearances.

Besides, the procedures for green approvals have been relaxed, exempting the individual units within proposed National Manufacturing and Investment Zones (NMIZs) from public hearings, once they have been held for the entire zone, provided they are notified by the concerned state government.

The NMP aims to enhance the contribution of the manufacturing sector to 25 percent from current 16 percent to the country's gross domestic product. *(FE, 28.02.12)*

Farmer Interests Last

For a government that claims to be pro-farmer, its policies are distinctly anti-farmer. If it was not bad enough that the Essential Commodities Act and the Agricultural Produce Market Committee Act prevent farmers from getting a fair price for their produce, the government banned cotton exports once again.

Apart from what the ban will do to cotton prices – and possibly to farmer suicides since farmers were expecting substantially higher cotton prices – it is not immediately clear how much this will help the textiles industry on whose behest exports have supposedly been banned. The Confederation of Indian Textile Industry (CITI) has asked the government not to interfere in the cotton market, arguing that industry does well in sectors where the government role is minimal.

CITI pointed out that the industry did not even have enough money to buy all cotton produced as the mills were reeling under a host of other problems including large power cuts. This is a move which, while benefiting no section, will harm everyone. *(FE, 06.03.12)*

Inclusion of Eco-tax in GST

There is a strong need to incorporate eco-tax under the proposed Goods and Services Tax (GST) framework, said Prime Minister's Economic Advisery Council (PMEAC) Chairman C Rangarajan.

He said that eco-tax by advanced countries like the UK are levied to discourage the incidence of high level of pollution on the economy. The revenue earned through eco-tax under GST regime could be utilised to undertake mitigation activities that reduce environmental damage. Pollutants like emission fuels classified under the sin-goods category like alcohol and tobacco should be non-rebatable eco-tax under the framework of GST. *(FE, 02.03.12)*

Reforming Labour Laws

Prime Minister Manmohan Singh skirted specific measures to reform labour laws in the country, but said the country can not achieve faster and inclusive growth, and also think of building a modern industrialised economy, without examining the regulatory structure for the sector.

Singh said labour laws need to be improved to tackle the needs of migrant workers better. There was a need for a 'critical' study of the existing regulatory framework to find out whether they were coming in the way of development and growth of employment and industry without really contributing to labour welfare. *(FE, 15.02.12)*

Cairn-Vedanta Tie-up Approved

The Cabinet Committee on Economic Affairs (CCEA) endorsed the UK-based Vedanta Resources' US$8.5bn acquisition of Cairn India. The firms will now be informed of Home Ministry's security clearance to the deal.

The approval was necessitated as the Home Ministry had brought to the oil ministry's notice certain perception issues among some overseas investors about Vedanta Resources' track record on environment protection and ethics.

The oil ministry told the CCEA that both Vedanta and Cairn are already doing business in India and hence there should not be any problems in giving the final go-ahead. The deal gives Vedanta 58.5 percent stake in Cairn India, in which Cairn Energy Plc will continue to hold 22 percent. *(FE, 25.01.12)*

Attracting Foreign Capital

In an attempt to increase overseas capital inflows and reduce the current account deficit due to higher imports, India has liberalised foreign investment in stock markets. Qualified foreign investors (QFIs) can now invest directly in Indian equities.

An individual QFI can invest up to five percent of the paid-up capital of a listed company. Total investment by QFIs in a listed company can not exceed 10 percent of its paid-up capital. Foreign investors will also be allowed to acquire equity shares by way of rights issue, bonus shares or equity shares on account of stock split, amalgamation, demerger or such corporate action. *(ToI, 02.01.12)*

100% FDI in Single Brand Retail

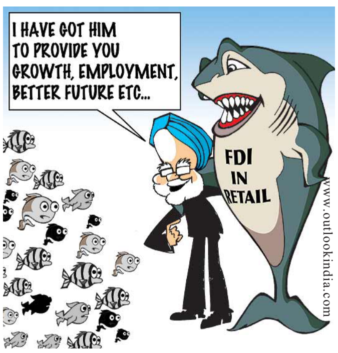
The government notified 100 percent foreign direct investment (FDI) in single-brand retail, paving way for global chains like Adidas, Louis Vuitton and Gucci to have full ownership of their India operations.

However, in respect of proposals involving FDI beyond 51 percent, the mandatory sourcing of at least 30 percent would have to be done from the domestic small and cottage industries which have a maximum investment in plant and machinery of US$1mn.

At present, for single-brand retailers, 51 percent FDI is permitted. Removal of investment cap would help global fashion brands especially from Italy and France to strengthen their interest in the growing Indian market.

Many big names have already set up their operations in the country by partnering with Indian partners. The new policy would allow them to buy out the domestic partners.

(TH, 11.01.12 & BL, 10.01.12)



The Poverty Game

– Barun Roy*

In this largest of all democracies – India that is *Bharat* – politics has a million different views but only one common cause: welfare of the *aam admi*, the general public. Not just any kind of general public, certainly not those who shop in malls, wear designer dresses, watch movies in multiplexes or frequent pubs and night clubs, but precisely those who work on farms, slog in factories, live in slums and are generally classified as poor. There is no government or political party that does not swear by these wretched millions, no serving politician who would not do anything to improve their lot and even die in the service of these people.

Yet, in this hallowed land of democracy, the poor remain poor; farmers commit suicide because they can't pay off their debts; villages go without electricity, safe water or passable roads; the sick are treated like dirt in public hospitals and; slums are the only shelters for millions. How is that possible? Why is it that, in spite of so much of tear-shedding and breast-beating for the aam admi, India continues to be burdened with so much poverty?

Politicians will have their theories and explanations ready and it is next to impossible to win an argument against an Indian politician. For us, however, it is just a game they play. Deep down, nobody wants the *aam admi* to get out of his rut. Oppositionists do not, because they will lose a convenient stick to beat the government with. The government does not, because poverty offers a spending opportunity too lucrative to give up.

So, when, after a long period of policy inertia, Prime Minister Manmohan Singh announced a much-needed reform allowing majority FDI in retail trade, with likely far-reaching benefits for rural India, we were encouraged by his reassertion of courage. But when politicians of all shades, including some members of Singh's own party, rallied to nip the initiative in the bud, we weren't surprised either. The game was all too familiar. Courage yielded to politics, and things returned to normal. The agitators and the administrators were both relieved that poverty was not going to be disturbed after all.

One feels bemused. What constitutes public interest? Letting a marginal farmer be a marginal farmer all his life? Leaving the poor at the eternal mercy of governments and politicians, to languish and live their lives only on guarantee of employment and subsidised food? Or creating opportunities that will help them improve their lot, acquire economic power, develop new hopes and aspirations and become positive contributors to economic growth?

Deep down, our rulers don't want the aam admi to get out of his rut

Of course, FDI is not the only way to do it. But it is surely an important one for a country like India where needs are vast, growth is acutely unbalanced, the underpinnings are pitiably weak and expectations are so aggressively rising. There are many examples of nations seizing foreign investments to make a rapid conquest of their backwardness. It is pure practical economics, serving both sides in the bargain.

China is the nation that looks at FDI as an asset and not a liability. Its philosophy is simple: in a world in which the balance of economic power is never constant, you don't have an eternity to reach your development goals. You must grow fast to stay in the game and not be run over by competition. Once you have acquired the ability to flex your muscles, foreign investment no longer remains a stigma.

This is what India's politicians do not understand. They don't realise that their false sense of nationalism in a globalising economic environment only stunts India's growth and constitutes a downright betrayal of its poor. Besides, they miss another important point.

