PolicyWatch

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

Volume 13, No. 4 October-December 2012

CUTS International

1983 2012

INSIDE THIS ISSUE

Mobile Number Portability Soon.......................................2

Cap on Subsidised LPG Cylinders 4

RBI Plug Holes in Realty FDI 6

Retail FDI Game May not be Over 9

India ranked 94th in Corruption 12

Companies Bill Approved with CSR 17

HIGHLIGHTS

Raising Prices Sensibly Can Reduce Inflation
– *Swaminathan S Anklesaria Aiyar* *7*

Avoiding a Policy Stalemate
– *Arun Maira, Shweta Srinivasan, Abhik Das & Anshu Bhardwaj* *16*

Entitlement Only by 'Right'
– *Nicholas Robinson* *18*

A Short-Sighted Cap
– *Chandra M Gulhati* *19*

"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*

Taking India Forward in 2013

Some sanity revert was seen in Indian law making process when law makers passed laws and pushed the reforms agenda. Thanks to the adroit handling of cantankerous issues and dissonance by the new Parliamentary Affairs Minister Kamal Nath. Whether, we agree with everything that the government has done well or not, we look forward to a resolute and smart government to take the growth agenda forward in 2013 as well.

The National Manufacturing Plan has addressed the economic governance agenda in many ways that will also benefit the services sector. Without underplaying a host of equally important financial, administrative and political issues, there is a need to improve the 'doing business in India' benchmarks and curb rent seeking.

Looking at a non-exhaustive list, the first priority should be to put in motion the National Competition Policy (NCP) in its full splendour. This could well become the second biggest wave of economic reforms. It has been designed to curb market distortions and improve governance such as facilitating business, curbing corruption, improving consumer welfare and so on. Its implementation will be tough and needs political will.

One important measure in the NCP is to build an integrated and seamless national market that on its own can add at least two percent to the country's growth. Secondly, to address the infrastructure sector architecture by enabling healthy regulatory frameworks that could offer a predictable legal environment for businesses and consumers. This would require the enactment of infrastructure Regulatory Reform Bill.

Thirdly, red tape must be cut. The proposal is to reform the overall regulatory architecture and allow true independence in regulation with direct accountability to the Parliament.

Fourthly, implementing the recommendations of the Ashok Chawla Committee on Natural Resources that does not seem to be moving forward due to vested interests. As a starter, the report should be made public and debated in order to gain some traction. Only then can we hope to achieve higher growth than what pundits are predicting.

Fifthly, many of these steps can be successful only if states are brought on board. In 2002, the then Prime Minister, Atal Behari Vajpayee had proposed that states should talk to each other and learn from good practices that also needs to be institutionalised. However, the Inter State Council headed by a Union Minister, which is dysfunctional, does not have the framework to promote this type of exchange among states.

In conclusion, considering the nature of our fractious polity, the central government will need to become a true union government. The writing is on the wall, and unless we accept these changes, we will continue to meander along, And that will not be good for the country. Let me end with good wishes for an exciting new year. Things could have been worse!

Published by **Consumer Unity & Trust Society (CUTS)**, D-217, Bhaskar Marg, Bani Park, Jaipur 302 016, India
Phone: 91.141.228 2821, Fax: 91.141.228 2485 Email: c-cier@cuts.org, Website: www.cuts-ccier.org
Printed by: Jaipur Printers P. Ltd., M.I. Road, Jaipur 302 001, India.

• COMMUNICATION •

Penalty on Poor Quality

The Telecom Regulatory Authority of India (TRAI) proposes to collect a penalty of ₹50,000 from operators if they violate any of the set quality norms for broadband services. The penalty will increase to ₹1 lakh for the second violation.

It had laid down the quality of service standards for broadband in 2006 but there was no provision to impose a penalty. But the regulator has been conducting periodic survey through independent agencies across the country to monitor the compliance of prescribed benchmarks.

Some of the service providers are not meeting the quality of service benchmarks for some of the prescribed parameters and no consistent improvement is noticed in spite of the measures taken by TRAI.

(BL, 26.10.12)

Whip on Bulk SMSes

If you are into heavy texting from your mobile phone, you may have to pay more in another two weeks. The latest directive by the TRAI, to be implemented by then, has set the limit for concessional SMS at 100 a day. There is no ceiling, but consumers will be charged not less than 50p an SMS once it crosses 100 a day.

Normal consumers sending non-commercial SMSes would also not be affected by this measure. The regulator is also in process of simplifying the complaint procedure. A complaint can be registered through SMS by forwarding the spam SMS to 1909, after appending the telephone number and date of receipt of the SMS. *(BS, 06.11.12)*

Uniform Cable Fee

As cable TV digitisation is now closer to reality, consumers in metros can expect to pay uniform subscription rates. For many, digitisation is likely to reduce the monthly cable bill and offer freedom of viewing the preferred channels.

In April, the TRAI recommended digital cable connection at basic subscription charge of ₹100 (for a bouquet of 100 free to-air channels) and ₹150 (for free-to-air plus a bouquet of pay channels). More channels could be added at an extra cost. *(BL, 18.11.12)*

Subsidising Rural Mobile Bills

The Department of Telecommunications (DoT) has started work on a proposal that would provide people in rural areas a one-time subsidy on new mobile connections, with the department paying 20 percent of all mobile bills that are less than ₹300 a month.

The subsidy would be provided by dipping into the universal service obligation (USO) fund, which currently has an unutilised corpus of ₹21,840 crore. Since all telecom operators pay five percent of their annual adjusted gross revenues towards the USO fund to subsidise rural telephony, using the fund for the purpose would not be a problem procedurally. *(FE, 06.10.12)*

'Open Sky' Satellite Policy

In what would be a first for the sector, the TRAI has batted for an 'Open Sky' policy that will benefit the Indian Direct to Home (DTH) and Very Small Aperture Terminal (VSAT) operators. The regulator, on behalf of the industry, also wants a revision of the 12-year old Indian satellite communication policy.

According to sources, the regulator has supported the idea of empowering the domestic DTH and VSAT operators so that they can directly engage with foreign satellite operators if Indian Space Research Organisation cannot meet the acute shortfall in transponder capacity in C, extended C and Ku bands.

(FE, 18.12.12)

Spectrum Trading to get Nod

If all goes well, the government could allow spectrum trading among service providers. This would enable loss-making telecom companies to sell part of their spectrum to others. According to the draft document for the 12th Five-Year Plan (2012-2017), to improve the efficiency of natural resources, the idea of setting up a trading platform in the form of a secondary market has been mooted.

As per the document, spectrum trading is likely to improve spectrum efficiency, boost market competition and provide incentives to innovation to service providers. It also requires implementation of a successful trading platform requiring creation of an extensive automated infrastructure in the form of an exchange or online registry, which entails considerable regulatory costs.

(FE, 23.12.12)

Mobile Number Portability Soon

The government announced that nationwide mobile number portability (MNP) is expected to be rolled out by February 2013. This means that users can retain their numbers even if they move from one State (and telecom circle) to another.

Some of the key initiatives to be completed by February are approval of spectrum assignment and pricing, unified licensing regime, M&A guidelines, finalisation of guidelines for spectrum sharing, creation of fund for R&D and manufacturing and MNP on a nationwide basis.

Under National Telecom Policy 2012, the government had envisaged implementing MNP on a nationwide level allowing users to retain their mobile numbers even when they shift to a different telecom circle. India has 22 telecom circles.

According to the TRAI, by October-end, about 75.14 million subscribers had submitted their requests to the various service providers for moving to other services.

(BL, 13.12.12)

• TRANSPORT •

Halve Airport Development Fee

Flying out of Delhi has got cheaper with the Airport Economic Regulatory Authority (AERA) revising the airport development fee for both domestic and international passengers. From January 01, 2013 domestic and international travellers will be charged ₹100 (instead of current ₹200) and ₹600 (instead of ₹1,300) in development fee. The fee will remain in place till April 2016.

Considering the lower rate of development fee, the period of levy has been extended by about two years to ensure the amount of development fee collected on an NPV basis remains unchanged. The levy will be periodically reviewed by AERA considering the changes in interest rate and traffic. *(BS, 31.12.12)*

Constructing Expressways

Road Transport & Highways Minister C P Joshi has approved a plan to set up a corporation that will administer and construct expressways in the country. The proposal is likely to go to the Cabinet for approval.

This proposed body, to be called the National Expressway and Connectivity Corporation (NECC), will function under the Ministry of Road Transport & Highways if approved by the Cabinet. Unlike the National Highways Authority of India (NHAI), a statutory body created by an Act of Parliament and responsible for the development of highways, NECC will function as a public sector undertaking.

(Mint, 05.10.12)

AAI Levying Landing Charges

The Airports Authority of India wants to levy landing and parking charges on planes with fewer than 80 seats to shore up revenues and invest in building infrastructure. This will further raise costs for airlines and increase fares after the airports managers, requested permission from the AERA to charge a minimum landing fee of ₹5,000 from all small planes arriving at the Chennai and Kolkata airports. This excludes training flights operated by flying clubs.

Currently, small aircraft such as ATR and Bombardier are exempt from paying landing fees, except in Delhi, and pay a Fuel Sales Tax of only four percent as against four percent to 30 percent for bigger planes, as Sales Tax varies from state to state. The Ministry of Civil Aviation is charting plans to connect smaller cities with the metros.

(www.travelbizmonitor.com, 01.10.12)

Roadmap for Rural Connectivity

The government is considering relaxation of norms for building roads in rural habitats asking the Rural Development Ministry to review population norms for habitations and come up with a new proposal in this regard.

According to the existing scheme, habitations above 250 in tribal areas and hilly areas in the North East and habitations above 500 in all other areas of the country are eligible for *Pradhan Mantri Gram Sadak Yojana* scheme.

The funds will be used to provide all-weather connectivity to rural areas. It will, therefore, promote equity and geographical inclusiveness of growth processes by enhancing connectivity in the poorer and backward regions. *(BS, 23.11.12)*

Nod to Port Proposal

The Union Cabinet approved a proposal for licensing land to concessionaires for seven port projects in the public-private-partnership (PPP) mode. This will facilitate the Shipping Ministry to expeditiously augment the capacity of major ports and bring about efficiency in operations to benefit trade and economy as a whole.

The seven projects have been taken up in terms of the extant policy of the government to pursue maritime development projects under the PPP mode. *(IANS, 26.12.12)*

Railways to Adopt PPP Mode

The government approved a private investment policy in the railways and the revised cost estimate of ₹2,325 crore for modernising Kolkata's Netaji Subhash Chandra Bose International Airport.

The railways, whose performance in PPP projects has been dismal, will try five different models for inviting private sector participation for last-mile connectivity projects. From generating funding by customers and joint venture projects with equity participation by the railways to projects on a build-operate-transfer (BOT) and BOT annuity basis, the government hopes it will be able to have speedier implementation.

The proposed framework is also expected to help the railways increase freight volumes. Over two dozen projects in the mining and power sector have been identified for providing rail connectivity.

(BS, 23.11.12)

Transparency in Airfares

Civil Aviation Minister Ajit Singh denied any move to regulate airfares, saying all that the government intends to do is make the pricing mechanism more transparent. Raising doubts over the pricing of jet fuel by state oil marketing firms, Singh said he has urged the petroleum minister to bring in more transparency in fixing aviation turbine fuel (ATF) rates.

Airfares are high mainly because ATF and airport charges have soared, he said. Singh said he has sought Petroleum and Natural Gas Minister M Veerappa Moily's intervention in allowing airlines to use airport infrastructure of state oil companies for importing ATF.

