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Facilitating India's Trading Environment: An Overview

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Abstract

As tariff levels have declined over the years, growing attention has been directed to transaction costs. In view of this, the Task Force on Indirect Taxes (Kelkar Committee) dealt with trade facilitation (as a measure to cut down transaction costs) alongside tariff reduction. In the WTO agenda, this is one of the newer issues under consideration. A 1998 EXIM Bank study among Indian firms estimated that the perceived avoidable transaction costs accounted for about 10.78% of export revenues. The good news is — a resurvey found that several trade facilitating reforms succeeded in eliminating about 60% of this in just five years. The EXIM Bank study, mostly about dwell time of cargo, is only a partial estimate of potential benefits of trade facilitation. There are numerous other areas like simplification of data and documentation, electronic data interchange, transparency, faster clearance and modern risk management, improvement in financial matters, transit with neighbouring countries, where reforms are needed. Besides, benefits arise both directly and indirectly. For realising benefits, domestic reforms must match with trade facilitation in foreign trade. Otherwise domestic traders will be at a disadvantage while global traders get the privileges. However, in global trade, restrictive Non-Tariff Barriers (NTB's) like Sanitary and Phytosanitary Measures (SPS) are reducing the benefits of trade facilitation measures undertaken by countries like India.

Background

Trade liberalization can effectively promote development by allowing the optimal allocation of resources in an economy. Liberalization in trade encompasses more than tariff reduction measures. Within this context, trade facilitation measures are an essential part of liberalization as they accelerate trade flows and also support a country's domestic trade regulatory process. As tariff levels have declined through successive GATT/WTO rounds, and global supply chains have come to dominate production patterns, growing attention has been directed to the cost factors that are important for international competitiveness, in particular those incurred in connection with trade formalities and procedures. In particular, attention has been paid to transaction costs, which are considered alongside tariffs and non-tariff measures as constraints on international trade. An import/export transaction involves a series of processes which translate into costs, both in time and money – this adds to the cost of doing business and ultimately affects a country's

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growth rates in international trade. In many cases, the losses that businesses suffer at the borders are estimated to exceed the cost of tariffs. Trade transaction costs differ from country to country, depending not only on the characteristics of traded goods and on factors such as the size and type of businesses but also on the efficiency and integrity of interacting businesses and administrations.

The term 'trade facilitation' is used for a set of tasks designed to reduce the transaction cost incurred in trade. UNCTAD[1] (United Nations Conference on Trade and Development) estimates[2] that an average customs transaction involves 20–30 different parties, 40 documents, 200 data elements (30 of which are repeated at least 30 times) and the re-keying of 60–70% of all data at least once. In the near future, after full implementation of the Uruguay Round Agreements, the tariff rates will be nominal leading to increase in relative importance of transaction costs. In recent years therefore, trade facilitation is gaining importance in international trade. International trade in goods involves more procedures and regulations than domestic trade, leading to higher transaction cost for the former. But trade facilitation is important even for domestic trade.

By its narrowest definition, trade facilitation deals only with the logistics of moving goods through ports or more efficiently moving documentation associated with cross-border trade. A broader definition includes the environment in which trade transactions take place - transparency and professionalism of customs and regulatory environments, as well as harmonization of standards and conformance to international or regional regulations. Since improvements in cross-border trade often involve improvements in "domestic" policies and institutional structures, the definitions of trade facilitation have been broadened further. Finally, in the light of the rapid integration of technology into trade facilitation, particularly through the dimension of networked information technology, the definition has come to embody a technological imperative as well. It naturally follows, then, that capacity-building efforts can also be considered part of the trade facilitation effort. The UN (United Nations) agencies, the World Bank, the EU (European Union), the APEC (Asia Pacific Economic Cooperation), the OECD (Organisation For Economic Cooperation and Development), the Commonwealth Secretariat and the ITC (International Trade Centre) use definitions with different scopes (Wilson, et. al., 2002; Satapathy, 2002). The exhaustive UN/CEFACT (United Nations Centre For Trade Facilitation and Electronic Business) and UNCTAD-compiled C*ompendium of Trade Facilitation Recommendations* list 237 recommendations conveniently grouped under 9 heads. Different fora deal with some and not all these recommendations. 19 of the 237 recommendations listed in this Compendium are already subject to WTO (World Trade Organisation) discipline. Still, the question of definition of trade facilitation is a highly debated issue in the WTO.

Trade Facilitation in India

Trade facilitation programmes in India were not undertaken in response to the WTO agenda. India has voluntarily embarked on TF (Trade Facilitation) from its felt needs and priorities and depending on available resources. In a Vision Document published by the

CBEC (Central Board of Excise and Customs) in 1998, trade facilitation was given the same thrust as realising revenue and combating duty evasion. In his Budget Speech for 1999-2000 the Union Finance Minister announced the formation of a High Powered Committee under the Revenue Secretary to go into the problems of transaction costs and to suggest measures/steps to reduce such costs on India's exports. The Committee made its recommendations in 1999, many of which have been pursued since then. Recently, the Task Force on Indirect Taxes (Kelkar Committee) indicated the importance of the subject; and its Report outlined the basic reforms in Customs procedures and Trade Facilitation. In his Budget Speech 2003-2004, the Finance Minister recommended trade facilitation measures not only for customs but also for excise. The Medium Term Export Strategy announced by the GoI in January 2002 in the EXIM (Export and Import) Policy 2002-07, and the modified EXIM Policy for 2003-04 – have set broad policy directions for facilitating trade and for reducing transaction time and costs.

The number of International Conventions[3] a country is party to, can to a certain extent, reflect the extent of its commitment to Trade Facilitation. India has a commendable position in this matter. Next to the European countries, India is in the league of countries, such as, USA, Canada or Korea that have accepted most trade facilitation instruments. India's commitment to trade facilitation instruments is deeper than some of the countries known in the WTO as 'Friends of Trade Facilitation'[4] e.g. Japan, Singapore, Hong Kong China, Chile, Colombia, Costa Rica and Paraguay.