As they keep massaging their nationalist egos, deriving a pleasure that's sensual in its intensity, China is forcing its way ahead, using whatever help it can get, and the achievement gap between the two countries is steadily widening. At that rate, India's voice in the world might soon be reduced to only a feeble cry in the wilderness.

* *Columnist, Business Standard. Abridged from an article that appeared in the* Business Standard*, on December 29, 2011*

India Largest Eco by 2050

"With a US$85.97tn economy, India will surpass China to become the world's largest economy by 2050", according to Wealth Report 2012 by Knight Frank & Citi Private Bank.

The report said that China will overtake the US to become the world's largest economy by 2020, which in turn will be overtaken by India in 2050. As per the report, Indian economy will reach US$85.97tn size in terms of purchasing power parity by 2050, while the Chinese GDP would be US$80.02tn during the same period.

The US is expected to have a GDP of US$39.07tn by 2050.

(FE, 28.03.12)

Malnutrition a 'National Shame'

Prime Minister Manmohan Singh declared India's state of malnutrition a "national shame" at the launch of a report on hunger and malnutrition (HUNGaMA).

The report, brought out by the non-governmental organisation, Naandi Foundation, found that 42 percent of children under the age of five in 100 districts are underweight. These districts ranked worst in terms of child development in the country.

The study surveyed 112 districts, 100 of which were taken from the bottom of the child development index published by United Nations Children's Fund India in 2009, and the remainder were taken from the best-performing districts of the best states (Kerala, Himachal Pradesh, and Tamil Nadu). *(Mint, 11.01.12)*

Doing Business in India

The Congress-led UPA government needs to get its act together on economic reforms as even smaller countries in the South Asian region – Maldives, Sri Lanka, Pakistan, Nepal, and Bangladesh– have been ranked higher than India in the World Bank's latest 'Ease of Doing Business' rankings.Only Bhutan and Afghanistan trail India in the South Asian region rankings.

Though India has moved up seven places to 132 in 2012, from 139 in 2011 in the overall ease of doing business rankings, which is based on 10 parameters, it brings little solace as the country needs to attract almost US$1tn of foreign capital in the next five years to build up infrastructure such as roads, ports, airports, power projects, irrigation, water supply and sewerage. *(BL, 17.01.12)*

World a Happier Place

Notwithstanding the economic woes and conflicts, the world is a happier place now than what it was in 2007 and Indians are among the happiest on this planet, says a survey. According to a poll conducted by global research company Ipsos, despite woes, conflicts, the world is a happier place than in 2007 as 22 percent (up two points) of global citizens say they are 'very happy' and the happiest people reside in Indonesia, India and Mexico.

While eight in ten citizens in 24 countries surveyed said they are 'happy' with their lives, one quarter said they are 'very happy', a key measure that identifies comparative depth and intensity of happiness among citizens and the world, the report said. *(FE, 12.02.12)*

Human Rights Record 2011

India's human rights record in 2011 got a thumb down from a leading global rights group for its "failure" to protect vulnerable communities and rapped the government for custodial killings, police abuses, including torture.

Human Rights Watch (HRW) also criticised the Indian government for its inaction in repealing the controversial armed forces act and for remaining silent on the "gravest abuses" in countries like Syria.

In its World Report 2012, HRW assessed progress on human rights during the past year in more than 90 countries. In India's case, HRW said it has been a "disappointing year for human rights". "Custodial killings, police abuses including torture, and failure to implement policies to protect vulnerable communities marred India's record in 2011 as in the past."

(ToI, 30.01.12)

States to Miss Sanitation Target

Taking a serious view of the problem, the government had set a target of universal household sanitation coverage by 2012 when it launched its flagship Total Sanitation Campaign (TSC) in 1991. The scheme is being implemented in 606 districts of 30 states and union territories.

But, a recent review report says that 22 states will not be able to meet the target. In fact, only five States – Tripura, Haryana, Himachal Pradesh, Kerala and Mizoram – will be able to meet the 2012 target, says the report 'A Decade of the Total Sanitation Campaign (TSC)', brought out by the World Bank's Water and Sanitation Programme and the Ministry of Rural Development. Overall, the report found an increase in coverage from 21 percent in 2001 to over 65 percent.

(BL, 25.01.12)

Billionaires' Wealth Double

The collective networth of 48 billionaires in India at about ₹10 lakh crore exceeds the government's total consumption expenditure for the last fiscal, as also the entire fiscal deficit of the country.

As per the latest Forbes list of billionaires, there are 48 persons in India with a networth of US$1bn or more and their collective wealth stands at US$194.6bn. This puts the average wealth of Indian billionaires at about US$4.05bn.

In comparison, the latest government data pegs India's per capita income ₹53,331 in the year 2010-11, while it is estimated to grow to ₹60,972 in the current fiscal.

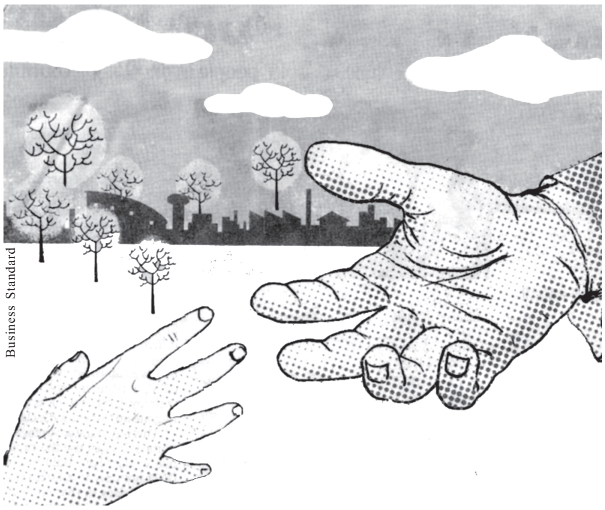
(IE, 09.03.12)

Profiting from CSR

– Shubhashis Gangopadhyay*

The parliamentary panel looking into the provisions of the Companies Bill wants to make it mandatory for the corporate sector to spend a portion of its profit on activities that are socially beneficial. The major areas of dispute are: (a) should it be one per cent or two per cent of profit; (b) what defines the corporate sector and socially beneficial expenditure by them; and (c) should the spending be mandatory or only its disclosure be mandatory. I find all of this very amusing. Let me explain why.

First, I am surprised at why non-governmental organisations are not opposing this move at a time when they are up in arms against cash transfers of all kinds. Their argument against cash transfers is that it shows a certain degree of irresponsibility by the government; instead of physically transferring the exact resources and services that households need for a minimum quality of life, something that the government is duty-bound to provide, it is throwing cash at decision-making households and asking them to obtain these directly from the market.



Mandatory spending on corporate social responsibility does not fit in a market-driven society

By the same logic, a government that asks the corporate sector to spend its profits on socially responsible activities is also highly irresponsible. After all, citizens pay taxes for governments to spend on public goods and redistribute resources. A government that asks the corporate sector to chip in and carry out these activities should also be viewed as irresponsible.

However, those who support cash transfers can still oppose making it mandatory for corporations to undertake CSR activities. The reason for supporting cash transfers is that households are idiosyncratic, and they know better than any paternalistic third party how much of what they need.

Private corporations are supposed to make profits and return them to their investors. Investors, therefore, choose those projects that give them higher returns, and managers of these projects are expected to specialise in the ability to make profits. If one wants entities that specialise in social activities, investors themselves can decide how much to put directly into these activities.

Many would argue that CSR is good business practice. If that were so, one would have to assume that good managers know that. And, if they know, then to signal that they are good managers they would be undertaking CSR anyway, with or without the law. Indeed, they would choose a level of CSR that is in keeping with what maximises the returns from investment.