Indian Oil Corporation, Bharat Petroleum Corporation and Hindustan Petroleum Corporation say they have made huge investments in the airport infrastructure and cannot share it free with private carriers. *(ET, 05.12.12)*

• OIL & GAS •

Switch your Gas Agency

The government plans to allow consumers to switch cooking gas agencies like cell phone users change their service provider, and make sure that households are not refused cylinders on procedural grounds, as it seeks to address a barrage of consumer complaints on the politically sensitive issue.

State-run oil firms and the Ministry are urgently discussing the new proposal after a public outcry against alleged malpractice and instances of dealers refusing to deliver cylinders even at market rates. The issue has been simmering since September when the government capped the supply of subsidised LPG cylinders to six per household per year to stop large-scale diversion of cheap domestic fuel for commercial use and to cut subsidies.

Consumers were asked to submit KYC (know your customer) documents, or proof of identity and residence to be eligible for subsidised LPG. Currently, consumers are usually tied to one particular dealer unless they change residences.

(ET, 15.11.12)

PNGRB to Regulate LNG

After mandating third-party access to LNG terminals, the government now proposes to empower the downstream watchdog to regulate the development of LNG infrastructure to prevent disputes between access seekers and the terminal developers from derailing the government's ambitious programme of providing fuel for the industry.

Currently, the mandate of the downstream regulator, the Petroleum and Natural Gas Regulatory Board (PNGRB), is limited to registering LNG terminals. PNGRB has no power to perform regulatory functions like determination of regasification tariff. But it is felt that prompt regulatory intervention would be required to resolve disputes once third-party access to terminals picks up in a big way.

The Petroleum Ministry has recently stipulated that 20 percent or 0.5 million tonne of a LNG terminal capacity be kept aside by a developer for use by third parties. While existing LNG terminals are exempted from the rule, new LNG terminals will be required to comply.

(FE, 26.11.12)

Rational Pricing of Petro-Goods

Worried over rising oil subsidy, Finance Minister P Chidambaram pitched for a rational energy pricing mechanism and correction of distortion in petrol and diesel prices resulting from unequal taxation.

"With less than adequate pass-through, subsidies on these (petroleum) products have burgeoned. The problem is that these are clearly not sustainable, and we must devise ways and means of correcting price distortions," he said while addressing the valedictory session of PetroTech-2012.

The Minister also made a case for introducing a rational and transparent energy pricing mechanism to prevent leakages while protecting the interest of poor and vulnerable sections of the society.

(TH, 18.10.12)

Oil Cos. not to Fund Pumps

The Oil Ministry has ordered state-run fuel retailers to stop spending money on new petrol pumps and directed that prospective dealers would have to pick up the tab for equipment and other infrastructure.

The move was expected to put an unwanted burden of some ₹5,000 crore on the state retailers since they were to supply the pumps, tanks, canopies etc for the new outlets. All these cost between M50 lakh and M1 crore.

The Federation had opposed the Ministry's move to roll out 11,600 new outlets saying that these would further erode the business of existing pumps. The existing outlets had seen sales decline from an average of 200 kl (kilolitres) a month in 2001 to 110 kl in 2011.

(ToI, 07.12.12)

Gas Pipeline Plan

Emphasising the need to accord due priority to the development of a countrywide gas pipeline, President Pranab Mukherjee said the government is working towards extending fiscal incentives similar to those provided for exploration of oil to all forms of natural gas exploration and exploitation.

Mukherjee said the government's top priority is to realise the full potential of coal bed methane, shale gas, underground coal gas, gas hydrates, and bio-fuels in the present climate of rapid changes in the hydrocarbons sector.

The Government of India is also currently extending full support to companies acquiring overseas oil and gas assets and imports of LNG.

(www.news.webindia123.com, 15.10.12)

Cap on Subsidised LPG Cylinders

The government will increase the number of subsidised cooking gas (LPG) cylinders a household can avail in a year to nine from current six, Oil Minister M Veerappa Moily said. Wary of political backlash of the decision to limit supply of subsidised LPG to just six cylinders per household annually, Moily has convinced Finance Minister P Chidambaram of the need to modify the September decision to cap the supply of subsidised cooking cylinders.

As per the September decision, every household could avail of six LPG cylinders of 14.2-kg at subsidised rate of ₹410.50 per bottle. Any requirement beyond will cost the market rate of ₹931 per cylinder. Only 44 percent of households in the country consume six cylinders in a year, while the majority consumed 9-12 bottles. Moily said the decision to raise the cap will be taken by the Cabinet "very shortly".

(www.zeenews.india.com, 12.12.12)

• POWER •

Analysing Power Shortages

Amid acute coal shortages hurting power generation, sectoral regulator Central Electricity Regulatory Commission (CERC) said that fuel risk should not be "entirely" passed on to consumers. The regulator's suggestion to the Power Ministry comes at a time when there are concerns that expensive coal could push the electricity tariffs higher.

The model PPA, proposed by the Power Ministry, has raised concerns among sectoral players who feel that many of the proposed clauses could adversely impact the sector. The CERC said that the Power Ministry should engage with the Coal Ministry to ensure 100 percent supply of coal for power plants.

As per CERC, such a proposal where both the bidder and the procurer would be subjected to risks, could lead to "assets getting stranded".

(IE, 28.10.12)

Penalty on Errant Firms

The Union Ministry of New and Renewable Energy would be advising power sector regulators to impose penalties on companies, failing to comply with the renewable purchase obligations, said Tarun Kapoor, Joint Secretary to the Ministry.

The Renewable Purchase Obligation (RPO) is being implemented throughout the country to create demand for renewable energy. It is similar to the Renewable Energy Certificates. Under the Electricity Act 2003, power companies that require captive power are obliged to purchase a certain percentage of power from renewable energy sources.

Kapoor said that currently, solar RPO has been fixed at 0.25 percent of the total power procured. However, the target is not being met by many companies. Even large companies like Reliance Industries and SAIL have failed to fulfil their obligations.

(BL, 05.11.12)

Norms for Solar Projects

The Ministry of New and Renewable Energy (MNRE) has come out with proposed norms for viability gap funding (VGF) for large-sized solar power projects that would come up in Phase II of the National Solar Mission.

VGF will be made available for certain specified capacity solar projects according to the draft policy document on National Solar Mission, Phase II. The tariff at which such projects will sell solar power to electricity distribution companies will be "pre-fixed, at ₹5-6 per unit".

In Phase II, which will run between 2012-13 and 2016-17, the MNRE expects to facilitate the creation of 10,000 MW of utility-scale solar power capacity.

(BL, 03.12.12)

Get Power Load Regularised

The Dakshin Haryana Bijli Vitran Nigam (DHBVN) has asked consumers to get unauthorised extended electricity load regularised without paying any penalty under Voluntary Disclosure Scheme (VDS) before October 31, 2012.

A discom spokesperson said that after expiry of the VDS, a massive campaign would be launched to detect unauthorised extension of electricity load. Heavy penalty, as per rule, would be imposed on the erring consumers.

VDS includes all kinds of consumers including domestic, non-domestic and agriculture who can declare extra power load by submitting an "Application and Agreement" form along with consumption security. Consumers are not needed to submit any affidavit and any fresh test report also, up to 20 KW total load.

(ToI, 30.10.12)

Coal Ministries Resolve Issues

Coal India will offer the same contractual terms and conditions to both public and private power plants for fuel supply, ending the current practice of discrimination against private players.

The Power Ministry had earlier protested the CIL practice of offering relatively unfavourable terms to private companies in fuel supply agreements (FSAs). The FSA proposed by CIL offered favourable terms to PSU power projects in case of termination of agreement, provision of security deposit, suspension of coal supplies and settlement of disputes.

(FE, 22.12.12)

Chinese Import to Hit BHEL

Bharat Heavy Electricals Ltd's ₹2,000 crore investment plan for manufacturing solar equipment might become unviable if measures against dumping of Chinese items in the sector are not in place.

The company is planning to invest ₹2,000 crore in this (solar power) segment for manufacturing of silicon wafer, solar cell and solar module. But then, this investment will be viable only if there is a minimum offtake which is guaranteed by the Indian industry and countervailing measures against dumping from China.

Dumping of cheaper Chinese gear is hurting existing players in the solar equipment manufacturing space. BHEL is working on renewable energy systems such as photovoltaic systems but faces issues of dumping of Chinese equipment at low prices.

(BS, 24.10.12)

Restructuring for Discoms

The Power Ministry will commence restructuring of loans worth ₹1.9 lakh crore of ailing power distribution companies from January 2013. Under the scheme, 50 percent of the short-term outstanding liabilities would be taken over by state governments.

As part of mandatory condition, 50 percent of the outstanding liabilities up to March 31, 2012 is to be taken over by the state governments. This shall be first converted into bonds to be issued by discoms to participating lenders, duly backed by the state government's guarantee.

The support under the scheme will be available for all participating state-owned discoms on fulfilling short-term mandatory conditions.

(BS, 22.11.12)

• MIXED BAG •

No Super Regulator for Finance

Disagreeing with Srikrishna panel's suggestions, PMEAC Chairman C Rangarajan said India does not need super regulator for financial sector markets but need better co-ordination among existing regulators.

Citing examples, he further said "the experience that is now available does not point to a very clear evidence as to which is better. UK had a single regulator and it ran into problems. US had multiple regulators and they also ran into problems".

Justice BN Srikrishna-headed Financial Sector Legislative Reforms Commission's draft report has suggested setting up a single regulator for financial markets.

Recently, the Commission in an approach paper had proposed a unified regulator for financial sector laws, including those for markets, insurance, commodities and pensions. *(ET, 29.10.12)*

SEBI Unifies Foreign Investments

The Securities and Exchange Board of India (SEBI) is putting together a panel of about a dozen senior experts to take a fresh look at the foreign investment framework in the country.

Tentatively named the 'Committee on rationalisation of investment routes and monitoring for foreign portfolio investments', it will comprise officials from exchanges, banks, depositories, custodians and tax consultants, according to officials close to the development.

The board had recently decided to implement the recommendations made by the Sinha panel in 2010. This committee, with experts from different walks, will take into account the operational issues and suggest a way forward for smooth implementation of the proposals.

The new SEBI panel will help draft guidelines and set the road map for implementation of various proposals made by WGFII. It had recommended dissolution of various categories of investors such as FDI, FII, FVCI and NRI into a single window, called QFI (not to be confused with the current QFI), for portfolio investment in India.

(BS, 22.11.12)

Banks' Consolidation Inevitable

Stating some consolidation in the banking system was inevitable, Finance Minister, P Chidambaram said India must have two or three world-size banks. He further said that while consolidation takes place among top banks, there would also be place for local area banks.

Meanwhile, the Finance Ministry had recently asked large public sector banks (PSBs) to hand-hold smaller counterparts to improve the latter's functioning. It has divided banks in seven pools, with a large bank appointed co-ordinator for each group, to improve internal policies and procedures.

The banks have been asked to continuously interact and work collectively on issues such as human resources, e-governance, internal audit, fraud detection and protection, recovery, asset-liability mismatch and business process re-engineering. *(TH, 25.11.12)*

Disbursing Home Loans

Banks and housing finance companies are expected to collectively disburse home loans aggregating ₹1,70,000 crore in the current fiscal, up from ₹1,30,000 crore in the previous fiscal, said R.V. Verma, Chairman & Managing Director, National Housing Bank.

There is good demand for home loans in the tier-II and tier-III centres as house prices are moderate. A majority of the buyers are end-users and therefore delinquencies are relatively lower. India's largest lender, State Bank of India, has already sanctioned ₹20,000 crore of home loans in the first nine months of the current fiscal. In the year 2011-12, SBI disbursed ₹28,000 crore to about two lakh units.