About 95% of India's foreign trade by weight/volume and about 70% by value involve transportation by sea. As much as 60% of the total freight traffic of India moves on roads. For obtaining customs clearance, goods for import or export are brought to customs stations and kept in customs areas for clearance by the customs authorities. Customs Stations include Customs Ports, Inland Container Depots, Customs Airports, and Land Customs Stations (LCSs). India has a coastline of approximately 6000 kms. with 12 major ports, 145 minor ports. It has a very long border with its neighbouring countries with above 100 Land Customs Stations. The AAI (Airports Authority of India) maintains 5 international cargo terminals in Delhi, Mumbai, Kolkata, Chennai, and Thiruvananthapuram. In addition, there are 6 other airports granted international airport status (as on June 2000), viz., Amritsar, Ahmedabad, Goa, Guwahati, Hyderabad and Bangalore. There are 8 Customs airports in the country - Calicut, Coimbatore, Tiruchirapalli, Jaipur, Agra, Lucknow, Varanasi, and Patna- for clearing import-export cargo. The AAI handles export cargo on behalf of over 55 operating airlines.

Containerisation of general cargo was introduced late in India, but has shown a steady increase. Over 160 ICDs (Inland Container Depots)/CFSs (Container Freight Stations) have been set up outside the ports and in the hinterland to give exporters and importers easier access to cargo clearance. The multimodal transport and door-to-door movement of goods under the responsibility of a single transport operator – MTO (Multimodal Transport Operator) - is in operation in India with around 200 MTOs. India is one of the

few developing countries that have standards imposed on MTOs by Government. The Government of India enacted the Multimodal Transportation of Goods Act, 1993, based on the UNCTAD/ICC (International Chamber of Commerce) rules. The Directorate General of Shipping, Mumbai regulates the multi-modal transport governed by the Act.

Data and Documentation

On an average, documents required for importing or exporting one consignment in/ out of India include[5] :

Type of Documents	29
No. of Copies	118
No. of Signatures	256
Manpower Required	7
Cost of Procedures	10% of Consignment Value

The following documents are *usually* to be submitted by an importer / exporter for clearance of goods through Customs[6] .

Sl. No.	For Import	For Export
1.	Bill of entry	Shipping bill
2.	Invoice and packing list	Invoice and packing list
3.	Import license where necessary	Export License /Quota Certificate where necessary; PAN (Permanent Account Number) based Business Identification Number (BIN)
4.	Country of Origin certificate where preferential rate is claimed	Export Inspection Agency's Certificate where necessary
5.	Insurance Memo/Policy	G.R.I form/S.D.F declaration under EDI (Electronic Data Interchange) system.
6.	Bill of Lading or Delivery order	A.R.E-1 / 2 form on Central Excise

The present format of Shipping Bill, evolved in 1991, is the only notable success in simplification of Customs procedures. It is already a common document used by various departments, such as Customs, Reserve Bank of India (RBI) and Port Trust. Prior to this, numerous declarations were required to be signed by the importer/exporter, in addition to

the specific legal provisions – for certifying and validating the information provided. A new form for obtaining entry inwards was introduced in 1995, designed according to the IMO-FAL Convention. A host of enclosures was sought with these forms, a practice having its origin in other statutes such as the Merchant Shipping Act, 1880. However in keeping with the said Convention, the CBEC has issued instructions dispensing with submission of various documents.

Several other attempts were made to simplify documents, but few have been pursued further. In 1991, along with the modified Shipping Bill, a UN aligned documentation was evolved for several commercial documents such as invoice, proforma invoice, packing list, inspection certificate, shipping order, etc. which was left to voluntary adoption and therefore did not become extensive. The UN ESCAP (United Nations Economic and Social Commission for Asia and the Pacific) started a project[7] for this, with little consequence. The Sunder Committee looked into the feasibility of evolving a single transport document, and suggested that the MMT (Multimodal Transport) document may be used for this purpose. But implementing this suggestion requires the acceptance of this document by several agencies, including banks and insurance; and no initiative has been taken as yet. On the import side, the Sunder Committee recommended evolving a SAD (Single Administrative Document) along the lines of the EC (European Commission), again without any positive impact.

Some other procedures such as for trans-shipment of imported cargo from the gateway ports to other ports/ICDs/CFSs have been simplified. For issuance of permission for trans-shipment from gateway ports, a single window system has been introduced, where applications for trans-shipment are processed expeditiously with computer usage. The drawback payment system has been re-engineered to provide for direct disbursement of the amount into the exporters' bank accounts after the goods have been exported. All Central as well as State Public Sector Undertakings and custodians of ICDs/CFSs, have been exempted from the requirement of bank guarantee for undertaking trans-shipment of imported cargo from the gateway ports of ICDs/CFSs.

Electronic facilities

To reduce the paper work for clearance of import/export goods, the Government has introduced a system of EDI (Electronic Data Interchange). Automation leads to quicker clearances, standardization of procedures, reduced discretion, less interface and faster decision making, all of which greatly benefit the trade and industry. At the same time, compliance issues are not neglected and, in fact, there is far greater control, though unobtrusive, which is desirable. However, a successful automation programme rests upon committed administrative support backed by significant financial investment (Kelkar Report).

India joined the EDI movement in 1992, when it became a member of the AFACT, earlier Asia EDIFACT Board (Asia Pacific Council for Facilitation of Procedures and

Practices for Administration, Commerce and Transport). The apex body, the EC/EDI Council of India, is gradually laying down a policy framework. National standards for EDI implementation, commercial transactions and bar coding have been announced. The Information Technology Act was adopted in 2000. The Act provides legal recognition for transactions carried out by means of electronic data interchange and other means of electronic communication.

Three Systems are major components of Custom automation and EDI:

(i) The Indian Customs EDI System (ICES) is now operational at 23 major customs locations handling nearly 75% of India's international trade in terms of import and export consignments. ICES has two aspects:

- Internal automation of the Custom House for a comprehensive, paperless, fully automated customs clearance system that makes the functioning of customs clearance transparent.
- Online, real-time electronic interface with the trade, transport and regulatory agencies concerned with customs clearance of import and export cargo.

ICES is designed to exchange/transact customs clearance electronically using EDI. A large number of documents that trade, transport and regulatory agencies (collectively called trading partners) are required to submit/ receive in the process of live customs clearance are now being processed online.

(ii) The Message Exchange Servers (MES). These are computers installed in the custom houses alongside the ICES computers and play as intermediate stations holding incoming and outgoing messages.

(iii) ICEGATE (Indian Customs and Central Excise Electronic Commerce/Electronic Data Interchange Gateway) & ICENET (Indian Customs and Central Excise Network) - ICENET is a network of all ICES 23 locations, CBEC, Directorate of Valuation, NIC (National Informatics Centre) and DGRI (Directorate General of Revenue Intelligence).