On the other hand, there are people who feel good investing in companies that work for society. Such investors want their investment to yield a return and be used for the greater good. They are unable to undertake socially good activities by themselves, for an obvious reason: social activities, like profit-making activities, require a minimum scale of operation to be efficient, or even feasible. Companies are aggregators of resources and they will do this well, especially if it is good for their business. And, if doing good CSR attracts more resources for their business, they will shout their intentions from available rooftops.

Therefore, defining disclosure norms for CSR activities is the way to go. People must be confident that what businesses are claiming is true and regulatory institutions need to be able to monitor truth-telling by companies. Indeed, what mandatory CSR spend does is take away the ability of efficient companies to distance themselves from the inefficient ones.

The thing that bothers me the most is that supporters of mandatory CSR by the corporate sector refer to pieces exhorting corporate CSR written by business-school professors abroad. While I am willing to grant that they are smarter than we can ever be, they are also not always right. 2008 is not yet a distant memory! So, why can we not try to think for ourselves instead of relying on others to do the thinking for us?

* *Research Director, India Development Foundation, and Director, School of Humanities and Social Sciences at SNU. Abridged from an article that appeared in the* Business Standard*, on January 28, 2012*

New Method for Poverty Estimates

Amidst strong criticism of the Planning Commission pegging the poverty line at ₹28.65 daily per capita consumption for cities, Prime Minister Manmohan Singh said a fresh group has been set up to devise a new method to assess the number of poor in the country.

Singh also favoured a multi-layered approach to assess poverty estimates and pointed out that the socio-economic and caste-economic census was being conducted across the country that would throw up new data.

As per the Planning Commission's estimates, the poverty ratio has been pegged at 29.8 percent in 2009-10, down from 37.2 percent in 2004-05. These are based on the daily per capita consumption of ₹28.65 in cities and ₹22.42 in rural areas.

Singh said the Tendulkar committee report was not all inclusive. According to the Tendulkar Committee's methodology, the poverty line is fixed by factoring in the money spent on health and education besides calorie intake. *(ET, 22.03.12)*

CAG REPORTS

Coal 'gate'

The Comptroller and Auditor General of India's draft audit report on coal, detailing "undue benefits" of ₹10.67 lakh crore to commercial entities by giving them 155 coal blocks without auction between 2004 and 2009, is scheduled to be finalised and sent to the President Pratibha Patil soon.

This indicates that the draft report may neither be as inaccurate nor as preliminary as it has been made out to be. Sources in the government further confirm that the windfall and undue gains to commercial entities would likely rest in the same range as reported. The beneficiaries of this largesse include 100 private companies as well as some public sector power, steel and cement firms.

After details of the draft coal audit roiled Parliament, the PMO released extracts of a letter Vinod Rai wrote to Prime Minister Manmohan Singh in order to suggest the CAG was distancing himself from the "misleading" loss figure cited in media reports. But with the letter itself admitting that allottees got "unintended benefit," it is likely the final report will repeat this conclusion. *(TH, 25.03.12)*

Govt to Extend UIDAI's Ambit

The recent uncertainty over extension of the unique identification (UID) project led by Nandan Nilekani is set to be over soon, with a government mandate to cover the whole country.

The Unique Identification Authority of India (UIDAI) was created in January 2009 and has been mandated to register 200 million people for providing a unique identification number, the '*Aadhar*', by March 2012.

The authority is set to cross the target by the end of January 2012, with a million enrolments every day. It has already allotted 116.3 million *Aadhar* numbers. UIDAI can not go beyond the 200-million numbers until it gets permission from the government.

Finance Minister Pranab Mukherjee is also likely to extend financial support to the UID project in the budget for 2012-13 and outline a schedule for its involvement in the government's subsidy disbursal and other social sector schemes.

(BS, 17.01.12)

Innovation Fund to be Set Up

India plans to launch a US$1bn Inclusive Innovation fund by June-July, with an initial capital of ₹500 crore, to invest in innovations that can generate services and products to uplift the poor.

Sam Pitroda, Adviser to Prime Minister on Public Information, Infrastructure and Innovation said that we need to provide money to those who have ideas but no seed capital. The fund, named India Inclusive Innovation Fund, will invest in sectors such as agriculture, water, energy and healthcare.

The fund is expected to generate modest returns of about 10-12 percent, as opposed to present industry standard of about 18-20 percent. *(FE, 16.01.12)*

Cabinet Committee on Competition

As the Government draws closer to implementing the National Competition Policy (NCP), it is looking to set up a Cabinet Committee on Competition. To be created on the lines of Cabinet Committee on Economic Affairs, the panel will provide necessary direction and guidelines to various ministries and departments to foster the competition culture.

Some of the key functions of the Committee will include approving priorities for fostering policies and practices including regulatory reforms that enhance competition in any sector. It will also direct the government departments to build capacities and create public awareness in the context of the NCP. It will address turf wars between the CCI and sectoral regulators.

(BL, 21.0.12)

Wage Revision under MGNREGA

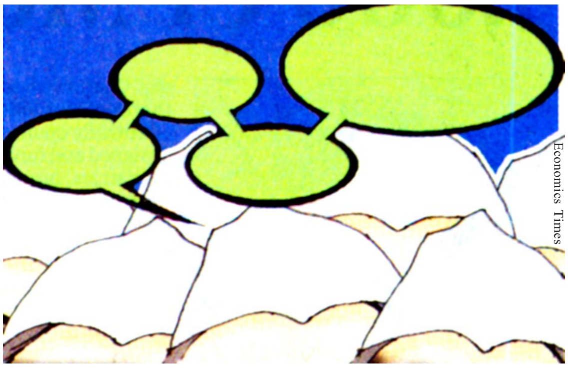
The Centre revised the wage rate under the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) and decided to amend the Act to remove the existing disparity in minimum wage even as the matter is scheduled to come up before the Supreme Court on April 09, 2012.

The revision in the wage rate indexed to the Consumer Price Index for Agricultural Labour (CPIAL) will come into effect on April 01, 2012 and prevail for the year 2012-13. It varies from State to State depending on the specific prevailing CPIAL and will entail an additional burden of ₹472 crore on the Central exchequer. *(TH, 27.03.12)*

The Mother of All Reforms

– Arun Maira*

India's discordant democrats cannot agree. The need for consensus has never been more. Urgently necessary reforms are stuck in contention amongst affected stakeholders: reforms to reduce corruption, improve tax administration, land acquisition, FDI in retail and the insurance sector, to mention some. We can wring our hands and lament lost opportunities, as many economics' commentators do.



Institute democratic processes to reconcile conflicting views and arrive at consensus that we can act on

Or we can argue about who to blame for the discord – the government, the opposition or sections of civil society – as political analysts are. Or worse, we can lament that this is our unfortunate destiny: a combination of our argumentative culture and the systems of democracy that we have adopted. On the other hand, the practical way is to address the root cause of the problem. Which is, simply, our inability to agree and align our actions.

Strains in India's democratic fabric are evident when elected parliamentarians question the rights of citizens to recommend what Parliament should do, as they are. The strength of democracy's fabric lies in a combination of vertical and horizontal threads - its warp and weft. Processes for electing citizen's representatives are democracy's warp - its vertical threads.

India has developed these very well: its electoral machinery is admired around the world. Processes of social dialogue, deliberation and consensus formation, that link people laterally within society, are democracy's weft. Diversity on many dimensions - social, political and economic, and consequent differences of perceptions and needs - are straining India's democratic fabric.

The weft of Indian democracy must be made much stronger for reconciling conflicting views and enabling faster and more equitable economic progress. It requires action in three broad areas: improvement of processes of social dialogue, mandates to use these processes and strengthening of institutions required for their performance. Let us consider each of these.