Housing Finance Development Corporation, the country's largest housing finance company, reported a 31 percent rise in disbursements in the first six months of the current year. *(BL, 20.12.12)*

Agents' Commission Raised

Be prepared to shell out a little more on your insurance premiums and receive less value if you decide to exit your policy before maturity. In its draft norms for traditional products, the Insurance Regulatory and Development Authority (IRDA) has proposed an increase in agents' commissions and a reduction in surrender value of policies.

The draft, however, brings good news for agents. The minimum commission for agents has been raised from 14 percent of the premium for the first year to 15 percent, for five-year premium-paying term policies. Besides, the regulator has proposed a specific commission for each year starting from a five-year premium paying term to 12 years plus premium paying term. *(BS, 10.10.12)*

RBI Plug Holes in Realty FDI

In a bid to plug loopholes and provide operational clarity with regard to foreign investment norms in the real estate and construction sector, the Reserve Bank of India (RBI) has suggested that the minimum capitalisation requirement for any company with over 75 percent foreign holding should be increased by treating it as a wholly owned subsidiary of the foreign company.

The RBI has proposed that an Indian company in the construction development sector with foreign direct investment (FDI) of 75-100 percent should now be required to comply with minimum capitalisation norm of US$10mn. At present, such companies are required to be capitalised with US$5mn.

This is because according to the current norms a foreign company's holding of 100 percent in a company was being treated as a wholly owned subsidiary of that foreign company and was required to be capitalised with US$10mn. *(ToI, 01.11.12)*

Raising Prices Sensibly Can Reduce Inflation

Swaminathan S Anklesaria Aiyar*

The Kelkar Committee report has painted a dire picture of government finances. It emphasises the need to phase out unwarranted subsidies while maintaining warranted subsidies and targeting the poor. The committee has warned that India must curb its high fiscal deficit, which is spilling over into a record trade deficit.

Overdue increases in the prices of LPG and diesel, and measures like FDI in retail have created the image of a government leaping back into action

Critics sneer that the committee has ignored the inflationary consequences of its proposals. They claim that raising the price of subsidised items will have a cascading effect on all prices, hitting the common man.

The committee should have anticipated this criticism, and countered by saying that sensible price decontrol will not worsen inflation, and can indeed reduce inflation. Sounds paradoxical? We are already seeing evidence of this.

Overdue increases in the price of diesel and cooking gas-which fall far short of the ideal of price decontrol have nevertheless changed the entire investment climate. Along with new measures like allowing FDI in retail, they have created the image of a government leaping out of paralysis into action.

Domestic producers of goods that compete with imports-dal, vegetable oil, metals, plastics, coal and fibres will be obliged to hold or cut prices since rival imported goods will now be eight percent cheaper. To some extent, this will squeeze exports but that should be bearable, given the offsetting impact on inflation. The outcome should be, at last, a fall in overall inflation to the RBI target rate of five percent.

This will reverse the trend of 2011, when political paralysis, soaring oil subsidies and a soaring fiscal deficit led to a loss of confidence, globally and locally, in Indian economic policy. Consequently, the rupee fell by 24 percent, from ₹45 to ₹56 to the dollar. This automatically raised import prices by 24 percent, putting great upward price pressure on all Indian goods competing with imports. Naturally, inflation stayed high.

Politicians did not realise this and thought they would tame inflation by keeping oil and fertiliser prices unchanged despite rising global prices. But the rest of the world saw clearly that this would send subsidies to record heights, creating unsustainable trade and fiscal deficits. So, the rest of the world began pulling money out of India, causing the rupee to crash. This created new inflationary pressures that more than offset the government's price controls. Inflation stayed high.

The world understands that a poor country should subsidise the poor. But it also understands that such subsidies must be well-targeted, and not lead to unsustainable fiscal deficits.

The next step should be ending the kerosene subsidy. Around 40 percent of cheap kerosene is used to adulterate diesel and petrol. This benefits crooks, ruins vehicle engines, and kills thousands through higher respiratory ailments caused by pollution. Cheap kerosene is supposed to help poor villagers who use kerosene lanterns. Instead, the government can give villagers free solar lanterns. That will provide them light, while ending the ills of cheap kerosene.

Many economists and politicians wring their hands at rising household purchases of gold, an unproductive use of savings. Bullion imports shot up to US$61.5bn in 2011, the second largest item after oil. This too was caused partly by the earlier policy paralysis and inclination to subsidise oil and other items without limit. Those bad policies caused the rupee to crash by 24 percent, providing a 24 percent windfall to gold speculators at a time when global prices were rising anyway. This further fuelled the speculative frenzy.

The government tried combating this with a two percent increase in import duty. Far more effective will be the recent eight percent rise in the rupee's value. That will hopefully dampen speculation and encourage households to shift back from gold to bank deposits and other financial instruments. That will help both investment and the balance of payments.

* *Consulting Editor, Economic Times. Abridged from an article that appeared in the* Times of India *on October 07, 2012*

Should MTNL/BSNL be Bailed Out?

Hemant M Joshi*

Perhaps the money can be met out of the USO fund keeping in mind the implications for rural connectivity. But government should evolve a policy for the refund of spectrum by operators and apply this uniformly

In the past, spectrum was allotted to operators based on the subscriber addition criteria and one-time payment was not required. This enabled the growth of the telecom industry as scarce capital was used to build a network across the country, enabling connectivity for the *aam aadmi* at the lowest tariffs in the world, while also facilitating GDP growth. Now, there seems to be rethink on this policy, after the so-called market-discovered price arising from the 3G spectrum auction.

In 2011-12, BSNL made losses of ₹88bn and MTNL of ₹41bn. They had to fork out ₹280bn to the government when the 2010 auction price was applied to their spectrum-holding in the 3G and Broadband Wireless Access waves. BSNL requested a refund of ₹67.25bn for surrendering the BWA spectrum in its 6 circles. It is clear that both PSUs are in an adverse financial situation.

Consider some key data points. First, the two PSU operators rank 5th, but hold maximum spectrum among all the operators. Second, only 53.52 percent of BSNL's GSM subscriber base was active. Third, both PSUs are steadily losing revenue market share. Fourth, both PSUs have shown negative growth in subscriber base in the last few quarters.

Fifth, BSNL has only 12 percent market share among rural subscribers. Sixth, BSNL and MTNL got 3G and BWA spectrum 1.5 years earlier than the private operators. Seventh, BSNL is not meeting the benchmark set for quality of services parameters in many circles. Eighth, PSU operators have at least 10 times more employees than private operators.

The bailout in itself would not help PSU operators as they have become marginal players and have deep-rooted structural, operational and financial problems. The level-playing field that the government is seeking by charging operators one-time fees would be ridden with potholes in the event of a bailout, unless this is given with a clear linkage to a long-term strategic objective.

* *Partner, Deloitte Haskins & Sells*

SD Saxena*

Various studies suggest the PSUs have to raise tariffs by 10-100 percent to retain even wafer-thin profits. There are deep structural problems which need fixing. else, it's just throwing good money after bad

BSNL was the first mover and it used the declining land-line connectivity for broadband by introducing attractive tariff schemes. In order to achieve a quick-fix solution, BSNL also tried the WiMax route for providing broadband connectivity in rural areas to overcome the problem of last-mile connectivity and the back-haul.

This, however, could not succeed and BSNL suffered a basic handicap as the competitors were using the standard frequency of 2.3GHz compared to its non-standard of Rs 8,814 crore from the government almost a year ago. The matter is still under consideration.

In the present case of additional bandwidth beyond 4.4MHz, wherein a waiver of ₹7,300 crore is being requested from the government, one has to look at the problem in the overall context. BSNL has never been given anything free.

The delay was so killing that all the customers who were expecting the launch of services from BSNL migrated to other competitors. India registered a growth of more than 10 million customers per month; however, there was not a single connection that BSNL could provide during this period as it was restricted from buying the network infrastructure needed for attending to such a growth.

As a result, BSNL lost new customers and fell down to the fourth position, from the second position among the telecom operators. The question of whether BSNL should get a waiver of the said amount or be asked to pay for the additional spectrum has to be addressed in the context of all these points in view.

In case the waiver is allowed, it may attract undue criticism but the government has to take a view in the matter especially keeping in view rural connectivity. Perhaps this amount can be met out of the Universal Service Obligation, which was being addressed by BSNL. Perhaps the government may evolve a uniform policy for the refund of spectrum by different operators and apply the same across the board.

* *Former Director (finance), BSNL*

Abridged from an article that appeared in the Financial Express*, on October 30, 2012*

ED to Issue Notices in Walmart

The Enforcement Directorate a central investigative agency is to soon issue notices to American retail giant Walmart as part of its probe against the company's investment in an Indian firm for alleged violations of forex laws.

The agency, which has registered a case under the Foreign Exchange Management Act, would also ask the Commerce & Industry Ministry to furnish it with clearances that were given to the company to route investments in 2010. There have been allegations that Wal-Mart put money into the domestic multi-brand retail chain despite a ban on foreign direct investment in the sector.

Bharti Enterprises has, however, rejected the allegations that it had violated any rule in this regard. The company said all the procedures were as per the "law of the land".

(BS, 16.11.12)

FIPB Clears IKEA's Proposal

Foreign Investment Promotion Board (FIPB) approved the Swedish furniture retailer IKEA's proposal to start its operation in India. The proposal will now have to go to the Cabinet for vetting. Earlier, IKEA said it plans to invest ₹10,500 crore in setting up 25 single brand retail stores through its 100 per cent subsidiary.

The Swedish firm had decided to go ahead with the investments after the government relaxed the 30 percent sourcing clause from small and medium enterprises.

(BL, 20.11.12)

Hurdles in Manufacturing

More than the competitive edge that China has in terms of cost, there are host of domestic issues like poor policy measures and infrastructure that create hurdles in India's manufacturing sector.

While India is steadily making presence felt on the global stage, all stakeholders including government and the private sector need to work in tandem for the country to fully capitalise the emerging opportunity and propel the economy on a manufacturing-led growth.

Also, China's decreasing cost competitiveness due to Yuan appreciation, wage inflation and fall in investments as a percentage of gross domestic product (GDP) opens up more opportunities for the Indian manufacturing sector. *(FE, 18.12.12)*

Panel on Internal Trade

A high-level panel, headed by Consumer Affairs Minister K V Thomas, will be constituted by the end of December 2012 to look into internal trade issues that may arise following FDI in multi-brand retail.

In November 2012, the Cabinet gave the green signal to 51 percent FDI in multi-brand retail. It had also asked for setting up of a high-level committee under the chairmanship of Consumer Affairs Minister to recommend on internal trade reforms to the government.

The Committee will interact with state governments and traders to find out their difficulties following FDI in multi-brand retail and come out with solutions. Trade barriers between different states are "quite a complex issue and needs to be tackled in a systematic manner that would offer permanent solutions". *(BS, 18.12.12)*

Considering the Design of GST

The government said a decision has been taken to set up a group of select senior officials both from the Centre and states to consider the 'design' of the proposed Goods and Services Tax (GST).

Chidambaram said that two committees would be constituted to sort out differences for early roll out of the new indirect tax regime. While one committee will deal with the Central Sales Tax compensation issue, the other will deliberate on the design of the GST. After being finalised by the two sub-committees, the report would be taken up by the Finance Minister.

The Constitution (Amendment) Bill, 2011 has already been introduced in the Parliament in March 2011 proposing to amend certain provisions of the Constitution for the introduction of a comprehensive GST in the country.

(BS, 07.12.12)

Retail FDI Game May not be Over

A spanner may have been thrown in the government works on FDI in multi-brand retail. The issue came up in a public interest suit that alleged the government had allowed 51 percent FDI into the multi-brand retail sector without framing rules and regulations and without the assent of both houses of Parliament. The petition, moved by Supreme Court lawyer Manohar Lal Sharma, was taken up on October 01, 2012.