ICEGATE is an infrastructure project that fulfils the department's EC/EDI and data communication requirements. Through this facility the department would be able to offer a host of services including electronic filing of Bill of Entry(import goods declaration) and Shipping Bills (export goods declaration) and related electronic messages between Customs and the trade using a choice of communication facilities including the communication protocols commonly used on the internet. The airlines and shipping agents can file manifests on the internet filed using this facility. Besides, data will flow between Customs and the various regulatory and licensing agencies such as DGFT (Directorate General of Foreign Trade), RBI, AEPC (Apparel Export Promotion Council), TEXPROCIL (Textile Export Promotion Council), and DGCI&S (Directorate General of Commercial Intelligence and Statistics). The National Import Database (NIDB) is also being serviced through ICEGATE. All electronic documents/ messages being handled by the ICEGATE would be processed

at the customs' end by the ICES.To ensure that all links and equipment are functioning properly to sustain the services on the gateway, a software called the Enterprise Management Systems has been installed to centrally manage the facility. The system provides for helpdesk facility. To ensure secure filing, it is proposed to use digital signatures on the Bill of Entry and other documents/ messages to be handled on the gateway. For this purpose, a Certificate Authority is being set up for issuance of digital signature certificates.The following table shows the Customs EDI trading partners[8].

Sl. No.	EDI trading partner	Nature of information exchanged through EDI
1.	Importers/ Exporters/ CHA (Customs House Agents)	Bills of Entry/ Shipping Bills and related messages
2.	Airlines/ Shipping Agents	Manifests and cargo logistics messages
3.	Custodians (AAI/ Port Authorities/ CONCOR)	Cargo logistics messages
4.	Banks	Financial messages – duty drawback disbursal and customs duty payment
5.	AEPC/TEXPROCIL	Export quota information
6.	DGFT	License, shipping bills and IE Code data
7.	RBI	Forex. Remmittance data
8.	DGCI&S	Trade statistics
9.	Directorate of Valuation	Valuation data

The gateway project has emerged out of the necessity to enable remote filing of Customs declarations by the importers and exporters from their offices and to enable EDI with the trading partners. Under this system, the Custom House Agent (CHA) or the importer lodges the import document called the Bill of Entry by using service centers. The appraising officers of Customs assess the document on-line and their approval is communicated electronically to the CHA/importer. The system provides for clarification of doubts by exchange of queries and replies between Customs and trade. Thereafter, the import duty can be paid at the designated banks that are linked to Customs on EDI. The only interface between Customs and the import trade is at the time of collection of goods.

By establishing the gateway, the Customs will be able to facilitate:

- Filing of import and export declarations online over Internet to any of the 23 major Customs locations and obtain online clearance.
- The international cargo carriers can file the customs cargo reports or manifests electronically.

- Regulatory agencies such as DGFT, RBI and export quota agencies can exchange online information with the major Custom Houses.

EDI has been introduced at almost all the major ports and air cargo complexes. The software required for the EDI operation has been developed by the NIC and the EDI Customs service centres are manned by CMC Ltd. However, this is at variance with EDIFACT (United Nations Electronic Data Interchange for Administration, Commerce and Transport) and is not able to send or receive EDIFACT messages. A serious problem is that the measures taken in India are not always in harmony with international systems. Every Port was left to develop its own system. Most of them chose the EDIFACT standards. As a consequence, at present, the EDI cannot operate between customs and ports. Traders are required to establish necessary infrastructure to send the same message in two different formats to ports and Customs. They are not ready to make such investments, in the absence of any visible benefits, when ports and Customs are yet to be linked.

Computerisation in India started spontaneously through independent initiatives by departments and agencies. The efforts made at present are largely stand-alone using different systems and not always in accordance with international documentation and data formats. The effectiveness of the EDI system depends on the connectivity between all the players - ports, airports, customs, DGFT, RBI, steamer agents, shippers – ultimately reaching railways, road transport, banks, insurance and so on. The Customs Gateway project is seen as the panacea to all problems. Until its full implementation, the traders have to make extra effort for entering the data. Transaction cost has indeed gone up as a consequence of partial implementation of EDI. Even the claim that about 80% of India's international trade is covered by the 23 automated Customs stations is suspect. In most stations only a part of the data has been computerised, leaving ample room for unscrupulous parties to take advantage of loopholes. It is not clear what policy directives have been issued by the Government, although the details are required to be finalized after meetings and discussions. Future plans, policies, goals, timeframe, EDI architecture and practice, or Quality of Service and certification criteria could not be traced.The current EDI system lacks documented architectural framework in keeping with international standards. Lack of knowledge of standards is a major drawback. There is a complete lack of EDI expertise to manage a comprehensive solution. However, there is excellent IT expertise to build the system and individually the EDI set up appears to be operating well within the respective agencies but the systems do not connect well.

An example of operation of EDI is the Chennai Port Trust (ChPT), which is moving towards facilitating paperless transaction for port users with plans to introduce an electronic facility to access all information at the port including vessel arrival and berthing. Users can also book workers, hire equipment and other marine services. In the second phase, the ChPT will include electronic payment whereby port users can make all port-related payments online. At Delhi Air Cargo, the ICES also provides for the filing of the declarations i.e., Bill of Entry and Shipping Bills electronically from the premises of the importer/exporter

or his agent through the Remote EDI System. This facility does away with the requirement of the importer/CHA of having to come to the Custom House for filing a declaration. In locations other than Air Cargo Complex, Delhi, the importers and exporters have to use the Service Center facilities till the Gateway Project gets implemented. Remote filing has been standardized and made universal. Tele-enquiry systems have been introduced at major Custom Houses for automated information regarding status of import and export consignments. The facility for filing the import and export documents over the internet is also expected to be introduced shortly. Touch screen kiosks have been installed in some Custom Houses.

Transparency

All the rules and notifications are available real time on the DGFT website and 75% of the license applications are being filed and processed on-line. The CBEC website has gone online in August 2000. However both these websites carry only a fraction of the necessary information. Given the present facilities, the comprehensive notification on customs procedure, ruling, or guideline of general application that is needed for international trade is not difficult to meet; but a systematic effort is lacking.

In the past few years, a number of steps have been taken to simplify the tariff structure. Some of these measures include (i) reduction in number of slabs of duty rates, (ii) reduction in number of exemption notifications, and (iii) uniformity in rates of duty in chapters, etc. These measures have considerably reduced disputes in classification and delays in customs clearance. The simplification in tariff structure has in turn simplified the customs clearance procedures to a great extent. A new commodity classification for imports and exports has been adopted by DGFT and this classification is to be adopted by the CBEC and DGCI&S. The common classification to be used by DGFT and CBEC will eliminate the classification disputes and hence reduce transaction cost and time.