Processes for social dialogue, consultation and consensus are less mechanical, and, hence less concrete, than processes for enrolling voters and counting their votes, for example.

For a layman, all metal devices with wooden handles are tools. Whereas an expert carpenter can distinguish different tools and understands the functional need for their differences. Similarly, laymen use the term dialogue loosely, such as "We were having a dialogue", when they were merely having a chat. An expert can distinguish a conversation, an argument, a debate and a dialogue. Each type of interaction fulfils a purpose and should be used accordingly.

In other situations, consensus is necessary whereby even the minority will support the decision even though they may not have much passion for it. Consensus is a search for the highest common factors and agreement about them, rather than quickly settling on the lowest common denominators merely to have none opposed.

The second requirement to improve the lateral weft in democracy's fabric is to mandate, culturally or even constitutionally, that processes of social dialogue must be followed. The constitution of representative institutions, such as business federations and unions, is mandated by law and their roles in consultation are provided for.

The third requirement for efficient consultation is good institutions for representing stakeholders. Internet-based technologies make direct consultation with citizens seemingly easy. But the masses of individual inputs must be aggregated to make sense of them. Therefore, good business associations that synthesise the views of myriad businesses, good unions representing the collective interests of workers, and good civil society organisations representing various other stakeholders, are necessary for an effective social dialogue.

Just as large, internally democratic and transparent political parties are necessary for good parliamentary democracy, we must encourage the formation of good associations that are democratic, transparent and large to make social dialogue processes effective. If India's discordant democrats could come to consensus more quickly, India will be able to implement many difficult reforms. So, installation of democratic processes to arrive at genuine consensus must be the mother of all reforms.

* *Member, Planning Commission, Government of India. Abridged from an article that appeared in* The Economic Times*, on January 09, 2012*

Taking E-governance Forward

Considered both as "transformative" as well as something that might create "a fair amount of ambiguity" in the way government departments work, the Electronic Delivery of Services Bill, 2011, has elicited a lot of interest.

The Bill seeks to provide government services and certificates to people electronically at their doorstep, sparing them "exploitation by officials." Once it becomes an Act, all Central and state government departments will be mandated to publish a list of services that are electronically available within 180 days and will start rolling them out within five years. Since the delivery of such services is time-bound, penalties up to ₹20,000 could be levied on errant officials.

The receipt of forms and applications, issue or grant of licence, permit, certificate, sanction or approval and the receipt and payment of money – all of them can be done through the Internet. *(TH, 02.01.12)*

Penalty on Dodging Orders

Consumers will be able to register their complaints online and any delay in complying with the orders of consumer courts could invite a fine of ₹500 or 1.5 percent of the amount of penalty.

These amendments, introduced to the Consumer Protection (Amendment) Bill, 2011, will facilitate disposal of cases and amplify the scope of some of the provisions of the Act. As per the Consumer Protection Act, 1986, dispute redress agencies have been set up in 629 districts and at the State and national levels (35) to render simple, inexpensive and speedy justice.

(TH, 06.01.12)

Misleading Ads to Face Music

The government is framing a law to curb the menace of misleading advertisements and allow consumers to seek legal action against false claims made by companies in their advertisements. Now, Advertising Standards Council of India (ASCI), a self-regulatory panel, does not penalise advertisers who release misleading ads. Advertisers, media owners, advertising agencies and allied services form part of the ASCI for the past 26 years.

ASCI is now open to penalistion under the UK order to make the council more effective. According to the UK order, ASCI alerts Information & Broadcasting Ministry to send show cause notices to channels for airing misleading television ads and Press Council of India for print ads.

(FE, 08.01.12)

MP Anti-graft Bill Gets Nod

The Madhya Pradesh Vishesh Nyayalaya Adhiniyam (Madhya Pradesh Special Courts Bill) 2011 received the presidential assent and has come into force on February 15, 2012.

The anti-corruption act equips the government with wide-ranging powers to weed out corruption, including the power to confiscate illegally earned properties of corrupt officials and use them as public assets.

Under the Act, special courts dealing with corruption cases will be set up at Bhopal, Jabalpur, Gwalior and Indore. Each of these cities will have two such courts, which will try cases related to amassing of disproportionate wealth/property by public servants. The Act prescribes a time-limit of one year for the trial of anti-corruption cases. *(TH, 12.02.12)*

New Aviation Regulator

The Cabinet will consider a draft legislation to set up a more powerful and passenger-friendly civil aviation regulator. The proposed Civil Aviation Authority (CAA), which will replace the existing regulator, the Directorate General of Civil Aviation (DGCA), will have financial and administrative autonomy to ensure that airlines adhere to international standards of safety and fares.

It has been proposed that the CAA will charge ₹12 per departing passenger and use one percent of air navigation service charges to meet its funding requirements. The CAA will also ensure that airlines adhere to international standards of setting airfares and have a mechanism to prevent cartelisation. *(ET, 08.03.12)*

Bill on Coal Regulator Ready

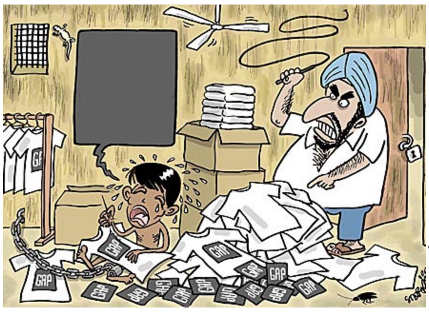
India's draft bill on coal regulator is ready and will be presented to the cabinet soon. A coal regulator is important. It will certainly add to improving the situation," said Coal Secretary Alok Perti, as the country struggles to produce enough of the cheap fuel for power stations.

India may need to import 140 million tonnes of coal in the 2012-13 fiscal year that begins on April 01, about a quarter more than the current fiscal year. India is home to about 10 percent of the world's coal reserves, but domestic output has been crimped by hurdles over environmental clearances and land acquisition, as well as low investment.

(ET, 13.03.12)

Eliminating Child Labour

The Union Labour Ministry is contemplating a complete ban on employment of children up to 14 years, as also prohibition on making children below 18 years work in hazardous occupations. Once it comes into force, the Act will apply to industries such as fireworks, mining, brick kilns and so on, where children are employed in huge numbers. The overall implementation of the Act would rest with the District Magistrate. The amendments also propose to make offences under the Act cognisable with stiffer penalties.



www.child-labour.wikispaces.com

Under the proposed amendments, parents or guardians of children will not be punishable. Also, there will be no bar on children helping their families after school hours or vacations in the field, home-based work, forest gathering and vending. *(BL, 21.01.12)*

We have Given a Balanced Report on DTC

There is a need for the government to push important tax reforms through the direct taxes code (DTC) Bill, in line with the recommendations of the parliamentary standing committee on finance, said Yashwant Sinha, Chairman of the Parliamentary Standing Committee on Finance. It should streamline tax bands, make tax authorities more accountable, and ensure more focus on people in the higher income bracket, he added in an interview, stressing that the government also needs to evolve a national consensus on important policy reforms, such as DTC, goods and services tax (GST) and the pension Bill.

How would you sum up the standing committee's report on the direct taxes code (DTC) Bill?

I think we have given a balanced report. I kept telling the committee that we should give a report which should not be outlandish; should be practical, reasonable and doable; (and) should strike a balance between the requirements of the government and the revenue department and ensure equity for the assesses.

What is the next step on DTC?

We have turned in our report and want to make it available to the government as soon as possible. This was the best way to build a consensus. Let everybody have their say and, out of a discussion, a consensus will emerge.

Even though you have managed a consensus within the committee, the report is still radically different from what the government has proposed.

The committee has brought ground level experience to bear on the recommendations we have made. It is the people's wisdom that has been included through the committee.