While replying to the Supreme Court, Attorney General G Vahanvati said three amendments had been notified on October 30, enabling the government to allow FDI into the multi-brand retail sector. The changes were made to the Foreign Exchange Management Act (Transfer of Security by a Person Resident Outside India) Regulations, 2012. The Supreme Court adjourned the hearing of the PIL till January 22, 2013.

(BS, 09.11.12)

2013: India's Second Wind

Martin Feldstein*

Martin Feldstein explains why the Indian economy is going to come back, and soon

The Indian economy is coming back. After several years of disappointing performance, the authorities are shifting to policies aimed at boosting the annual growth rate closer to the roughly nine per cent level that India achieved from 2004 to 2008.

That would not be easy. India has many handicaps and lacks many of the things that are needed to sustain rapid growth.

Although India has outstanding universities and technological institutes, the primary education system is disastrously poor. The caste system and labour laws prevent an efficient labour market. The policy of quotas for lower castes and for members of certain "scheduled" tribes affects educational institutions and government employment.

True, bureaucratic rules are not nearly as constraining as they were during the pre-1991 "license raj". But business activity remains bogged down by myriad restrictions and a frustratingly slow judicial system, which, together with a complex system of price subsidies, encourage widespread corruption at every level of government.

Moreover, India's infrastructure is inadequate for a modern economy. With too little electricity, blackouts are common. Ports are inefficient, roads are congested, and traffic is astonishingly chaotic.

And, while India urgently needs to reform its tax system, spending policies and regulation, political change is difficult in a multiparty federalist democracy of 1.2 billion people spread over a large subcontinent. And yet, despite everything, India's economy did record roughly nine percent growth for several years, and even now is growing by nearly six percent annually, behind only China and Indonesia among major economies.

One key to India's economic success is a large population of technically educated entrepreneurs, who are creating new companies and building a modern middle class. A high rate of private saving and strong inflows of capital from abroad have supported investment in plant and equipment. The Indian states have substantial policy discretion and often compete to attract businesses and achieve rapid economic growth.

The main ingredient needed to achieve faster sustained growth is increased investment. Reducing the budget deficit will increase total domestic savings available to invest. Convincing foreign direct investors that India is a reliable destination will increase the inflow of long-term funds.

Fortunately, the recent threat of a downgrade of India's sovereign credit rating which would have made it difficult to finance the current account deficit has led to a government reshuffle and a shift in policies. The key political change was the appointment of a new Finance Minister, P Chidambaram, whose selection by Prime Minister Manmohan Singh and Congress party leader Sonia Gandhi sent a strong positive signal to the Indian business community and to financial markets.

One sign of progress is that a new Cabinet committee, chaired by Dr Singh, will review large private investment projects that have been held up by regulatory issues or other legal barriers. Breaking this logjam will be important, both in itself and for the message that it conveys to domestic as well as foreign investors.

Likewise, India's recent decision to allow large foreign retailers like Walmart to enter the market reflects an encouraging change of attitude that is important beyond the specifics of the particular firms that will now come to India. And legislation will soon create the opportunity for expanded foreign ownership in the financial sector.

On the fiscal front, the shift from a complex system of state-level indirect taxes to a national goods and services tax will improve efficiency and raise revenue. Lowering the subsidy for diesel fuel was politically difficult, but will reduce both the fiscal deficit and excessive use of diesel products.

Government investment in infrastructure, both alone and in partnership with private firms, will also directly benefit growth and attract larger inflows of foreign investment.

Finally, the remarkable plan to enrol every Indian adult in a programme using fingerprint identification as a substitute for bank debit cards will allow more efficient distribution of funds to poor villagers and the urban poor.

All of this is an enormous undertaking one that confronts innumerable potential impediments, both economic and political. But I am betting that India is rising again: millions more will be lifted out of poverty in the coming years, while the increasingly prosperous Indian middle class will expand further.

* *An Emeritus Professor of Economics at Harvard. Abridged from an article that appeared in the* Business Standard *on December 31, 2012*

The Fear of the Foreign

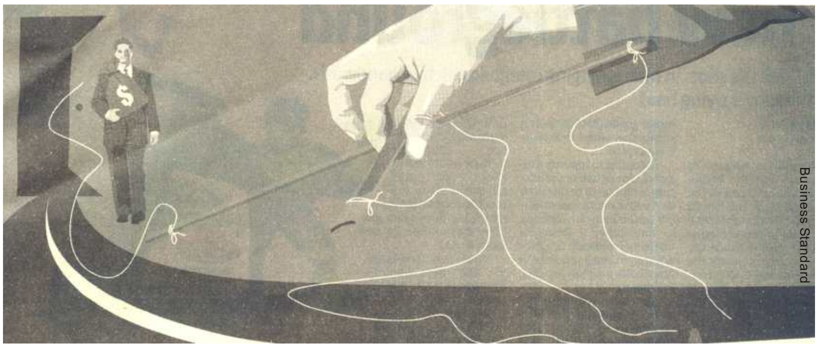
Devesh Kapur*

One of the more interesting aspects of the furore over FDI in multi-brand retail is that opposition was driven not just by ideological considerations or the rank opportunism characteristic of Indian politics, but also by the fear of the outside world that continues to have deep resonance in India.

It is this fear that, more than any other factor, perhaps explains the starkly contrasting approaches of India and China to FDI. China openly embraced multinational corporations (MNCs) that, lemming-like, rushed to invest in the country. That investment was fundamental to driving both China's incredible export expansion in manufacturing and its internal growth. With intra-industry trade a key driver of global trade, MNCs married their low-cost production bases in China to their global networks, to produce the Chinese export miracle.

But what is more instructive for India is how the Chinese used MNCs to develop their own technological capabilities, which are fundamental to long-run growth. They learnt, copied, stole and stripped the MNCs of their production and technological knowledge. The contrast with India is striking. Fear and suspicion continue to mark India's approach to MNCs. Though there were pragmatic reasons for this earlier those factors were considerably less pressing a decade later.

But instead of doing what it needed to do to improve the competitiveness of domestic firms, India has done exactly the opposite; it has made their life more difficult. Populist policies on crucial inputs like power have increased production costs, while extractive policies on land acquisition and regulation have ensured that Indian firms are fleeing and investing abroad in droves while greenfield investment in India sputters. India's fear of outsiders also marks the country's approach to higher education; as a result, a country of more than a billion people faces acute shortages of talent.



India's lack of trust in its own institutions means the country does not believe it can leverage MNCs to its advantage

The differences in approach cannot simply be ascribed to the cognitive baggage of history. Yes, India suffered from the East India Company syndrome, but the depredations suffered by China at the hands of foreigners are hardly less than the Indian case.

Why have so many of Indian politicians and intellectuals continued to be so suspicious of MNCs? Why do they not believe that India can leverage MNCs the way China has done? If the answer does not lie in history, it certainly does not lie in the two countries' view of capitalism. Given the role that money plays in contemporary India's political and intellectual life, it would take a particularly strong delusion to believe that Indians are not money-minded.

The answer perhaps lies in something more deep-rooted: the fundamental lack of trust that is now pervasive in Indian society. Indians today view public institutions as places where everyone in power is corrupt and ready to sell out to the highest bidder. From social movements to civil society, from academics to the media, there are all sorts of attempts to address the lack of accountability in India's public life and root out the cancer of corruption.

But whatever formal and clever rules one can create, and however much technology is leveraged, it is impossible for any state to function effectively without discretion. That discretion certainly requires transparency and monitoring.

But it also requires faith in our government that, if Walmart's entry creates massive problems for small retailers, zoning and tax rules can be devised accordingly; a trust in Indian society that its members have the creative and entrepreneurial wherewithal to take on competition; and a trust that the two in combination can allow India to leverage MNCs to the country's advantage.

But that trust is absent. And as long as it continues, so will the fear of the "foreign".

* *Director, Centre for the Advanced Study of India, University of Pennsylvania. Abridged from an article that appeared in the* Business Standard *on December 12, 2012*

Doing Biz Still Tough in India

India continues to be among the most difficult countries to do business in, according to a World Bank-International Finance Corporation (IFC) study entitled 'Doing Business 2013'. Among the 185 countries where the study was conducted, India ranks 132nd in terms of ease of doing business, while Singapore remains at the top for the seventh year in a row.

Compared with the report published by the agency last year, India's ranking deteriorated on seven of the 10 parameters in 2013. The parameters on which the country's ranking slipped were starting business, dealing with construction permit, getting electricity, protecting investors, paying taxes, trading across borders and enforcing contract. India, however, managed to climb up the order on three counts over the year. *(BS, 24.10.12)*

India to see 4.5% GDP Growth

India's gross domestic product (GDP) growth could fall to 4.5 percent in 2012, the Organisation for Economic Cooperation and Development (OECD) said citing euro zone debt crisis as the biggest threat to the world economy even as the member countries of the currency union put out a bailout package for Greece that got a thumbs up from markets.

In its bi-annual assessment, OECD Economic Outlook, the Paris-based think tank said the global economic recovery will gain momentum slowly, and lowered the global growth estimate for the current year to 2.9 percent from 3.4 percent in its earlier forecast and that of 2013 to 3.4 percent from 4.2 percent.

(ET, 28.11.12)

India to see 242,000 Millionaires

India is expected to see a substantial jump in the number of millionaires in the next five years as the total tally for the super-rich in the country is likely to touch 242,000 by 2017.

According to a Credit Suisse Research Institute's Global Wealth Report, the number of millionaires in the country in 2012 stands at 158,000, which is likely to swell to 242,000 by the year 2017, registering an increase of 53 percent.

India has 237,000 members of the top one percent of global wealth holders. There are 1,500 UHNW individuals with wealth over US$50mn and 700 with more than US$100mn. *(IE, 14.10.12)*

Access to Infrastructure Vital

Country's poor rural power infrastructure has proved to be a stumbling block for the consumer durables industry, according to a Crisil research report. It estimated that nearly 12 million additional rural households in Uttar Pradesh and 4 million more in rural Bihar would have owned electric fans by 2009-10, had there been better access to electricity.

Each of these two states would have had 5 million more households owning a television set. In contrast, an improvement in road connectivity between 2004-05 and 2009-10 appears to have resulted in a sharp pick-up in ownership of two-wheelers in several states including Bihar, Orissa and Rajasthan.

(BL, 21.11.12)

India Poor on Hunger Index

India has performed poorly in reducing hunger, especially among children, according to the Global Hunger Index (GHI) 2012 report. Even without information on the recent advances made in dealing with hunger, India's track record is disappointing, the GHI report said.

The country's hunger index value has improved from 24.2 in 1990 to 23.5 in 2011 and 22.9 in 2012, but it still remains among countries with an “alarming” level of hunger. Further, India ranks below neighbours Sri Lanka, Pakistan and Nepal. These relative rankings have remained unchanged since last year's GHI report. *(Mint, 12.10.12)*

Forum to Provide Home for All

Several organisations have come together under the banner of the National Forum for Housing Rights to persuade the government to provide homes for all in the country, especially the poor. India has a shortage of 18.78 million houses in urban areas, according to the Housing and Urban Poverty Alleviation Ministry.