Customs and Central Excise procedures are being changed rather frequently. Invariably, the procedures are framed in consultation with the field officers and there is no apparent involvement of the trade and industry[9] . Informal prior consultation goes on before the budget and other policy announcements. The Kelkar Committee recommended constituting a Standing Committee on Procedures or a similar institutional mechanism. New procedures come into effect from the date they are brought to the notice of field formations. Each instruction contains a direction to the field formations to issue suitable public notices/ trade notices to inform the trade. Not only does this catch the trade by surprise but it may also happen that a procedure has been in force but is not complied with for the reason that the trade may not have been aware of it. Invariably, such a situation also leads to issues of compliance and disputes. Also, the Departmental Systems personnel are unable to modify their software, if required[10].

The judicial and administrative systems in India in general, are complete with review and appeal procedures. Provisions for Advance Rulings exist in the Customs Act, and

also in the Finance Bill, 1999. Procedures and organisational setup for advance rulings may be developed in due course. As per the revised Kyoto Convention, an adjudication order is to be issued by the Customs within a period specified in national legislation. The Indian Customs Act has since been amended with a provision that the adjudication order is to be issued by the proper officer within a period of one year in cases involving collusion, wilful mis-statement or suppression of facts, and within six months in other cases. These are yet to be effective.

Appeals against any decisions regarding valuation and procedures taken by the Customs authorities is examined by the Commissioner (Appeals) within three months of communication from Customs. Judicial appeals to the CESTAT[11] (Customs, Excise and Service Tax Appellate Tribunal) may be made within three months of communication from Customs. However, it is not possible for the Commissioner (Appeals) to decide all appeals within the three-month period, due to shortage of staff and infrastructure support, and given the fact that the tribunal receives appeals on matters other than valuation and classification. It is claimed that the number of appeals made to the Appellate Tribunal on Customs matters and decisions taken on appeals for this period have come down though there is still a long way to go[12] . The regular appellate machinery broadly works under the following mechanism:

There are four tiers of officials -

Assistant Commisioners ® Deputy Commisioners® Joint Commissioners® Commissioners

↓

The first round of appeals to the Commissioner (appeals)

↓

Majority of cases to be decided by the Commissioner

↓

Appeals against Commissioners' order go to CESTAT

↓

Some cases go to the High Court

↓

And finally some cases move up to the Supreme Court

Alternate to this system is the Settlement Commission which was set up in 1998 to deal with tax and trade related disputes and offences. The Commission has *inter alia*, the power to grant immunity from prosecution and immunity, full or partial, from infliction of fine, penalty and interest provided the assessee makes a true and full declaration of his duty liability. It is a forum for self-surrender and seeking relief and not a forum for challenging legality of assessment orders.

The EXIM Policy (1999-2000) proposed the appointment of an Ombudsman at Mumbai. For attending to problems at gateway ports and airports, no regular system exists. The Sunder Committee recommended the appointment of a high level functionary for mediation.

Dwell Time Reduction

Special attention is given to the speedy handling of cargo for reducing its dwell time. The objective is to reduce dwell time of exports to 12 hours, and of imports to 24 hours to conform to internationally accepted norms. An EXIM Bank sample survey of select firms followed by an update (EXIM, 2003), show the *perceptions* of Indian exporters about the importance of transaction costs in different industries, expressed as percentage of export revenues. The two studies show that very remarkable improvements have been brought about in dwell time reduction, in just five years, between 1998 and 2003. Infrastructure relating to cargo handling like satellite freight cities with multi-modal transport, cargo terminals, cold storage, automatic storage and retrieval systems, mechanised transportation of cargo, computerisation and automation, etc., is being set up. Exporters can now stuff their cargo at the CFS approved by the Customs authority; these CFSs have also been given the autonomy of acting as the custodians of the cargo, where Customs examination facilities are available. Likewise, importers can take their import boxes for destuffing, and take charge of their cargo. This reduces the dwell time for import/ export boxes at the port of entry/ exit.

The procedure for movement of goods in coastal vessels has been simplified considerably. To allow the trader to take clearance of cargo at their nearest port, a scheme has been introduced to allow the imported cargo unloaded at a gateway port to be taken to another port in a coastal vessel. The formalities for customs clearance are undertaken at such other ports. Similarly, export cargo after clearance at a port may be taken to another port in a coastal vessel for loading unto an outbound vessel. In such cases, duty drawback is paid immediately after export has been allowed at the originating port without waiting for the proof of export from the gateway port. For better capacity utilization of such coastal vessels and to reduce the freight cost, the Government has allowed carriage of domestic cargo along with import/export cargo. Also to increase the competitiveness among various modes of transport, it has allowed movement of export cargo from one port to another by rail. A procedure for carriage of export cargo from ICDs/CFSs/factories to gateway ports/airports by trucks has also been introduced for faster movement of cargo.

To develop Indian ports as consolidation hub ports, the Government has allowed consolidation of LCL (Less than Container Load) cargoes at Indian ports. The facility allows shipping lines to take the containers stuffed with LCL export cargo, irrespective of destination, from ICD/CFS to a gateway port, where these are opened and reworked with cargoes received from different ICDs/CFSs. After such re-working, cargoes are stuffed in containers destination-wise. Similarly LCL import cargo brought from different destinations at any gateway port is allowed to be re-worked and consolidated to stuff

containers ICD-wise. The facility of re-working of containers at gateway ports has immensely benefited the exporters and importers by way of savings in freight charges, reduction in transit time, and better handling and safer delivery of cargoes.

Exporters are allowed to get their goods stuffed in containers in their factories in presence of officers from the Customs or Central Excise. Such factory stuffed containers are not subject to further examination at the gateway ports. Until very recently, the exporters were required to take permission from the concerned department each time they wanted to avail of the facility. In some of the field formations, permission was being given for a fixed period ranging from three to six months. To avoid procedural hassles involved in renewal of permission for factory stuffing, the Government has recently introduced a system of one-time permission, to be valid forever unless withdrawn by the Customs in case of the exporter's involvement in irregular activities.

Regulations have been framed to allow import and export through the courier mode. The Customs clearance facility for items imported and exported through courier mode is presently available at Delhi, Chennai, Kolkata, Mumbai, Ahmedabad, Jaipur, Bangalore and Hyderabad airports and at land customs stations at Petrapole and at Gojadanga in West Bengal. As soon as goods arrive, these are cleared by Customs on fulfilment of simple formalities by the courier companies. The importer/exporter or his representative need not come to Customs for taking clearance.