The government does not have a very good record of floor management (in Parliament) and working with the opposition. The committee managed to get a broad consensus for this singular piece of tax reform where members across party lines were present. Do you think the government will accept it in its current form?

The government should accept the recommendations of the standing committee on DTC. The ruling alliance members have a majority in any standing committee. Then how can the government say, "No, we will not accept the recommendations".

So, will DTC go through?

DTC should go through. DTC, as suggested by the committee, is a very reasonable piece of legislation. But if they reject some of our very important and reasonable recommendations, then there will be a problem.

You have asked for wider tax bands which will hit government revenues. But you have not made any suggestions on how the government can make up for the revenue loss.

Some committee members suggested to raise exemption limit to ₹5 lakh. But from ₹1.8 lakh to ₹5 lakh, you have over 20 million assessees paying a tax of ₹10,000 crore annually which could easily be made if the tax administration was to give greater attention to the higher than average income groups who should be paying more than ₹5 lakh each in tax.

From the corporate India point of view, the biggest message of DTC is clarity in tax laws and tax rates. Will there be a review mechanism put in place?

Corporate India has clear predictability. DTC is not a piece of legislation which will last five years. It should last 50 years.

So the budget as we know will cease to exist?

Part B of the budget should cease to exit. It becomes a policy except for a paragraph or so of changes. So people do not need to bite their nails to see what is coming in part B.

What is status of the goods and services tax?

I think we will have a much greater challenge of building a consensus not only within the committee but between the centre and states as far as GST is concerned. The standing committee will take into account all of the concerns of the states.

The states are very upset over the Centre's refusal to pay central sales tax compensation. Is there a commitment problem of the Centre on GST or is it just bad politics?

It appears that many of the acts of the Government of India today are thoughtless, especially today, when you need to be particularly sensitive to the states' needs and Centre-State relations. For them to commit a faux pas of this kind is totally inexplicable.

* *Excerpts from an interview of Yashwant Sinha, Chairman of the Parliamentary Standing Committee on Finance and MP, Lok Sabha as appeared in* The Mint *on March 14, 2012*

Change Policy Environment to Grow

The Chief Economics Commentator of the Financial Times, Martin Wolf said that an annual GDP growth rate of 9-10 percent is unlikely in the current policy environment in India. India needs to develop basic infrastructure and create a world class manufacturing sector to enter the league of the world's developed nations.

Wolf said that with the right policy setting it should be possible but the right policy settings do involve quite a number of changes and not all of which are necessarily going to happen. He stated that India was probably the best placed among emerging economies to tackle a global meltdown, should it come. *(FE, 03.02.12)*

Kirit Parikh does a U-turn

In an about turn from his previous proposal for an additional excise on diesel cars, Kirit Parikh said that the annual road tax system should instead be brought back with a "differential tax" for diesel vehicles.

This would also affect existing diesel cars on the road, which will have to pay higher road taxes. However, manufacturers may get a sales boost as the initial price of such vehicles would reduce. This is because road tax, which is currently charged only once on purchase, would then be paid annually over the lifecycle of the vehicle.

He opined that the logic for putting extra tax on diesel cars remains. One could re-introduce annual road tax and have a differential tax for diesel vehicles. *(BL, 09.01.12)*

Policy Change in Healthcare

Highlighting the shortage of skilled manpower in the Indian healthcare system, Union Health Minister Ghulam Nabi Azad said the Centre is now considering measures to facilitate Indians with foreign medical qualifications settled overseas to both practice and teach in India..

Azad further pointed out that the government has undertaken policy reforms to encourage capacity building in medical institutions. These reforms include rationalisation of land use for setting up medical institutions, placing FDI in healthcare under automatic approval route and improving the faculty student ratio in Post Graduation Medical Colleges from 1:2 to 1:1.

He pointed out the paradoxical situation in the country, wherein there is a surplus of about five lakh qualified practitioners in the Indian system of medicine and shortage of about seven lakh doctors in the allopathic stream. *(ToI, 08.01.12)*

Social Innovations to Reach Poor

India has a lot of talent in solving the problems of the rich, but social innovations are needed to serve the large number of poor, said Sam Pitroda, Adviser to the Prime Minister, on Public Information Infrastructure and Innovations.

Pitroda was addressing a meet of 100 young social innovators in IIT Delhi organised by the 'Action For India' Forum, 2012. He opined that to support social entrepreneurs set up new business models to bring about change, efforts were under way to increase the corpus of National Innovation Fund. *(BL, 22.01.12)*

Curb Caste Bias in Education

The government is considering a proposal to make caste discrimination in institutions of higher education a punishable offence. The HRD Ministry has been jolted into action by an increasing number of suicides by Dalit students over the past few years and an appeal by the forum of SC/ST parliamentarians.

To ensure that the institutions keep caste bias in check, the accreditation of a college or university, which will be made mandatory in future, will also depend on the "approach of the institution in matters of equity and inclusion". Sibal has decided to introduce this provision in the National Accreditation Regulatory Authority Bill through an amendment. *(IndiaToday, 15.03.12)*

Ombudsman for Education

HRD Minister Kapil Sibal said that a grievance redressal mechanism for students and applicants for admission in higher educational institutions is being put in place. It would be implemented in all central universities, IITs, IIMs, NITs, IIITs, private and government-run deemed universities and all higher educational institutions under various Central government ministries.

As part of the initiative, every institution would be required to appoint an ombudsman who would be a person with judicial or legal experience. In case the grievance relates to SCs/ STs/OBCs or minorities, the ombudsman would be able to co-opt a person of eminence from the weaker section to assist him in taking a decision. *(TH, 17.01.12)*

Vocational Education Framework

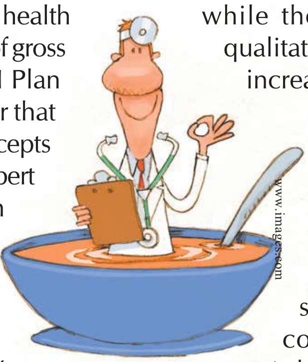
For years, India's basic collegiate education had been segregated into three distinct academic islands: the masses pursued humanities, the ones with shining score cards took to the sciences and the rest who wanted to pick up the tools of trade, opted for commerce. Now students can venture into a fourth dimension: a bachelor's in vocation education.

www.navare.shreyas@gmail.com

From the upcoming academic season, colleges across the country will offer a bachelor's degree in vocation education, thus underpinning a stream that has always languished for the want of a formal degree. Sensing the gap in the system, the move to offer the BVoc is largely in response to the hungry local manufacturing industry's requirement for top-grade workforce, and partly because several graduates from the existing traditional streams were jobless and deemed unemployable. *(ToI, 24.02.12)*

Regulating Healthcare

The proposed enhancement of public health expenditure in India as a percentage of gross domestic product (GDP) during the XII Plan will deploy massive tax funds in a sector that is poorly regulated. If the government accepts the recommendation of the High Level Expert Group of the Planning Commission on Universal Health Coverage (UHC) to increase government expenditure on health to 2.5 percent of GDP from 1.2 percent today, there will be an estimated five-fold increase in per capita public spending.



It is inevitable that private health infrastructure is tapped to provide UHC, at least in the short term, while the government-run system is improved qualitatively and quantitatively. Such a massive increase in public spending requires a review of regulation of the entire sector, covering all categories of hospitals and clinical establishments. The Clinical Establishment Act, 2010 makes a beginning in this regard but it has a long way to go.