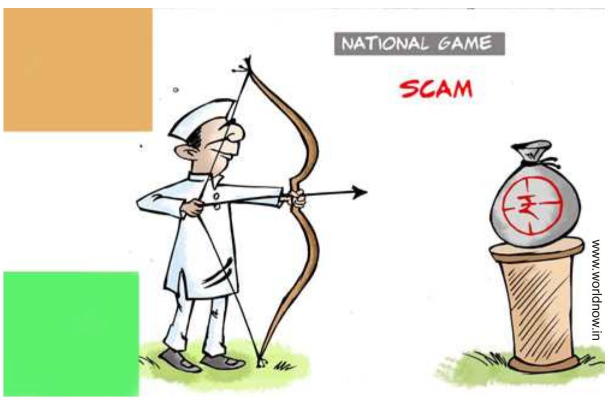
A report by a panel headed by Amitabh Kundu, Economics Professor at Jawaharlal Nehru University, pointed out that the percentage of people in need of a house from the economically weaker sections was 56.2 percent, the highest among all categories. *(Mint, 02.10.12)*

India ranked 94th in Corruption

India's image on tackling corruption has not improved with Transparency International's Corruption Perception Index (CPI) placing it at 94th rank out of 176 nations in 2012.

However, 2012's rank of 95 would be 96 if it is calculated using the new methodology which implies there was a "slight improvement" in the index. In 2012, India has a score of 36 out of 100 on a scale from 0 (highly corrupt) to 100 (very clean) which is a result of an average of 10 studies including World Bank's Country Performance and Institutional Assessment and Global Insight Country Risk Ratings.

India was ranked 72 among 180 countries for the first time in 2007 and since then the country's rankings have been showing a decline. While India was placed at 87 in 2010, the position was 95 in 2011.



(IE, 05.12.12 & Mint, 06.12.12)

CAG-type Watchdog for Private Sector

Today's economic world has become far more complex with the distinction between private and public sector getting blurred. There are a range of investors, from public institutions to sovereign wealth funds, in a large private sector company. Then there is also a growing need for public-private partnerships (PPPs) in infrastructure and socially relevant sectors.

This transformation, as well as growing incidence of corruption and misuse of public money, calls for introducing relevant changes in the laws and regulations governing the industrial sector. Since the public sector is already subject to public accountability and scrutiny, the same needs to be extended to the private sector.

Besides promoting good governance ethics, public accountability would also ensure judicious use of public funds, thus ushering in efficiency and higher growth. *(BL, 15.10.12)*

PPP Should not be under CAG

GMR Group said that PPP projects should not be under ambit of CAG of India and the Right to Information (RTI) law. If it is brought under CAG and RTI ambit, it could spell the death knell for private investments into infrastructure projects.

Sidharath Kapur, Chief Financial Officer (airports) at the GMR Group, said the current policy environment makes it difficult for the private sector to chip in with half of India's US$1tn target for infrastructure investments over the next five years.

Infrastructure companies have suffered - bottom line and stock prices are down, foreign investors have lost faith in the Indian story.

(ET, 03.10.12)

JNNURM: A Failure

From basic guidelines to implementation and subsequent monitoring of projects, the Union Ministry of Urban Development's flagship programme the Jawaharlal National Urban Renewal Mission (JNNURM) has failed on all counts, says CAG in its latest report.

The performance audit of the Mission shows huge deficiencies. For instance, only 22 of the 1,517 projects approved in 2005 and 231 of 1,298 approved in 2011 were completed as of March 31, 2011, the CAG report said.

The Urban Renewal Mission was launched in 2005 with the objective of reforms-driven fast track development of cities. It had failed to strengthen urban local bodies, even though it was supposed to make them more accountable and efficient.

(TH, 01.12.12)

Make Regulators' Independent

The government would do very well in making regulators independent, Comptroller and Auditor General of India Vinod Rai said. He said that an element of transparency should be also introduced in the functioning of corporates.

Rai wondered why the introduction of probity and transparency had to be left only to the government. He also wanted citizen groups to play an active role in ensuring transparency in the functioning of corporates.

There were also several regulators who oversee corporates, he said, adding that regulators needed to be active. The architecture of several Government programmes was very good, but unfortunately there were lacunae in their implementation.

(BL, 07.11.12)

Railways Flayed for Delay

Taking note of the long delay and cost escalation in the Kashmir rail link project, one of the key works taken up by railways since Independence, government auditor CAG has blamed "poor planning and due diligence before its execution for it.

The 29-km long Udhampur-Srinagar-Baramulla railway line project's originally estimated cost of ₹3,077 crore in 1999-2000, has escalated to ₹19,565 crore and the project is still not complete.

Considering the difficult and unexplored terrain of the region, the CAG has noted that the critical decision on selection of alignment should have been preceded by requisite field investigations to establish its workability. *(BL, 20.12.12)*

Irregularities in Port Sector

The CAG censured the Orissa government for large-scale irregularities in awarding port sites to private developers on PPP basis. The CAG has pointed out that the government awarded the sites through MoU route instead of International Competitive Bidding (ICB) route and allowed the developers to exit the port project during the lock-in period in violation of the Concession Agreement.

The Orissa government took up five minor port projects (Dhamra, Gopalpur, Subarnarekha, Chudamani and Astaranga) for development through PPP mode during 1999-2012, with a projected private sector investment of ₹12,594.02 crore. *(FE, 17.12.12)*

CAG Nails Army

The CAG has unearthed irregularities and inefficiencies mainly in the Army's ordnance factories that have cost the national exchequer an estimated ₹1,277 crore and led to huge gaps in the country's war preparedness.

Apart from this there was a huge loss due to diversion and misuse of prime cantonment land to private builders in cities such as Pune, Kandivili, Panchmarhi and Barrackpore. The CAG has also chastised the Indian Navy and the Air Force for inefficiencies and wastage in several of their projects.

While the armed forces have been pulled up for decision deficiencies resulting in losses, the Defence Ministry has not been spared either by the CAG "for gross mismanagement of land under its possession."

(http://indiatoday.intoday.in, 30.11.12)

Multi-member CAG is not a Good Idea

S Murlidharan*

The government's tentative hush-hush move, smacking of kite-flying, to possibly make the extant institution of CAG a multi-member body a la the Election Commission has predictably drawn fire as much from the opposition parties as from the opinion-making class. In 1979, the late Prime Minister Rajiv Gandhi converted the single member Election Commission into a three-member body to clip the wings of the then Election Commissioner. This time round, the incipient move is to pare the wings of the existing CAG, whose assertiveness and doggedness has embarrassed the Government no end. The difficulty with a multi-member CAG is not about semantics alone, which can be overcome by amending the Constitution. On the contrary, the difficulty is at the conceptual level

Dual Audit Benefits

Auditors are not infallible, as much as they are not always exacting in the discharge of their duties. Dual audit stands for two sets of auditors simultaneously poring over the accounts without working in tandem.

In the marketplace for goods and services, competition results in cost-cutting and lowering of prices, especially where there is no scope for product differentiation, or where the products and services are homogenous. Dual audit by its nature is doubly expensive and doubly intrusive in that the staff of an organisation has to answer not one but two sets of auditors.

Yet, the system has a lot to commend itself from competitive genuflection in a single audit regime to stay in the good books of the promoters, the competition shifts to the healthy race for one-upmanship.

Joint Audit Issues

The joint auditors pool their resources and divide the audit areas between themselves. The division might be in terms of functions or geography or product/service lines, but in any case, the audit is carried out in consultation with each other and not in a spirit of one-upmanship.

The ICAI toyed with the idea of institutionalising joint audit for listed companies in India in the immediate aftermath of the Satyam scam, that rocked the nation like never before, with its auditor displaying pusillanimity bordering on connivance for all to see.

Politicising CAG

Now, coming to the move to make CAG a multi-member body, the issue is, can it be done, given the *raison d'être* of audit?

An audit report thus riven by dissent is bound to prove counter-productive with readers being at a loss as to who to believe, and what to believe. Extending the analogy to the three-member CAG, it could be that the first CAG quantifies the 2G losses at ₹1.76 lakh crore, the second at ₹0.50 crore and the third says there is no loss at all. A multi-member CAG is a sure recipe for politicking and politicising the accounts of the nation. Besides, even under the present regime, it is not as if the single member CAG imposes his personal views on the nation. He has an elaborate auditing bureaucracy reporting to him. His views are the culmination of the process of consultation he has with deputy CAG, assistant CAG, and so on.

While the CAG team works as a team, the dual auditors do not. It is wrong to divide a team on loyalty lines. It would be dangerous to have a set of auditing staff in the same organisation which bears allegiance to the first CAG, and another set of auditing staff bearing allegiance to the second CAG, and so on.

For the same reason, it will not be advisable to create two sets of CAGs so that dual audit can be conducted of the same accounts politicisation is guaranteed, especially with CAG and his team not coming under the regulatory oversight of a body like the ICAI.

Dual audit being concurrent or contemporaneous does not suffer from this vice but is not suited for auditing of the government behemoth for the reasons stated above.

---

* *New Delhi-based Chartered Accountant. Abridged from an article that appeared in* The Hindu Business Line, *on November 12, 2012*

Review of Grain Procurement

Saddled with huge foodgrain stocks and a burgeoning subsidy bill, the Food Ministry is working on a long-term procurement policy. Officials said one was needed due to the outcome of the present policy, wherein whatever is brought in by farmers is taken by state agencies.

Earlier, state agencies and Food Corporation of India (FCI) used to procure 25-30 percent of the total marketable surplus of foodgrain, but in the past few years, the Food Ministry has procured over 35 percent of the surplus.

The government plans to procure around 40 mt of rice for the central pool in the 2012-13 crop marketing that began on October 01, 2012 four to five mt more than the actual procurement of 2011. *(BS, 07.11.12)*

Information Security on Board

As an increasing quantity of sensitive information is transmitted through electronic channels, the government is considering putting in place an internal information security policy to reduce the risk of leaks and counter possible cyber-attacks.

The policy will include new guidelines on top of the standards set out by the Official Secrets Act, 1923, and mandate safeguards for each category of information on how it should be transmitted, stored and preserved.

Experts argue that given the easy portability of such information and its vulnerability to hackers, the policy should have been in place much sooner. *(Mint, 07.11.12)*

Corrupt Cos. to be Punished

Senior executives of a company could find themselves facing criminal charges for failing to prevent bribery as the government proposes to amend the Prevention of Corruption Act to make such failures an offence.

"Experience has also shown that big-ticket corruption is mostly related to operations by large commercial entities. It is, therefore, also proposed to include corporate failure to prevent bribery as a new offence on the supply side," Singh said.

At the same time, he deplored what he described as the "mindless atmosphere of negativity and pessimism that is sought to be created over the issue of corruption", and stressed that investigative agencies needed to distinguish between genuine mistakes and acts of malfeasance. *(ET, 11.10.12)*

Paralysis in Info Panels

Many state information commissions have stopped working because of the non-availability of a member with judicial training. The Supreme Court in a recent order had held that the information commissions are quasi-judicial bodies and, therefore, ought to have a judge or a trained expert to hear cases. Since there are a few judges in information commissions, the order has raised doubts about the validity of the decisions taken by the commissions.

The paralysis in information commissions is likely to spur the government to expedite the review petition it plans to file. Sources opine that the government plans to argue that familiarity with administrative matters should be the only criteria for appointment to the commissions. However, until such time the court disposes of the review petition, confusion over the status of existing commissions and their orders will continue. *(ToI, 30.09.12)*

New Water Policy Approved

The National Water Resources Council approved the new National Water Policy with Prime Minister Manmohan Singh saying legal structures on water were inadequate and calling for judicious use of the resource.

The policy seeks to focus on the looming crisis in the water sector and lay a roadmap on principles of equity, sustainability and good governance. Singh said suggestions had been made for a national legal framework of general principles on water, which, in turn, would pave way for essential legislation on water governance in every state.

The new water policy calls for integrated water resource planning at the basin level, and removal of urban and rural disparities in distribution of water and differential pricing. *(BS, 28.12.12)*

12th Plan Draft Calls for Jobs

The Planning Commission has proposed to create five crore new job opportunities during the 12th Plan (2012-17). The Commission, in its draft document, has listed 25 core indicators for the Plan. These reflect the vision of rapid, sustainable and more inclusive growth.