It is claimed that approximately 80% of daily air cargo shipments are assessed on the same day by Customs (subject to the condition that all the required documentation is complete). The Airports Authority has launched "Operation Instant Cargo" which envisages de-congesting of the Import Cargo Terminals by disposing of all unclaimed/uncleared cargo in consultation with Customs. To allow expeditious clearance of import/export goods, the Government has introduced two-shift working, extended working hours for Customs at the air cargo complexes and allowed work on holidays. Electronic data exchange system enable ships to inform the port authorities about their cargo arrangements so that the port authorities can prepare for a speedy unloading of vessels, together with linkage to Customs to enable cargo clearance in advance.However they have not been established in all the major ports.

Faster Clearance and Risk Analysis

Modern best practice calls for a systems approach that relies on self-compliance (through the maintenance of business records by tax payers), risk analysis and management (development of profiles of risky transactions), and supported by periodic post audits of records. This approach reduces delays for legitimate transactions while allowing full scrutiny of high-risk transactions. In this background, systemic changes were recommended by the Kelkar Committee.

As a measure of trade facilitation and to reduce the transaction cost of exports, the

Government has reduced the scale of examination for export goods considerably and also simplified the procedure for examination of such cargo. For a long time now, books, periodicals, newspapers and life saving drugs are being allowed clearance on a fast track mode, that is to say these goods are cleared instantaneously without any procedural delays. Perishables, commercial samples and exhibition goods are also cleared on observance of simple formalities. The Government has also introduced a Fast Track Clearance Scheme under which certain categories of importers have been allowed to pay duty and clear the imported goods on the basis of self-assessment of duty. A facility for obtaining faster clearance through the Green Channel is available to select importers, especially those who have a good track record. In view of the fact that the examination norms for export cargo have been lowered significantly, a little higher percentage of examination has been prescribed for export consignments sent to sensitive places.

The Government has constituted a Project Team to work exclusively on Customs re-engineering. The Project Team is working on several projects to simplify and modernise customs procedures such as: Accelerated Customs Clearance Procedure (ACCP), post clearance audit and risk management strategy. ACCP will be based on self-assessment principle available to all eligible importers and exporters subject to fulfilment of certain conditions. The goods cleared under the ACCP will be subject to post clearance audit. In respect of importers not eligible for the ACCP, the existing assessment process will continue. However, even in these cases, there shall be no concurrent audit and they too will be subject to post audit. For hazardous goods, there are special procedures like 'cooling off' period of 24 hours, insisted upon at the airports.

At present, the initial audit of the assessments is done through the mechanism of concurrent audit. In line with best international practices, the Project Team is working on a project for introduction of post clearance audit. The CBEC recently introduced a new self-assessment scheme called the Accelerated Clearance of Import and Export Scheme (ACS). The importer will determine the 8-digit custom classification, claim the relevant exemption benefit, declare the correct value as loaded in the invoice and based on such declaration the EDI system will calculate the duty. Physical inspection of imported goods will be done by using risk assessment and management techniques on a computer-based system, and not on the orders of the customs staff. The existing system of concurrent audit of import documents would be replaced by post-clearance audit. The scheme would apply to those importers/exporters operating for the past two years from a particular customs station, who have filed at least 25 bills of entry during the preceding year at that station, and against whom no proceedings have been initiated under Customs, Central Excise/ FEMA Act (Foreign Exchange Management Act), etc. Initially, the scheme would be operated on a pilot basis at Air Customs (import/export) at Sahar, ICD Tughlakabad, New Delhi, and Chennai Sea Customs (import/export).

A Post-clearance Audit, to be conducted through desk audit, commodity based audit and field audit – either individually or in combination – is being introduced by the

Government of India (GoI). The scheme will be launched through a few pilot projects. The feedback from the pilot projects would be taken as the basis for designing the whole process. This is because considerable ground will have to be covered and a great deal of details spelt out for implementing the Post-clearance Audit. The experience of many European countries show that it takes a decade or more for the system to take firm root. Recently, a systems appraisal procedure has been introduced by Customs, but very few have come forward to avail of this opportunity.

India has already reduced the percentage check on consignment to about 2%. At present, the various Customs formations have been *informally* using the technique of risk analysis that can be observed from the existing procedures. The Department relies upon the experience of its officers to evaluate the risk towards revenue while processing the information provided by the importer. The officers evaluate the risk by taking into account factors such as the country of origin, nature of transaction, current domestic prices, background of the importer, etc. A codified risk management module has been tested recently for import consignments at ICD Tughlakabad. The computerised module assesses import consignments through 21 risk factors and analyses 11,640 items, identifying sensitive consignments and indicating the rest for immediate release. Since there is a tendency to draw parallels, we note, risk assessment in this area has no similarity to that of the SPS (Sanitary and Phytosanitary Measures) Agreement. Under Article 3.3 of the SPS Agreement of the WTO, countries may set their own level of protection. But it is mandatory to notify such country standards in advance to enable traders to comply with them. If a similar procedure is followed with the Customs Department disclosing its risk assessment parameters it might direct smuggling through 'low-risk lines'.

However, many of these reforms have not made much impact because of some serious bottlenecks. For example, Customs-cleared containers are not allowed to be moved from one port to another, even in case of disruption of scheduled arrival of a vessel, without following the 'back to town' procedure. Many of the export consignments require clearance/ certification from designated export inspection agencies. The respective agencies are located at different places and some of them are far away from the port/airport and ICD/ CFS. As a result exporters have to spend considerable time and effort in obtaining these certificates. Moreover, departments and agencies dealing with the clearance of import/ export cargo have different holidays and limited working hours.

Very few exporters and importers are able to avail of the facilities of self-sealing of export containers by exporters with good records and Fast Track Scheme for Customs clearance. Customs officials rarely accept self-sealing of export containers because they feel that there are numerous export incentive schemes providing immense scope for fraud leading to loss of revenue. For similar reasons, very few cases are allowed under the Fast Track scheme for customs clearance. The developed countries have succeeded not because of low tariff rates or absence of export incentives but because of complementary mechanisms like post-clearance audit. For various reasons the development of such

practices is slow. One is the absence of excise audit without which post clearance audit is not possible. In the absence of a common identification number for scrutiny, audit of this nature is impossible. Without a common identification the databases available at different departments cannot be accessed. Recently, a high level decision was taken to use the PAN (Permanent Account Number) for the purpose of unique identification number. But this is applicable only for the income tax payers.