What the country needs is one integrated standards and regulatory system, requiring compulsory registration and regulation. Achieving high standards in healthcare and empowerment of patients is not possible without standard-setting and strong regulation. *Laissez faire* can not deliver. *(TH, 14.02.12)*

Serving in Rural Areas

Giving a fillip to the sagging health services in West Bengal, Chief Minister Mamata Banerjee said that it will be mandatory for fresh medical graduates to serve for three years in rural areas while the performance of government doctors, nurses and medical staff would be evaluated for awards.

The state government would bring back the young doctors after three years who would thereafter be given opportunity to do their MS and higher studies. Stating that there would be awards for good performance in state hospitals, clinics and primary health centres, she said that she had asked Health Secretary Sanjay Mitra to evaluate the performance of doctors, nurses and medical staff.

The Planning Commission had approved a scheme for ₹8,000 crore under which 26 hospitals would be set up in 11 backward districts.

(BL, 04.02.12)

Hassle-free OPDs in Hospitals

Describing the rising cost of health care as a challenge, Prime Minister Manmohan Singh advocated the need to work towards hassle-free and cashless outpatient care in public hospitals.

On a broader level, the Prime Minister said: "We need to accelerate our efforts to achieve our goal of providing universal access to health care at affordable cost for all our citizens. We are moving towards the creation of public health cadres to work for the prevention and control of diseases," he said.

Cashless outpatient care and a specialised cadre for public health are major recommendations of the high-level expert group of the Planning Commission on universal health care which had also proposed cashless health package for all.

(BS & TH, 25.02.12)

Cos Look for a 'Shot in the Arm'

The domestic biotech sector, which had seen a healthy growth, has fallen victim to regulatory issues and price wars. Facing a critical situation after UN agencies imposed a ban on some Indian vaccine manufacturers, the industry is looking for a shot in the arm from a stronger regulatory policy framework.

Reeling under the ban, companies had to cut prices by over 50 percent. In the process, the industry is demanding a stronger regulatory policy framework as per the global standards apart from an effective law-enforcing system. A simplified regulation is the need of the hour for establishing a critical mass in the industry. *(FE, 24.02.12)*

FIPB Proposes FDI Riders

Foreign drug companies will be allowed to acquire their Indian counterparts only if they agree to a set of conditions. This will ensure that domestic production of essential medicines undertaken by the target company is not disturbed by the buyer and that the acquisition does not hit supply of generic drugs in India.

The Foreign Investment Promotion Board has proposed to the industry ministry that the government take an undertaking from the foreign acquirer that without the health ministry's consent, they will not stop or reduce manufacturing "essential drugs" in the acquired company.

The acquirer must also pledge that it will utilise the acquired plants to supply medicines to the domestic market. Buyers may also have to promise that under no circumstance will they reduce production of generic medicines in acquired plants.

(FE, 06.02.12)

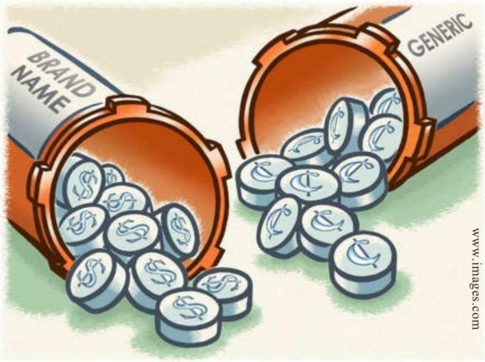
Duty Exemption for Drugs

There was a smile on the faces of people suffering from life-threatening diseases like cancer and HIV infection when Finance Minister Pranab Mukherjee announced exemption of excise duty on six specific life-saving drugs and vaccines in his Budget proposals for 2012-13.

The exempted items are raltegravir potassium used for treating HIV; rotavirus vaccine, live, oral, pentavalent; pneumococcal polysaccharide vaccine for thalassemia; posaconazole oral suspension for life threatening fungal infection; temsirolimus concentrate for infusion for injection for renal cell carcinoma and natalizumab for multiple sclerosis. *(TH, 17.03.12)*

The Price of Free Drugs

– Bhupesh Bhandari



The Health Ministry is piloting a new scheme: it wants government hospitals and primary health centres to distribute free medicine to patients. The cost of healthcare, the argument goes, is prohibitively high for the aam admi, and such a move would bring it down significantly. You could argue that the world is trying to control healthcare costs with insurance, but it is yet to reach the poor in India; hence, such an intervention is required. Health insurance, anyway, does not cover outpatients.

Medicine in India is among the cheapest in the world. The country, till a few years ago, recognised only process patents and not product patents. This meant that an Indian pharmaceutical company could make any medicine on earth, provided it did so with a new process. Even these stipulations were loosely enforced.

Free medicine is a subsidy no future government will have the guts to roll back. The electoral impact is too serious

This has given three unique features to India's pharmaceutical industry: one, there are hundreds of brands of every medicine available in the market; two, there are over 20,000 pharmaceutical companies in the country, many of them large enough to be accommodated in a garage; and three, India has developed great capabilities in process chemistry. All this has ensured that medicine prices remain competitive.

Then there is price control. At the moment, the prices of 74 bulk drugs are controlled by the government, which also brings 300 or so formulations (combinations of bulk drugs) on the "essential drugs" list under control. In fact, the government now wants to freeze the prices of these bulk drugs for a period of two years.

And eventually, it plans to move from controlling bulk drugs to formulations. This will bring all the 600 or so formulations on the "essential drugs" list under price control. The move is prompted by the recent rise in the prices of medicines. Of course, pharmaceutical companies are opposed to the move because it could erode their profits.

On the other hand, the assured business of at least ₹30,000 crore (from free medicine in government-owned hospitals) should be good news for the industry. But imagine the scenario where hundreds, if not thousands, vie to get these orders. They will all curry favour with the powers that be for this easy business. Given the numerous irregularities that have occurred in government procurement, it will soon become a hotbed of corruption and scams.

Many years ago, the Soviet Union used to buy medicines from Indian pharmaceutical companies. The orders were placed in large volumes and the process of price discovery was opaque. Many companies made their fortune in that business. If the promise of free medicine in government hospitals is carried out, it will not be very different; except that in place of Soviet officials there will be Indian decision makers: leaders and bureaucrats.

An ecosystem will evolve in no time of "experts" who will get such orders for a commission. Many such firms are already around. They help companies "participate" in government bids; they will have another avenue to put their core competence to good use. Inspectors who will be responsible for certifying that the production facilities are in good shape will have a field day.

The assured business will kill whatever little research Indian pharmaceutical companies are doing in the field of new drugs and drug delivery. As it is, India's track record here is abysmal. The promise of drug development at a fraction of Western costs has more or less dissipated. Only a handful of companies are really serious about research. The proposal for free medicine will be the last nail in research's coffin.

Free medicine is a subsidy no future government will have the guts to roll back. The electoral impact is too serious. It may be unaffordable but the political gains are simply too irresistible. It's another bad idea whose time has come.

– *Abridged from an article that appeared in the* Business Standard*, on March 02, 2012*

Bollywood Unplugged

Movie-goers and movie producers have reasons to cheer. The CCI, moving to ensure fair play in film production and distribution pattern, said that all movie halls whether standalone or part of multiplexes cannot take a discriminatory decision against a particular movie or production company.

Eros International Media Ltd and Sunshine Pictures Private Ltd and others appealed to the regulator whose job is to ensure fair competition in any industry. In a recent order, the CCI said several film bodies and associations indulged in various anticompetitive activities in violation of competition rules asking producers, distributors to compulsorily register their films before release.

Ashok Chawla, chairman, CCI said that there must be smooth functioning between producers, distributors and exhibitors so that the consumers (movies goers) are not affected.

(HT, 21.03.12)

CCI in Action

Under fire for not proactively taking up cases, CCI has now decided to undertake *suo motu* investigations into anti-trust practices, beginning with key sectors like construction, highways, education and health.