"Generate 50 million new work opportunities in the non-farm sector and provide skill certification to equivalent numbers during the 12th Plan," says the draft. It also highlights the need to reduce the head count ratio of consumption poverty by 10 percentage points over the preceding estimates. *(BL, 03.12.12)*

Launch of Aadhaar-enable Service

The Union government launched an Aadhaar-enabled service delivery system with a promise of eliminating fraud, black-marketing, pilferage in schemes and bribery through a reliable mechanism of direct cash transfer to beneficiaries in a transparent manner.

Prime Minister Manmohan Singh and United Progressive Alliance chairperson Sonia Gandhi inaugurated the ambitious programme, which seeks to integrate the government-run flagship schemes with the Aadhaar card system at a public meeting in this small town near Jaipur. The launch marked second anniversary of the Unique Identification Citizenship Number Project. *(TH, 21.10.12)*

Avoiding a Policy Stalemate

Arun Maira, Shweta Srinivasan, Abhik Das & Anshu Bhardwaj

A systems approach generated numerous alternative scenarios for India and we considered three of them. In one, the country muddles along. The system cries for reform and we initiate some reforms. However, these are piecemeal. In the second scenario, the country remains stuck in centralised governance and exerts control in the face of demands for devolution. In the last, the federal system encourages local governance and small enterprises, creating livelihood opportunities

At a recent Planning Commission (PC) meeting to discuss the 12th Five Year Plan, a highlight of the Prime Minister's speech was about three future scenarios for the country's economic growth. These three scenarios projected: an idyllic situation of "strong inclusive growth", a situation with "insufficient action" and a dismal state of affairs with "policy logjam". The central message was that policy inaction and logjams would lead to slowdown in economic growth and go against the tenets of inclusion and sustainability as envisioned in the 12th Plan document. The PM's talk on scenarios has generated interest in the public domain. How did these scenarios come about? What was the motivation for such an exercise and how does it connect with the Plan?

The scenario generation exercise was conducted in parallel with the preparation of the 12th Plan document. The need for the exercise stemmed from questions raised in recent times about the process and relevance of centralised planning.

The PC undertook a review of its purpose and performance in 2010. While the stakeholders agreed that the commission should change its ways, there was consensus that the country needs a central "sense-making" body more than ever before, given the unpredictable changes in the world and the country.

It is in this background the PC undertook an extensive exercise to prepare alternative "scenarios" of India's future. The PC interfaced with close to 1,000 civil society organisations, industries, policymakers and research organisations. These discussions led to the identification of several major forces, which are likely to impact India's future.

The PC and the Centre for Study of Science Technology and Policy (CSTEP) developed systems' dynamics models to provide a rigorous grounding for interaction of these forces and develop plausible future scenarios. The forces identified included aspirations of citizens, demographics, democracy and its institutions, resource availability and uses, science and technology breakthroughs, innovations in business models, information-communication revolution and global and regional security threat.

Many of the strong forces that will shape our future are "givens". Another major force is the growing impatience with the trickle-down effects of economic growth, which results in protest and violence. Then there is mistrust for governance and institutions, big corporations, increasing distance between "rulers" and "ruled", rampant corruption and the challenges of democratic politics. There is also the growing worry about the availability of energy sources, water and land to sustain the desired "business-as-usual" economic growth.

How does a combination of these interconnecting forces shape the future growth trajectory? A systems analysis reveals that the country's future critically depends on the approach we adopt towards three main paradigms: (i) inclusion, (ii) governance and (iii) models for efficient use of natural resources: water, land, and energy. These three paradigms are mutually reinforcing.

The country is grappling with mistrust in governance and planning not just with one political party or ideology but the entire system of governance. There is a tendency to centralise when things are "not in control" and we require faster results. However, often the large diversity in the system may require strengthening of local governance to come up with local solutions with citizens' participation.

Scenarios explain the consequences of our choices and the policy options we have. We must have a shared vision of what we as a country aspire to. Planners can only seed the conversations about a shared vision and facilitate multiple dialogues among citizens. Our exercise in scenario-planning was a small first step in this direction.

---

* *Maira is Member, Planning Commission. Srinivasan, Das and Bharadwaj are with CSTEP, Bangalore. Abridged from an article that appeared in the* Indian Express, *on October 12, 2012*

Parliament Passes Banking Bill

The Parliament paved the way for corporate houses to enter the banking sector by approving the banking bill, a key reform legislation pending for long. It also passed the amendments to the debt recovery laws or Sarfesi law after a reply by Finance Minister P Chidambaram on the combined discussion on the two bills in Rajya Sabha.

These two Bills Banking Laws (Amendment) Bill, 2012, and Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Bill, 2012 will strengthen the financial sector and help in establishing large-sized banks, besides promoting financial inclusion. *(TH, 20.12.12)*

Govt Tweaks IT Act

The government tweaked the law to make it tougher for citizens to be arrested for online comments that are deemed offensive after recent arrests came in for heavy criticism by Internet activists, the media and other groups.

Complaints under the controversial Section 66A of the IT Act, which criminalises "causing annoyance or inconvenience" online or electronically, can be registered only with the permission of an officer of or above the rank of deputy commissioner of police, and inspector general in metro cities.

The government, however, has not amended the terms in the section that are said to be vague and subject to interpretation. *(Livemnint, 30.11.12)*

Land Acquisition Bill Cleared

The government moved a step closer to put in place a new land acquisition policy, after a ministerial panel overcame differences and struck a compromise. The Bill will now be put before the Union Cabinet for its approval. If indeed the government sticks to the proposed time line, then it proposes to introduce the Bill in the winter session of Parliament to replace a legislation that's over 100 years old.

Differences of opinion between ministries, especially on whether the law should be effective only prospectively and also the proportion of people giving consent for land acquisition had held up the drafting of the legislation. The lack of a policy, some have argued, has hampered India's infrastructure and industrial development, critical to revive the momentum in the economy. *(Mint, 17.10.12)*

Finmin to Prune Subsidy Bill

The Union Food Ministry will oppose Kelkar Commission's recommendation to prune the subsidy bill. Ministry sources said it will soon convey its opposition to the report to the Finance Ministry.

The Kelkar report, which painted a grim picture on the fiscal front, has said unless immediate correctives are effected, the fiscal deficit would mount to an unmanageable 6.1 percent of GDP in 2012-13.

But the Ministry sources said Congress leadership was keen on an early rollout of the scheme. It considers the scheme critical for improving its image, which has taken a beating following the failure to contain prices and breakout of financial scandals. *(ET, 01.10.12)*

Cabinet to take up Real Estate

After the tweaking of certain provisions that will empower state governments to have freedom over regulation and implementation, the Ministry of Housing and Urban Poverty Alleviation will take the much-awaited Real Estate (Regulation and Development) Bill before the Union Cabinet for its consideration.

The Bill calls for setting up of a Central Appellate Tribunal and Real Estate Regulatory Authority at the Centre. It allows the state governments to also set up a similar authority in every state to deal with lands in the states.

As per the Bill, the proposed regulator can impose a maximum of three years imprisonment or a fine of up to 10 percent of the project cost or both to developers found guilty of violation of the provisions of the Bill. *(FE, 01.11.12)*

Insurance, Pension Deferred

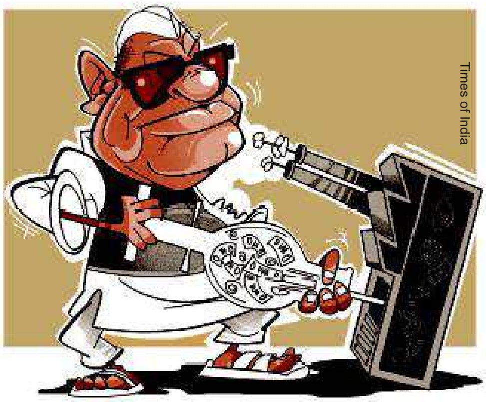
The government has postponed the presentation of two bills on insurance and pension sector reforms to the next session of the Parliament, delaying New Delhi's efforts to further expand its economic overhauls.

The Bills seek Parliament's clearance to increase the limit on foreign ownership in local insurance companies to 49 percent from 26 percent and allow up to 49 percent overseas holding in pension-fund managers.

These were among a series of measures taken up by Prime Minister Manmohan Singh's government to spur economic growth. It recently allowed more foreign investment in the retail, aviation and broadcast sectors. *(WSJ, 19.12.12)*

Companies Bill Approved with CSR

The Lok Sabha gave its approval for the Companies Bill 2011, paving the way for a new modern company law. The proposed legislation will replace the existing Companies Act 1956, which was enacted 56 years ago. The Companies Bill 2011 was passed by a voice vote in Lok Sabha in a marathon late night sitting



Besides making independent directors more accountable and improving the corporate governance practices, the Bill seeks to make corporate social responsibility mandatory for certain companies.

The Companies Bill proposes that profit-making companies that meet certain conditions will be required to set aside two percent of the net profit towards CSR. Companies should voluntarily undertake CSR and should not see this as return of "inspector raj''. *(BL, 19.12.12)*

Entitlement Only by 'Right'

Nicholas Robinson*

A rights-based approach has gained ground, with laws conferring the right to education, employment and information on a citizen. This is a response to mistrust of the bureaucracy

When it comes to social policy in India, everywhere one turns these days you seem to find a right. The Supreme Court has declared a right to food, a right to a clean environment, a right to shelter, and even a right to sleep.


The Hindu Business Line

The Parliament has passed Acts that guarantee a right to education, a right to information, a right to rural employment, and is currently considering sweeping legislation that would provide rights concerning food security. State Assemblies in India, responding to the complaints of weary citizens, have recently started enacting right to public service Acts that guarantee that designated government services must be processed within set time frames or the responsible officials will be fined.

Many have pointed out that most countries around the world that have successfully implemented social-welfare programmes have done so without such extensive or explicit use of rights. What explains this blizzard of rights in India?

Pro-Active Apex Court

Certainly there has been a global trend to adopt a human-rights framework, including social and economic rights, to foster development. Economic liberalisation in India also arguably moved the policy focus from top-down planning to individual empowerment, for which the language of rights is perhaps a more natural fit. But it would be wrong to label the shift towards rights in Indian social policy as merely a product of outside or economic forces, since these same forces have been at work in other countries, too.

To understand this larger movement, one should differentiate between rights being articulated by the Supreme Court and those by the political branches of government. From the 1980s onward, a more populist Supreme Court has monitored and actively intervened in government social-welfare policies.

The judges have been widely seen as correcting a government that has abdicated many of its governing responsibilities. However, the Supreme Court has limited tools to intervene.

Individual Remedy

Yet, the social and economic rights the Supreme Court has articulated involve the Court more broadly supervising government activities, rather than creating an individual right of action against the government.

In other words, the social and economic rights the Court has articulated have usually been curiously disembodied, focusing more on general policy setting or scolding the government for inaction, rather than developing individualised remedies that may be claimed by specific citizens.

Rights created by the legislature have tended to be different, even if not uniform, in their architecture. If one does not receive requested information under the RTI Act, one can approach a right-to-information commissioner who, if he or she finds it appropriate, may penalise an errant official for non-compliance with the Act.

The Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) works a bit differently. If an individual is not provided work within a set number of days, they are automatically entitled to unemployment compensation. In both cases, the focus is on the entitlement of a specific individual and the consequences in case of non-compliance by the government.

Lower Bureaucracy

The first wave of these rights-based Acts was generally pushed by civil-society campaigners. Advocates in these groups generally distrusted the motivation of government officials to implement these Acts and saw a rights-based approach as a way to legalise the specific actions a bureaucrat needed to take in order to implement legislation.