Owing to much higher rate of tariffs, Customs-related malpractice is less in developed countries, whereas in the developing countries there is a greater incidence of smuggling, undervaluation, misclassification as well as importation of substandard and counterfeit/ pirated goods. It is argued that security of revenue demands greater control and vigilance since goods get diverted en route within the transit country itself without payment of duty. According to Finger and Schuler (1999), where the tariffs are high and accounting expertise and access to electronic information limited, shifting to a risk-based valuation system that depends on in-depth examination of a sample (15 or 20 per cent) of shipments might increase (rather than decrease) the number of shipments on which importers attempt to under-invoice. Traders might view the change as giving them a better, not worse, chance to get away with under-invoicing. However, these arguments seem to be based on imperfect understanding of the suggested procedures. Risk analysis is conducted with the sole purpose of paying greater attention to high risk shipments instead of dividing the resources equally. If high risk areas are correctly identified in the risk analysis method adopted, the approach will increase the intensity of scrutiny of such areas leading to consequent reduction in chances of getting away with under-invoicing. In effect, it allows greater control and vigilance where needed and therefore, is not likely to have adverse effect on security of revenue. But there are genuine problems in some other spheres, which may limit the ability of the customs officials to deal with deliberately under- or over-valued imports.

Financial Regulations

In India, the major ports are placed in Serial 27 under the Union List of the Constitution, and are administered under the MPTA (Major Port Trusts Act), 1963 by the Government of India. Other ports are placed in Serial 31 of the Concurrent List of the Constitution and are administered under the India Ports Act, 1908. The other Acts applicable in the port sector are the Merchant Shipping Act, 1958, and the Dock Workers (safety, health and welfare) Act, 1986. In 1997, the Government of India allowed the major ports to set up joint ventures with foreign ports, minor ports or private companies. For modernization, the Government took a decision that all new ports would be set up as companies under the Indian Companies Act and the existing Port Trusts would also be gradually corporatized and set up as companies, eventually leading to their privatisation. Once private sector was allowed entry into the major ports to provide services often in competition with the Port Trusts, there was a demand from the private sector for an independent regulator to set port tariffs. In 1996 the Tariff Authority for Major Ports (TAMP) was established. All the powers of the Government for fixing tariff in major ports are now vested with TAMP, pertaining to transaction of business, appointment of staff,

and guidelines for regulations on tariff. TAMP has attempted to introduce transparency and promote participation of interested parties[13] , but it has no jurisdiction over the minor/ private ports.

After its formation, the TAMP became an authority for fixing tariffs. But it had no other regulatory functions or powers. All other regulatory functions in regard to safety etc. were vested in the Port Trust. With private investment coming in, some of the port trusts have been arguing that there is no need for TAMP and what is required at best is a tribunal to hear complaints, if any, against port tariffs. A recent proposal is to convert TAMP into an appellate tribunal and restore powers to the major port trusts to fix and revise tariffs. This, in effect, would leave the tariff-setting mechanism to market forces. In this scenario, major port trusts and private operators at major ports would be free to fix and revise their own tariffs with an appellate body at the helm to take care of user grievances. While the rates approved by the TAMP would be the tariff for the major port trusts, it would only act as a ceiling for the private operators beyond which they cannot charge. However, this may not ensure fair, simple and transparent system of tariffs. Ideally, competition should ensure that the charges levied are reasonable and that the quality of service is satisfactory. However, competition is lacking in most areas. Many private service providers are monopoly operators. On many occasions traders have to pay extra for inefficiencies even if the payment is to be at approved rates. Services received may not be commensurate with charges. Many agents such as the steamer agents, freight forwarders, air cargo agents, stevedores, MTOs, etc. often charge at very high rates for nominal services. Agents of foreign MTOs, who are neither registered with DG Shipping nor with the Customs, often collect very high sums of money for delivery of goods without rendering additional service.

Unless competition develops, the situation will not improve. Till then, regulation may be the only way of keeping the fees and charges at reasonable levels. Indeed, TAMP was constituted with this purpose. But, each port has its own tariff schedule and scales and also the accounting procedures are different. Without uniformity and common accounting procedures amongst ports, TAMP cannot hope to move towards fixing uniform principles for fixation of tariffs.

The foreign manufacturers are required to observe certain provisions of the Bureau of Indian Standards (BIS) Act. The Act also specifies liabilities for violation of certain provisions. In order to meet the statutory provisions, it has been considered necessary to make some person legally liable, under a certification scheme, for non-adherence to such statutory provisions. For purposes of registration and licence application formalities, the foreign exporter must have a liaison office or a commercial subsidiary in India. He cannot have recourse to an agent (importer, distributor). Indeed, the licence application must be submitted through a subsidiary or the Indian office of the foreign company. In addition, the exporter must provide proof of authorization from the Indian authorities to open such an office in India. Finally, the foreign manufacturer undertakes not to relocate his office

within Indian territory without authorization from the BIS. However, in order to simplify the matter, while keeping the provision for liabilities intact, the issue of permitting appointment of an Indian agent located in India (who would accept the liabilities under the Act on behalf of the foreign manufacturer through an agreement/undertaking) is being considered.

The financial agencies related to export and import play the primary role in safeguarding receipt and payment of funds; banking institutions have also been playing an active role in creating export capability among Indian companies. These agencies are involved at all stages of the export-import business cycle – import of technology, export product development, export production, export marketing, pre-shipment, post-shipment, and overseas investment.

The International Chambers of Commerce has approved the "International Standard Banking Practice" for the examination of documents under documentary credits. In India, training programmes have been undertaken to sensitize bankers about UCP (Uniform Customs and Practices for Documentary Credits) and e-UCP and their use in overcoming the problems of discrepancies in the paper and electronic media. Though voluntary, UCP rules are observed in countless number of transactions everyday and have become part of the fabric of international trade. The ICC has developed a supplement to the UCP covering electronic presentations, but the market-expectation is that paper documents would be in circulation for a considerable time to come. The uptake of electronic means of document delivery would depend on the ability to be able to communicate electronic data on a common platform. The readiness of banks and companies to move to such an environment would depend upon a number of factors including the requirement to move away from the letter of credit concept that we have today (involving excessive terms and conditions) to one which would provide for simple data messaging service to achieve compliance or otherwise.