The CCI, which became fully functional in May, 2009, has so far taken up only five *suo motu* cases, including price rise of onions, air tickets and cartelisation for sugar rates. The investigations would be ordered under Section 26 of the Competition Act, 2002. The section empowers the Commission to order an inquiry by the Director General into a matter if it finds that a *prime facie* case exists with respect to violation of competition laws. *(ET, 12.01.12)*

Clean Chit to SAIL & Railways

The Competition Commission of India (CCI) has given a clean chit to the Railways and SAIL MoU. The CCI said that Jindal Steel and Power's (JSPL) allegations do not hold ground as it would be incorrect to say that SAIL has misused its dominant position to create entry barriers.

CCI has observed that markets of rails is emerging and is likely to see considerable growth with an expansion of private sidings. SAIL had argued that the company had to undertake an investment of over ₹700 crore solely for the manufacture of rail steel which it was not producing till then.

(iricen.indianrailways.gov.in, 05.01.12)

Penalty on LPG Cylinders

The CCI imposed a penalty of ₹165.58 crore on 48 LPG cylinder manufacturers for forming a cartel while bidding during the tenders floated by Indian Oil in 2010-11. The competition watchdog imposed the penalty after finding them guilty of manipulating the bids and quoting "identical rates in groups through an understanding and collusive action".

The CCI said that at present, only 37 large players out of 48 entities control the supply and act as a cohesive group making it difficult for new players to enter the market. It took cognisance of the case following submission of an investigation report by the Director General in a case relating to gas cylinder supply on a complaint by the Indian Oil Corporation. *(BS, 24.02.12)*

No Regulatory Vetting of M&As

Relaxing the rule on mergers and acquisitions (M&As) to be vetted by it, the CCI exempted acquisitions resulting in a cumulative control of up to 25 percent of shareholding or voting rights from such scrutiny. The current practice sets the limit at 15 percent.

Analysts opine that the change is in sync with market watchdog Securities and Exchange Board of India's (SEBI's) new takeover code, which raised the open offer trigger from 15 to 25 percent of the shares acquired.

However, companies that need to undergo CCI scrutiny will now have to spend several times more as the fee for normal M&A scrutiny has been raised from ₹50,000 to ₹10 lakh and from ₹10 lakh to ₹40 lakh in cases where intense scrutiny is required.

(BS, 25.02.12)

DLF Facing Severe Penalty

The CCI has found realty major DLF, which is facing a penalty of ₹630 crore, guilty of abusing its dominant market position in one more housing project. After scrutinising a complaint by flat owners of Magnolia in Gurgaon, the CCI has issued a "cease and desist" order against the company but did not impose any financial penalty.

The Commission directed DLF to stop imposing unfair conditions in its agreement with flat buyers. It also asked the company "to suitably modify unfair conditions imposed on its buyers, within three months of the date of receipt of this order".

The Commission, however, refrained from imposing fine on the company saying that the "nature of contravention" in the case was similar to an earlier one filed by Belaire's Owners Association. *(ToI, 11.03.12)*

CCI Order Absolving Sugar Cos.

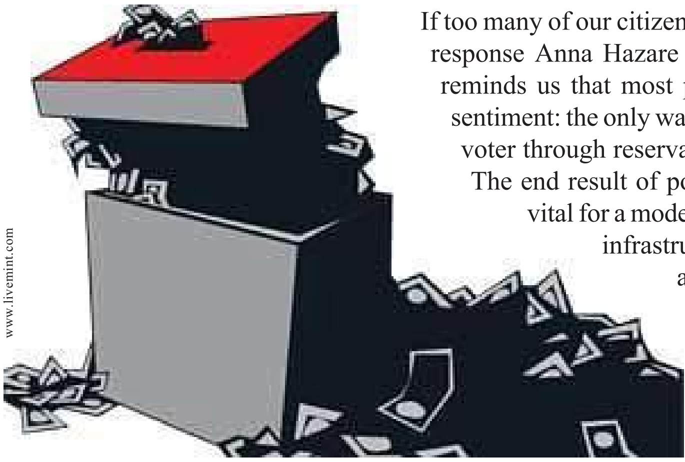
The CCI has absolved sugar manufacturing associations and their members of cartelisation and price manipulation charges. Earlier, the competition regulator had sent a notice to sugar mills associations and their members charging them of cartelisation and price manipulation. The *suo motu* action charged Indian Sugar Mills Association (Isma), National Sugar Mills Co-operative Federation, and some private sugar firms of cartelisatio.

However, the sugar associations and companies argued that sugar prices are market driven and monitored by government regulations. Also, with nearly 620 small-to-big production units in the country, the industry is fragmented and it is difficult for a few people to dictate prices. *(ET, 11.02.12)*

The Costs of Democracy in India

– A.V. Rajwade*

It is just about a year since 14 highly respected business leaders and others addressed a letter to the government expressing concern about governance issues and their impact on economic growth. They followed up with another letter three months back. If anything, the numbers and investment climate have worsened since then. And, nothing may happen on the issues raised at least until the end of March with elections in five states.



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If too many of our citizens believe that all politicians are corrupt (just recall the response Anna Hazare got), the other side is that the election propaganda reminds us that most political parties and their leadership reciprocate the sentiment: the only way they seem to know of getting elected is to "bribe" the voter through reservations, quotas, subsidies and other populist measures. The end result of populism has been that the finances of every segment vital for a modern economy are at a crisis point: railways, power, other infrastructure, etc. And, the government lacks the will to resist any organized group, to enforce its own rules and lows.

Overall, as one looks forward to 2012, it is very difficult to discern a silver lining to the gathering clouds on the balance of payments (BoP), the fiscal deficit, the efficacy of most social programmes, and the lack of investments – and, hence, the growth prospects. In many ways, a global slowdown/recession will be extremely useful for our political masters as the domestic problems can be attributed to that phenomenon over which we obviously have no control.

Populism, identity politics and fiscal imprudence are the other side of India's biggest achievement in 64 years

The fact, however, is that most of the problems are home-grown. The question is whether they have become increasingly insoluble because of our democracy, as Lee Kuan Yew and, more recently, Mahathir Mohammed – former prime ministers, respectively, of Singapore and Malaysia – have argued. On this subject, it has become almost de rigueur to self-righteously praise ourselves for being a democracy for 64 years – and pay tributes to the sense and wisdom of the voter. How true are these self-righteous assumptions?

The other side, however, is that most Asian economies from South Korea and Taiwan, at one time, to China more recently, have grown fast under authoritarian regimes: they also seem to have done better than us in providing basic social services to all their people – education, healthcare, etc.

To be sure, many philosophers from Socrates downward have not had great faith in democracies. Socrates questioned: "Is it not a base superstition that mere numbers will give wisdom?" Nearly 65 years after independence, are our caste/communal identities stronger than our identities as citizens of a democracy? To be sure, some state leaders and many "bottom up" development efforts in rural India have demonstrated that democracy need not be a bar to good governance, growth and social justice.

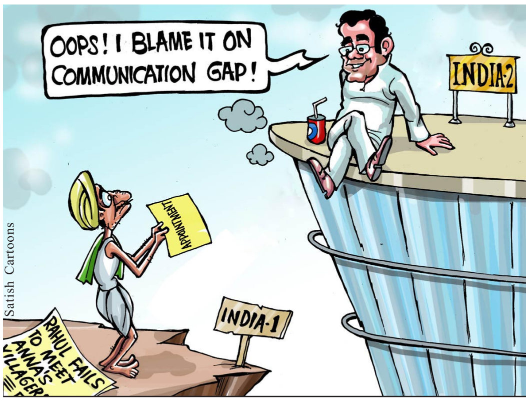
I am not an admirer of Ayn Rand, the high priestess of unrestrained individualism and laissez faire economics (Alan Greenspan was a *chela*). But I am tempted to quote her on our *neta-babu raj*. "When you know that in order to produce, you need to obtain permission from men who produce nothing, when you see that money is flowing to those who deal not in goods but in favours, when you see that men get rich more easily by graft rather than by work, and your laws no longer protect you against them but protect them against you, you know that your society is doomed." What could be the tipping point for a crisis? BoP? Fisc? Inflation? Infrastructure?