In practice, the rights-based approach has been ineffective at improving implementation of government policy. It is easy to say that just because a right has been created a problem is on the way to being solved, when the underlying structural reasons for poor implementation are left unaddressed. Furthermore, rights are absolutist in their claims, and are generally poor vehicles for balancing the competing interests made on the state's time and resources.

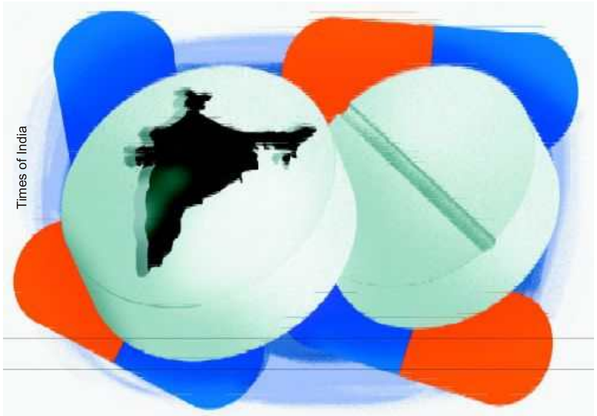
This is not to say a rights-based strategy for implementing social welfare programmes is the wrong path. Rights can certainly be part of a broader strategy to address implementation challenges. In a society like India's where social divisions are often stark, rights can give those who have traditionally been disempowered the confidence and legitimacy to make claims on the government for basic social goods.

---

* *A Visiting Fellow, Centre for Policy Research, New Delhi. Abridged from an article that appeared in* The Hindu Business Line *on October 24, 2012*

A Short-Sighted Cap

Chandra M Gulhati*



From clothes to cars, prices of consumer products the world over are determined taking into account input costs, margins and competition, popularly called the cost-based pricing system. Departing from this sound, fair, tried and tested principle of commerce, the government's new drug pricing policy, approved by the Group of Ministers headed by Sharad Pawar, has come out with an unusual methodology: market-based pricing.

Under this system, the weighted average price of branded medicines with sales over 1 percent of the market share will be the benchmark for price fixation. Unlike other consumer items, in the case of medicines, the decision-maker is the doctor who selects the drugs and the brands. Manufacturers fix the price and patients are obliged to pay. How can the government, whose duty it is to protect the interests of consumers, be party to such an unfair system of price allocation of life-saving medicines? This irrational system of price fixation is not the only flaw; loopholes have been left so that the drug industry can profit. Some examples:

Partial list of medicines: In all, products containing just over 900 basic salts are marketed in India. The price control policy will apply to just the 348 drugs that appear in the National List of Essential Medicines (NLEM).

More than two-thirds of patients in India depend on private healthcare, where all 900-odd medicines are prescribed. Hence, restricting price control to just 348 medicines is inadequate and leaves the door wide open for manufacturers to migrate from price-regulated to unregulated drugs.

Pruned list of dosage forms: Not all products containing the 348 drugs are supposed to come under price control. Each drug has many dosage forms, such as tablets, syrups and injections in various strengths.

***Combination products*:** While prices of products with one ingredient will come under price regulation, combination medicines with two or more ingredients will be excluded from price control. This means that if the prices of drugs A and B are individually controlled, the combination of A+B will not be regulated. This will mean that manufacturers will be free to determine the prices of approximately 40 percent of all the drugs in the market.

Hike in prices of cheaper brands: Once the maximum permitted price of drugs in the NLEM is determined, prices of some brands will be above while others will be below the permitted levels. Producers of drugs falling above the permitted price will be required to reduce the prices. Instead of reducing prices, manufacturers of such brands will either migrate to alternative drugs outside price control or shift to unspecified dosage forms. On the other hand, manufacturers of cheaper products will hike prices to benefit from "government-determined" levels. Thus, the patient will be the ultimate sufferer.

Automatic price hike: Irrespective of input costs, drug manufacturers will be free to hike the prices of all products at the same rate as the increase in the Wholesale Price Index (WPI) for manufactured goods year after year. WPI never comes down; so prices will go only in one direction, up and up.

The government's proposal to price-control certain drugs will create more problems than it will solve

Patented, imported products: The gloomy part of the new policy is that it will not tame the exorbitant prices of patented medicines of foreign manufacturers. Another committee, in existence since 2006, will take a decision in "due course." Till then these companies can make hay.

Unbranded "generics": There is also a proposal to compel doctors to prescribe cheaper unbranded drugs. Such a provision can hardly be part of a pricing policy. Doctors in private practice, who account for over 90 percent of total practitioners, cannot be legally forced to follow official dictat. This provision is merely a ploy to divert attention from the main issue of price control. Besides, over 40 percent of medicines are combination products where the brand name is essential.

Jan Aushadhi stores: The policy also refers to the role that *Jan Aushadhi* stores can play in selling inexpensive unbranded medicines. There are more than four lakh retail chemists in India. So far, only 112 *Jan Aushadhi* stores have been opened, out of which five have already closed down due to poor sales..

The proposed policy, if approved by the Cabinet, could end up serving the interests of the pharmaceutical industry, rather than the needs of poor patients.

* *A doctor and also an editor of 'Monthly Index of Medical Specialities'. Abridged from an article that appeared in the* Indian Express, *on October 10, 2012*

India's Growth Rate to Revert

India's growth rate could revert to the pre-global crisis level of 8-9 percent in two to three years by intensifying the recent economic reforms initiatives, internationally acclaimed economist Jagdish Bhagwati said.

"I would say if they stick with the measures they have undertaken and intensify them further...I think if you do think of that sort, then we could get back to 8-9 percent GDP growth in two-three years," Bhagwati, who is a professor of economics and law at Columbia University, told PTI.

India had been growing around 8-9 percent before the global financial meltdown of 2008. The growth rate in 2011-12 slipped to nine-year low of 6.5 percent. Recently, the government had liberalised FDI policy in retail, aviation and approved changes in the banking and insurance laws, with higher FDI limits. *(BS, 20.11.12)*

Benefits of Reforms Soon

"Though economic reforms announced recently have run into trouble, people will reap the benefits of these in five to 10 years from now", Union Finance Minister P. Chidambaram said.

Chidambaram said that 10 or 15 years from now, the next generation and the ones thereafter would live in an India that was a super power and not the one that was in the process of becoming a super power. It was to make the country achieve such a status that the United Progressive Alliance government had initiated the reforms.

Recalling C Subramaniam's contribution, he said that but for him, India would not have achieved the position it was in from being a food and milk deficient nation to one that had surplus of both. *(TH, 28.10.12)*

Flexibility of Labour Laws

Making a strong case for relaxation of labour laws, World Bank chief economist Kaushik Basu said that rigid regulations were hurting India's growth. "India's labour market is over regulated. India's rigid labour laws are hurting India's growth. Flexible labour laws will help both organised and unorganised sector," Basu said.

Labour reforms have been pending in India for long. Amendments to various labour laws have been awaiting Parliamentary approval. India has plethora of labour laws dealing with trade unions, provident funds, industrial disputes and industrial establishments.

Basu further said that manufacturing jobs are gradually moving from developed countries to developing economies. *(BS, 05.11.12)*

RTI should not be Diluted

A day after Prime Minister Manmohan Singh suggested that the citizens' right to know should be "circumscribed" to prevent invasion of privacy, Lok Sabha Speaker Meira Kumar said the purpose and intent of RTI should not be diluted at any cost.

She said the RTI Act has revolutionised the concept of accountability by allowing the common man to question the functioning of the government in the true essence of democracy. The RTI Act has facilitated the citizens' involvement in public affairs by making information available in an easy, time-bound and economical manner.

She said that while Information Commissions have wide-ranging powers to impose penalties for failure to comply with this Act, it becomes incumbent upon them to strike a balance between public good and private interests. *(IE, 14.10.12)*

30% Enrollment in Higher Education by 2020

Kapil Sibal, the Union Minister for Human Resource and Development has targeted a 30 percent enrollment in higher education by 2020 and private educational institutions would have to play a key role to achieve it.

Sibal mentioned that during his tenure the enrollment ratio has increased from 12 to around 19 percent. The difference between a developed nation and a developing nation is not the GDP, the difference is not a 14 trillion dollar economy versus a two trillion dollar economy, the difference is the number of children going to higher education institutions.

According to him, the wealth of a nation is produced in universities where students develop ideas which become intellectual property. The investors later make pilot projects, services and other products from these ideas which are sold in the market. When we will have maximum number of students passing out from schools, the enrolment ratio will increase. We have set a target of 100 percent retention in schools by 2020.

(www.educationinsight.in, 25.10.12)

Education System to be Changed

Kapil Sibal said that learning and education, henceforth, will be child-centric and not exam-centric as it is now. The Ministry's decision to do away with examinations at the end of the year, replacing them with a Comprehensive and Continuous Evaluation system in a bid to de-stress children, was a step in that direction.

Sibal sought a change in the country's education system which, he said, was "socially stratified" with graduates of elite universities becoming the managerial class.

Despite the triumph of India's democracy, large sections of the society continue to remain marginalised and disempowered mainly due to the lack of education, he said.

He said courageous teachers here and there were attempting to keep the vibrant current going but they were in minority "with the odds heavily loaded against them." *(www.news4education.com, 09.12.12)*

Competition Bill Introduced

A Bill to amend the Competition Act so as to expand the scope of the provision on abuse of dominant position was introduced in the Parliament. The Bill seeks to amend the existing provision on abuse of dominant position to provide that no enterprise or group either jointly or singly shall abuse its dominant position.

The Bill also seeks to confer power on the Union Government to specify, in consultation with the Competition Commission, different value of assets and turnover for any class of enterprises for the purpose of regulation of combinations.

Also, the time period within which the Competition Commission has to pass orders on certain combinations is proposed to be brought down to 180 days from the current 210 days. *(BL, 10.12.12)*

Penalty Upheld on LPG

In what may be a first, the Competition Appellate Tribunal (Compat) has upheld the Rs 165 crore penalty (7 percent of turnover) imposed by the Competition Commission of India (CCI) on 48 LPG cylinder makers after it found them indulging in cartelisation and manipulation of tenders floated by Indian Oil Corporation in 2011.

Hearing the plea of the LPG cylinder makers who had challenged the CCI order, Compat refused to grant "blanket stay" on the CCI penalty. Instead, Compat gave the 48 cylinder makers four weeks to comply else face automatic dismissal of their appeal. *(FE, 23.10.12)*

Haryana Abusing Dominance

The CCI has rejected a complaint against Haryana government, wherein a state agency was accused of abusing its "monopolistic power" in purchase of diesel gensets for various departments.

The complainant had alleged that the Director Supplies and Disposals, being the only authorised department of State of Haryana to purchase the diesel genset, was in a dominant position having "monopolistic power" to buy the product for all other departments. The association also said that the entity was a government department, but was satisfying the definition "of the enterprise" as given in the Competition Act. *(BS, 22.10.12)*

Finance Firms Dragged

Banks are planning to drag the finance firms of several car manufacturers to the CCI, saying they have hijacked the booming auto finance business through unfair trade practices.

Carmakers such as BMW, Audi, Toyota, Skoda, Volkswagen and Mercedes-Benz have started providing customised finance to customers, dealers and suppliers through dedicated non-banking finance companies (NBFCs).

These new entrants in the auto finance business have snared customers from traditional players such as HDFC Bank, State Bank of India, ICICI Bank, Axis Bank, Punjab National Bank and Kotak Mahindra Prime, which had so far dominated the 40,000-crore car loan market in India. *(ET, 25.10.12)*

Dominant Position Dismissed

The CCI has dismissed the flat owner's petition alleging abuse of dominant position by private builder, Dwarkadhis Projects, on the account that the builder is not a dominant player in the market.