Transit with neighbouring countries

India is a natural hub for several of its neighbours. Except Maldives and Sri Lanka, the other neighbouring countries share long land borders with India. Indian administrative procedures affect intra- neighbouring trade in many ways. For instance, for trans-shipment to a third country, Indian Customs clearance has to be obtained before re-export. Formalities in re-export of courier consignments intended for third countries delay shipments to inland consignees and stifles trade with neighbouring SAARC (South Asian Association for Regional Cooperation) countries. Thus reduction of procedural complexities will benefit both India and its neighbours. India has taken a number of steps towards forging free trade agreements with its neighbouring countries, but with different degrees of success. As such there is a thriving cross-border trade, often through informal channels.

The goal of forging a South Asian Free Trade Area (SAFTA) Treaty has not yet been achieved. SAARC has also begun work on harmonising Quality and Measurement Standards which will facilitate intra-regional trade flows. Trade between neighbours in

SAARC region are facilitated by bilateral Agreements. India has bilateral trade agreements with Nepal and Bhutan, giving substantial market access to the products originating from these countries and a Free Trade Agreement with Sri Lanka under which duty concessions are being exchanged on a bilateral basis. This existing FTA (Free Trade Agreement) will soon be replaced by a Comprehensive Economic Partnership Agreement (CEPA). Since 1996, India has accorded the MFN (Most Favoured Nation) status to Pakistan; but the latter is yet to reciprocate, flouting its WTO obligation. India-Myanmar official meetings at different levels have addressed issues such as border management, promotion of trade and travel through land route, etc. India has spent Rs1,000 million (US$22 million) in building a 160-kilometer Tamu-Kelewa border highway, located in Myanmar's northwestern border area, forming an important link from the India-Myanmar border to central Myanmar and the commercial and cultural center of Mandalay. Recently, the foreign ministers of Myanmar, India and Thailand held a meeting in Yangon on transport linkage of the three nations and agreed to build a 1,448-kilometer highway from Moreh in India to Mae Sot in Thailand through Myanmar's central city of Bagan. This transport link will provide more facilities for India's "Look-East" policy.

Nepal is landlocked, and most of its trade has to transit through India. Indo-Nepal trade is free and Nepal has much lower tariffs on imports of third country goods than India. The Indo-Nepal Treaty on Trade and Transit is very favourable for this landlocked country. Nepalese goods are allowed preferential entry into India on meeting a minimum material content requirement (Value Addition Norm) defined under the Treaty. India tried to remove this norm and for some time all the products manufactured in Nepal were made eligible for duty free exports to India. But that led to flooding of Chinese made goods through Nepal. In later renewals of the Treaty the provisions relating to Value Addition and Certificate of Origin, etc. have been incorporated. Imports are now allowed on the basis of a Certificate of Origin issued by the agency designated by the Government of Nepal in the prescribed format. The Treaty provides for consultation in the event of problems of excessive imports. The scope of railway transit facility to Nepal is limited because of physical constraints. However, recently, India and Nepal have signed an agreement to set up the first ever rail link between the two countries. A Railway Agreement for the operation of the multi-million dollar Inland Container Depot in Birganj, bordering India, clears the ground for plying of cargo trains between the two countries. In 1998, the World Bank financed construction of three inland container depots at Birganj. With the construction of a 5.4 kms. rail extension from Raxaul these ICDs will have a direct rail connection to the seaports. It is estimated that Nepal will save US$16 million in transport cost annually as a result of the ICDs. Nepal's international trade as well as bilateral trade with India is expected to increase manifold after the ICDs come into operation. This will reduce the transport cost of raw materials imported by Nepal from a third country by 30-40%. To facilitate traffic from landlocked Nepal and third country, a transit traffic agreement between the governments of Nepal, India and Bangladesh was concluded in 1997. The transit traffic could move by road from Nepal to Bangladesh through India and avail a second port

facility in Chittagong. Initially, the agreement was for six months but has been extended time and again.

India has agreements with Bhutan and Nepal that allow trucks to move across the border, though not inland. Indian trucks / vehicles are allowed free entry to Nepal whereas Nepalese trucks / transport vehicles are not provided similar facilities in India. The Federation of Nepalese Chambers of Commerce and Industry (FNCCI) has been advocating free entry to India for Nepal registered transport vehicles.

India shares broad gauge railways with Pakistan and Bangladesh, a historical legacy. India has bilateral rail interchange agreements with these two neighbours. But the conditions are stringent and performance poor.

The India-Bangladesh Protocol on Inland Transit & Trade has a framework, which may facilitate movement of cargo to the north-eastern states. Under the new Protocol, Kolkata, Haldia, Pandu and Karimganj on the Indian side and Narayanganj, Sirajganj, Khulana and Mongla on the Bangladesh side have been designated as Ports of Call. The Protocol also provides for steps to ensure equal sharing of inter-country and transit cargo by the ships of the two countries to and from ports of call/customs stations including extended places of loading and unloading. Both sides also agreed upon the restoration of multi-modal communication links between the two countries which should go a long way in providing the infrastructure necessary to help economic interaction between India and Bangladesh attain its true potential. Both sides also focussed on the need to provide a framework for border trade. A proposal for the trans-shipment of Indian goods across Bangladesh by Bangladesh carriers is under the active consideration by the Government of Bangladesh.

Customs and cross border procedures are complex. Access for transit cargo to or from Northeastern India through Bangladesh may reduce distance by about 60% but this road route is not open under current trade protocol. No foreign vehicle is allowed on Bangladesh roads. The procedural requirements are that the cargo is transferred from Indian to Bangladeshi trucks and back to Indian trucks. Also there are considerable delays at the cross-border check-points.

A procedure has been established to allow exporters to take clearance of export cargo meant for Nepal and Bangladesh at any of the ICDs and then take the cargo in sealed containers to these countries by rail /and road through LCSs (Land Customs Stations). At the LCSs, the Custom officers check the seal of the containers and allow export. The facility helps in reducing congestion at the LCSs .As mentioned, the facility of import and export by courier mode was earlier available through international airports only. To facilitate Indo-Bangladesh trade, this facility has been extended at LCSs at Petrapole and Gojadanga at the Indo-Bangladesh border.