* *Risk Management Consultant, Columnist and Author. Abridged from an article that appeared in the* Mint, *on January 18, 2012*

Taking Politics out of Statutory Appointments

– Nripendra Misra* & Nidhi Sen**

The acrimonious debate on the selection and appointment procedure for the *Lok Pal* and state *Lok Ayuktas* highlights the need for insulating statutory and constitutional positions from the executive's sole decision-making powers. It was only after the judicial intervention of the Supreme Court calling for transparency in the selection of the Chief Vigilance Commissioner that the controversy surrounding P J Thomas' appointment was finally laid to rest. However, that controversy was emblematic of the serious gaps in the process of appointments to key government offices, and of the growing politicisation of the selection process.



Transparency & political unanimity should be the touchstones for all government-led appointment procedures

A cursory look at the appointment process to key statutory and constitutional positions reveals that the classic pre-requisites of neutrality and anonymity have, at times, been compromised in favour of a complaisant candidate. Increasingly, political exigency and ideological pliability, instead of merit and capability are given precedence. This has adversely affected the quality of governance in the country.

In India, the post of the Comptroller and Auditor General (CAG) enjoys an independent and exalted status, one guaranteed by the Constitution. Although the CAG is appointed by a presidential warrant, the manner of selection has attracted adverse observations from different sections of the political establishment, the media and the general public. In fact, the National Commission to review the working of the Constitution, in its recommendations to ensure the efficacy of the public audit system, stated that it is necessary to insulate the appointment of the CAG from executive influence.

Likewise, there is no specific legal provision in the matter of appointment to the posts of the Election Commission, with Article 324(2) of the Constitution leaving it as the exclusive prerogative of the executive. As a result, it is increasingly being feared that the independence and integrity of the Election Commission could be compromised, jeopardising the very foundations of parliamentary democracy. The Tarkunde Committee's report spoke of how the hallowed institution of the Chief Election Commissioner, or CEC, is losing the respect and confidence of the people at large. It must be said that the institution of CEC has made a significant contribution to the strengthening of democratic institutions in the country.

Special mention needs to be made of the Public Enterprises Selection Board, a high-powered body entrusted to advise the government on appointments to top management posts in Central public-sector enterprises. Although constituted through a Government of India resolution dating back to 1987 which was subsequently amended in 2008, it has no statutory basis to its existence. This glaring loophole needs to be immediately addressed, if appointments made under it are to enjoy any force of law.

It is, therefore, critical that high-level posts in the Central government are filled in an unbiased and objective manner, with the constitution of an independent selection panel comprising an equal representation of members from the ruling party and the main opposition in the *Lok Sabha* or *Rajya Sabha* and from the Supreme Court. Unanimity in the final choice by all members of the selection panel would not only restore balance in the process of government decision-making and enhance administrative efficiency, but also instil public faith in the functioning of the bureaucracy.

Another way forward to ensure political consensus on appointments made to constitutionally mandated bodies would be to subject them to confirmation by a two-thirds majority of a joint session of both Houses of Parliament, a practice that is already in force in some western democracies.

The criteria and procedure regarding selection and recruitment for both constitutional and statutory bodies must be explicitly laid down, rather than implicitly understood. To conclude, fairness, transparency and political unanimity should become the touchstones for all government-led appointment procedures. Accountable and uniform methods of appointment are the first step towards ending the culture of political patronage that has come to dominate the bureaucratic system.

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– *Abridged from an article that appeared in the* Business Standard *on February 12, 2012*

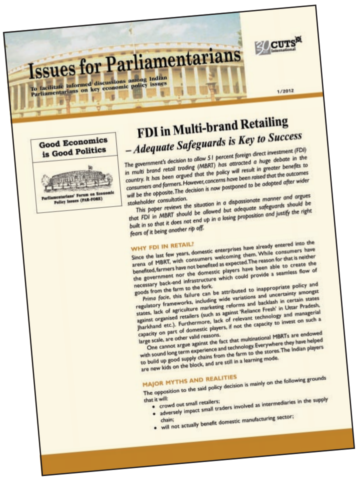
ReguLetter

The January-March 2012 issue of ReguLetter encapsulates 'Global Welfare Consequences of Cartelisation in Primary Commodities' in its cover story. governments need to strengthen the domestic competition laws to curb the adversities of beggar thy neighbour policies in the form of exempt export cartels. It is hoped that such measures would act as a deterrent against the anticompetitive practices prevailing in the commodities market structure responsible for the high prices.

A special feature by Kevin J. O'brien states that by creating the world's dominant mobile phone technology standard in the 1980s, Europe and the companies that worked on the effort, like Ericsson and Nokia, played a major role in the birth of the global wireless industry. But three decades later, industry wide initiatives are no longer in vogue in Europe.

Another special article by Ian Goldin says that the World Bank's ability to realise its potential has been stymied by a culture where failure is hidden and success exaggerated.

www.cuts-ccier.org/reguletter.htm



FDI in Multi-brand Retailing

– Adequate Safeguards is Key to Success

The government's decision to allow 51 percent foreign direct investment (FDI) in multi brand retail trading (MBRT) has attracted a huge debate in the country. It has been argued that the policy will result in greater benefits to consumers and farmers. However, concerns have been raised that the outcomes will be the opposite. The decision is now postponed to be adopted after wider stakeholder consultation.

This paper reviews the situation in a dispassionate manner and argues that FDI in MBRT should be allowed but adequate safeguards should be built in so that it does not end up in a losing proposition and justify the right fears of it being another rip off.

www.parfore.in/pdf/1-2012FDI_in_Multi-brand_Retailing–Adequate_Safeguard_is_Key_to_Success.pdf

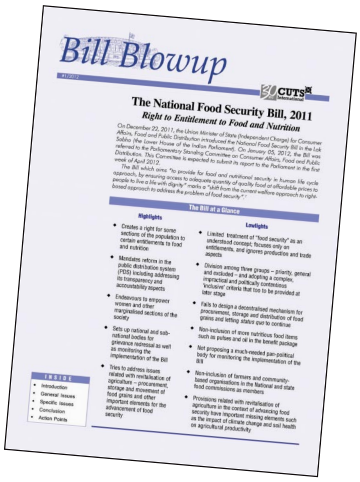
The National Food Security Bill, 2011

Right to Entitlement to Food and Nutrition

On December 22, 2011, the Union Minister of State (Independent Charge) for Consumer Affairs, Food and Public Distribution introduced the National Food Security Bill in the *Lok Sabha* (the Lower House of the Indian Parliament). On January 05, 2012, the Bill was referred to the Parliamentary Standing Committee on Consumer Affairs, Food and Public Distribution. This Committee is expected to submit its report to the Parliament in the first week of April 2012.

The Bill which aims "to provide for food and nutritional security in human life cycle approach, by ensuring access to adequate quantity of quality food at affordable prices to people to live a life with dignity" marks a "shift from the current welfare approach to right-based approach to address the problem of food security".

www.parfore.in/pdf/Bill_Blowup-The_National_Food_Security_Bill_2011_Right_to_Entitlement_to_Food_and_Nutrition.pdf



SOURCES

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

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.