The petitioner, A K Jain, moved to CCI against the builder alleging abuse of dominant position in contravention of Section 4 of the Competition Act. The petitioner claimed that he had purchased a flat in the group housing project, 'Aravali Heights' and alleged that five years have passed and 95 percent of the price has been collected from the flat owners. The builder had not secured the mandatory occupation/ completion certificate from the director general, Town and Country Planning, Haryana.

In the order the CCI noted that as such, the dominance of the builder in the relevant market is *prima facie* not established and so there is no question of abuse of the same. *(ToI, 29.10.12)*

Nod to JSW Steel-Ispat Merger

The CCI has approved the proposed merger of JSW Ispat Steel Ltd with JSW Steel Ltd, a deal that would create the country's second largest steel producer. Giving its approval, the CCI said the combination is "not likely to have an appreciable adverse effect on competition in India".

JSW Steel Ltd is the single largest shareholder of JSW Ispat Steel Ltd, with a shareholding of 46.75 percent, and also has management control. The CCI observed that the control over activities carried out by JSW Ispat before and after the proposed amalgamation would remain with JSW Steel.

The merger would create the second largest domestic steel producer with an annual steel production capacity of 14.3 million tonnes. *(ET, 29.10.12)*

Devgun's Tussle with YRF

The CCI has dismissed a plea by Bollywood actor Ajay Devgn against Yash Raj Films for abuse of dominant position in the Hindi film industry. The anti-monopoly watchdog said that there was no contravention in the provisions of the Act.

Ajay Devgn Films Pvt Ltd had approached the CCI alleging that YRF was using its dominant position to ask exhibitors to dedicate more screens to its upcoming release, *Jab Tak Hai Jaan*, than for his film *Son of Sardaar* on November 13.

The CCI has not found any violation of Section 3 of the Competition Act that relates to anti-competitive agreements. Yash Raj Films had denied monopolisation of exhibitors. *(BL, 06.11.11)*

PSUs Cartelising in Insurance?

Pradeep S Mehta*

Government is expected to encourage competition as it creates efficiency in the economy

Following the 1990s reforms, the insurance sector was deregulated and private sector firms were allowed to operate in India. Until the 1972 law on nationalisation of the insurance business, many private players did operate in India. Then the government nationalised the insurance sector, retained the LIC of India, and created four other general insurance companies under a holding company called General Insurance Corporation of India Ltd.

In the year 2000, six months after the setting up of the IRDA, the supervisory powers of GIC were whittled down so that each of the four government companies could operate independently rather than function as the four legs of one table.

Now that there is a healthy competition in the sector, thanks to the arrival of many private players, the Finance Ministry wishes to turn the clock back. In a recent directive, the ministry asked the heads of four government insurance companies not to compete against each other, but to coordinate their activities. This is a retrogressive measure and needs to be reversed.

The Ministry has also asked the four government insurance companies to share data on premiums, claims and other expenses with respect to major accounts, before quoting rates. These companies have also been asked to avoid discounting premiums especially at the time of renewal of a policy, which would prevent a client from moving to another government insurance company.

It is hard to digest the fact that while the Corporate Affairs Ministry is keen on promoting competition through a National Competition Policy (NCP) and the Competition Act, 2002, another branch of the government is encouraging public companies not to compete with each other.

If government insurers abide by the stated orders, they could violate the competition law since such a sharing of information amounts to cartelisation and abuse of dominance. Disclosing data on premiums and disincentivising the lowering of premiums at the time of policy renewal will lead to an anticompetitive practice. There are 24 insurance companies in India, out of which four are government companies, which have a 56 percent share of the ₹47,000 crore non-life insurance market. Therefore, collusive behaviour could also lead to abuse of dominance.

Two factors need to be considered in analysing whether the sharing of information will lead to cartelisation or not: the type of information being shared and the market structure. First, does the agreement only cover sharing-of-loss information for risks, where sharing of historical loss data is essential for forecasting future losses? Second, is the participation by insurers voluntary or mandatory?

Third, does the agreement allow for the information to be made available to all who request it, on fair, reasonable and non-discriminatory terms? Fourth, will the shared information include information on premiums charged by insurers or on fees payable to intermediaries, and would it permit the calculation of those prices? Will the shared information permit identification of the individual who submitted the information?

In the present case, the Finance Ministry has directed the companies to share information on premiums, claims and other expenses related to major accounts and not just on losses. Participation of PSU insurers is mandatory, with the ministry warning that any deviation will be taken seriously. The last question cannot be answered given the facts of the present case. On balance, the Ministry's directions will certainly result in cartelisation.

Who should be blamed for such cartelisation? Should it be the Finance Ministry that has clearly directed that there should be no competition between government insurers over any corporate or group accounts or should it be the government insurers that are just abiding by the Ministry's directions?

The CCI needs to look into the matter for the welfare of the consumers. Actually, there are many instances where the government prefers public entities over private ones, which goes against the principles of the NCP. CCI needs to expand its horizons into these areas and introduce relevant guidelines, like the OECD.

* *Secretary General of CUTS International. Anusha Malik Tomar of CUTS contributed to this article. Abridged from article that appeared in the* Financial Express*, on November 06, 2012*

Corporate Virtue in India

Nirvikar Singh*

In previous columns, I discussed the concept of virtuous growth, which encompasses inclusive growth. I discussed how virtuous growth might be promoted in practical terms, in the realms of governance and civil society. Here I want to discuss the role of business, specifically large firms that are India's leading institutions of capitalism. What can and should their role be?

One idea of virtue is that of corporate social responsibility (CSR). This is fine as far as it goes, but it does not preclude a firm making large profits through unethical business behaviour and then allocating a small amount for superficial do-good efforts. Business tycoons also set up charitable foundations with their wealth, but, like CSR, these have no impact on the manner of doing business.

One problem in effecting better business behaviour is that corruption is endemic in Indian society. People in government demand bribes, and people in business supply them, in an unholy equilibrium. How can this equilibrium be changed?

If corporations need government approvals, or are competing for government as a client, they may pay bribes to avoid being at a competitive disadvantage if "everyone else is doing it." Dixit proposes to address this problem through collective action mechanisms. In particular, he advocates self-regulation by the major industry associations, with clear codes of ethical conduct, explicit pledges, and mechanisms for punishing violations.

Dixit's proposal is important as well as timely. Interestingly, private sector bribery is not even a criminal offence in many cases. The government drafted a Bill in 2011, and it is circulating for comments. Major industry associations such as the Confederation of Indian Industry (CII) and the Federation of Indian Chambers of Commerce and Industry have come out in support of the Bill. Changing the legal playing field is an important start to institutional reform, and complement Dixit's ideas.

CSR is fine but it does not preclude a firm making large profits through unethical business behaviour

Closer to Dixit's idea is last year's proposal by CII, of a Code of Business Ethics for its members. While the draft code is too vague and broad in many places, it is categorically against corruption, including all bribe-giving.

BS Raghavan, in the *Hindu Business Line*, has made specific suggestions for increasing the specificity of the requirements of the code, and raising levels of transparency with respect to lobbying and influence activities.

Dixit's proposal would strengthen this effort even further, with sanctions against violators. It is surprising that there has not been more public debate on this effort, and discussion of how to get it right. In fact, none of the other major industry associations appears to have followed CII's lead.

Also just a few months ago, the Global Compact Network India (GCNI), an arm of the United Nations Global Compact, released a report 'Raising the Bar Through Collective Action: Anti-Corruption Efforts in Action in India.' The report release gained much attention, but there appears to have been no follow-up: the document is nowhere to be found on the Web.

Press releases suggest that the report consists of a few case studies featuring transparency, monitoring and public standards of behaviour, together with advice for more collective action. Exactly!

In a sense, industry associations do not need GCNI's report they know what they have to do. But public debate has to push them into moving forward, to enshrine the ethical best practices that some of India's iconic companies already have in place. In the short run, this will be difficult, as a critical mass of acceptance has to be reached. CII's effort has broken the ice, and the other industry associations should follow its lead, or even leapfrog it, in creating and enforcing anti-corruption codes.

In the long run, raising standards of corporate behaviour on this front will benefit those firms that can do well by being more efficient or innovative, not by bribing. This will enhance growth in the long run and make it politically more sustainable.

---

* *Professor of Economics, University of California, Santa Cruz. Abridged from an article that appeared in the* Financial Express*, on December 28, 2012*

ReguLetter


REGULETTER

05th December, World Competition Day
Agencies call upon UNCTAD to adopt the day!!

The October-December 2012 issue of ReguLetter encapsulates 'World Competition Day (05th December) in its cover story. On this day in 1980 the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices (UN Set), was adopted by the UN General Assembly at its 35th meeting. It is therefore important that the 5th of December be remembered and commemorated each year as a World Competition Day.

A special feature by Lord Peter Goldsmith states that investors should invoke bilateral investment treaties if their investments are hurt by adverse policies

There is another special article by Stephen King. He is amazed by how little business people know about competition laws, and merger laws in particular. And he is astounded by how this ignorance does not stop business people making comments about the law.

This newsletter can be accessed at: www.cuts-ccier.org/reguletter.htm

Economiquity


ECONOMIQUITY

Address Non-Tariff Barriers to Indo-Pak Trade
Virtues of a Participatory Approach

The October-December 2012 issue of Economiquity carries an article entitled, 'Address Non-Tariff Barriers to Indo-Pak Trade: *Virtues of a Participatory Approach'* in its cover story which states that the need of the hour is to bring back the focus of policymakers on economic costs and benefits of cross-border trade and limit politicisation of trade reforms that has been damaging South Asia's aspirations on regional economic integration.

A special article by Anatole Kaletsky states that outside the Eurozone, which now accounts for just 17 percent of global output and will shrink to just nine percent by 2060 according to the OECD, economic statistics are clearly improving across the world.

Another special article by R K Pachauri says that India needs to focus on domestic action for climate goals.

This newsletter can be accessed at: www.economiquity.org

Competition Distortions Dossier

Competition Distortions Dossier are periodical dossiers published by the Centre, as part of it outreach and advocacy communication strategies focussed on competition issues. The initiative has been in place for over two years. The current edition which is the 18th one in the list of dossiers since 2009, has recently been published. The dossiers are all intended to bring attention to the various ways in which competition is affected or has a potential to be affected either positively or negatively by policies and actions of the domestic government.

As always, there is a mix of the good and the bad. A policy initiative that deserves special mention here is the one on direct cash transfer of subsidies. While it has met with some skepticism from the doubting Thomases, there is no doubt that if certain impediments are overcome, this can prove to be a great reform even from the point of preserving competition in Indian markets while meeting the intended objectives of larger public good.

Another reform measure of significance is of decontrol of sugar proposed by the Rangarajan Committee. This step would not only benefit farmers but also consumers while boosting investment in the sector.

However, several sectors are still not free from distortive policies. The aviation sector, for example, has recently raised high entry barriers for foreign players to operate locally, which is rather surprising considering that the civil aviation ministry has launched number of reform measures. An ubiquitous fact is about cartelisation amongst cable operators and a possible attempt to monopolise electronic media. Such stories and many more have been covered in the current edition.

www.cuts-ccier.org/Competition_Distortions_India.htm

SOURCES

BL: The Hindu Business Line, **BS:** Business Standard, **ET:** The Economic Times, **FE:** The Financial Express, **IE:** Indian Express; **IANS:** Indo-Asian News Service; **TH:** The Hindu, **ToI:** Times of India; **WSJ:** Wall Street Journal

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.

Complete reproduction without alteration of the content, partial or as a whole, is permitted for non-commercial, personal and academic purposes without a prior permission provided such reproduction includes full citation of the article, an acknowledgement of the copyright and link to the article on the website.