Even though the SAARC countries have begun to liberalise trade, failure to address logistic inefficiencies not only compromises the extent and depth of other reforms, but also risks loss in market share. Excessive border dwell times are common. For instance, at the India-Bangladesh border at Gede-Darsana, the average dwell time is of the order of two days. Benapole is the principal land port for border crossing between India and Bangladesh. Here often there is acute congestion with lines of up to 1500 trucks and waiting time of one to five days. The average wagon cycle time between Lahore (Pakistan) and Amritsar (India) is as much as 5-6 days. In contrast, between the Islamic Republic of Iran and Turkey which also share a common track gauge, the average border dwell time is about two hours. The India-Pakistan bilateral rail interchange agreement requires both sides to achieve a zero balance in their exchange of wagons at the end of each ten day accounting period - a complex and inefficient exercise. Operational inefficiencies exist in the cross-border exchange of wagons between India and Bangladesh also. Though India has agreements with Bhutan and Nepal that allow trucks to move across the border, their movements within the country are restricted.

There is a proposal for construction of a 2600 km pipeline (1600 km from Iran to Sindh province in Pakistan and 1000 km on to India) to transfer gas from Iran to India through Pakistan. Pakistan hopes to receive around US$ 600 million as transit fee annually from the pipeline and is therefore keen on the project. A pipeline for transfer of gas from Iran to India will certainly be in India's interest. Both Iran and Pakistan are interested. But India is hesitant for legitimate reasons. Among other proposals is one for construction of a trans-Afghan pipeline that would carry gas from Turkmenistan to Afghanistan and Pakistan and possibly, India at a later stage.

Infrastructure and Capacity Constraints

Simplification of import and export procedures, reduction of data and documentation requirements, publication of information, consultation, non-discriminatory treatment and scope of review and appeal would not serve any purpose without the requisite capacity to meet the obligations. India faces severe capacity constraints.

Following liberalisation and opening up of the economy in the early nineties, there has been a significant increase in India's maritime trade. In this short time, considerable improvements of containerisation of general cargo, berthing capacity, etc. have been brought about at major ports. But, there are still large gaps between what is needed and what is in existence. Most major ports were originally designed to handle specific categories of cargo, but have not been able to adjust to the newer categories. There are thus several berths for traditional cargo, which are under-utilized and fewer for new cargo which are overutilised. Equipment is obsolete and poorly maintained. The major ports of India deal with traffic much in excess of capacity. As a result, in India ships have to wait for berths instead of berths having to wait for ships. The average vessel turnaround time for Indian ports varies from 37 - 50 hours to 145 hours (2000) as compared to the international benchmark of 24 hours and less than 12 hours in Singapore (2000). However, in the

period 2001-02 to 2002-03, the all india average for vessel turnaround time has improved from 3.02 days to 2.6 days. Chennai, which got privatised in 2001, showed the greatest improvement. Turnaround time at the port fell by 39 per cent to 2.5 days in 2002-03 from 4.1 days the year before[14]. Indian ports have one of the lowest rates of productivity in handling cargo (World Bank, 2002). The manpower productivity at the JNPT (Jawaharlal Nehru Port Trust)- India's most modern container terminal is 330 TEU (Twenty-foot Equivalent Units)/person as compared to 2303 TEU/person in Singapore port. While efficiency has since improved, the productivity of Indian ports is still below international standards. In many ports, shore facilities cannot be fully utilized and operations are adversely affected, as the rail and road connections do not have capacity matching port throughput. Surface transport connections to hinterland are inadequate.

Few large liner ships are willing to call on Indian ports, as they cannot afford the long waiting time. Indian container cargo is trans-shipped at Colombo, Dubai or Singapore resulting in additional costs and transit time. As a consequence, an Indian exporter, with rare exceptions, is not in a position to avail of "fixed-day-of-the week" services offered by the liner industry at a time when manufacturing and trading companies abroad are increasingly selling and buying on "just-in-time" basis. Most Indian exporters are, therefore, operating on the basis of substantial buffer stocks, except probably a few who operate on "just-in-time" basis. Substantial buffer stocks make Indian exporters less competitive. It has been estimated that the annual incidence of these factors such as demurrage charges, trans-shipment costs, pre-berthing delays and vessel turnaround time could be as high as US $ 1.5 billion per annum[15] . These costs have ultimately to be borne by the end users, raising the cost of India's exports in international markets and the prices of imports for the Indian economy. The Government recognises that additional port capacity to meet the increasing traffic cannot be met without the help of massive private investment. Accordingly, policy guidelines were issued in 1997 to enable the major ports to set up joint ventures with foreign ports, minor ports or private companies. The major Port Trust Act was amended to give effect to the guidelines issued in 1996 and 1997.

The proposed Rs 100,000 crore Sagar Mala Project is set to give a facelift to the maritime sector with 2 new major ports and 50 minor ports coming up along the Indian coastline. This ambitious project encompasses plans ranging from port modernisation and infrastructure upgradation to developments in the shipping sector and inland water transportation. Some of the features of the Project include – integrated development of Cochin and JNPT, developing hub port at Chennai, capital dredging, port connectivity, setting up five new SPMs (Single Point Moorings) used for transportation of liquid cargo such as petroleum, two container terminals at Mumbai, liquefied natural gas jetty and a coal berth at Ennore, a container terminal at Kandla, etc. Other policy measures include treating the charges paid by the private port operators to the respective port trusts as deemed exports under the Export Promotion Capital Good Scheme. This would enable private operators of container or the berth terminals to claim duty concession on import of equipment under the duty drawback scheme.

The government is planning to establish vessel traffic service (VTS) on the west and east coasts at a cost of Rs 785 crore. One such system is coming up at the Gulf of Kutch and another is being planned at the Gulf of Khambat. Besides these, five more VTS on either side of peninsula are also being planned in the next 10 years. VTS is a combination of radar, direction finder, satellite positioning system and various other sensors for effective control of traffic in waterways. Other systems being planned for improving navigation facilities include monitoring of lighthouses through remote control and automation system requiring an expenditure of Rs140 crore. Automatic identification system is also being planned to ensure collision free safe navigation.

International cargo at 5 major international airports, 6 newly declared international airports and at domestic airports increased by 13.4%, 54.2% and 48.7% respectively in the period (April - January) 2002- 2003 vis-à-vis (April - January) 2001-2002. There has been a rise of 16.6% in the total international cargo handled by the AAI during this period. The total cargo traffic handled in January 2003 has increased by 15.5% as compared to January 2002, with international cargo traffic increasing by 14.2%[16].

The importance of air transportation of cargo has grown rapidly in recent years in India's foreign trade. But the infrastructure necessary has not grown in tandem. All the international airports in India have shortage of space in their air cargo complexes resulting in severe congestion, often making storage of goods on the tarmac unavoidable. Also, the limitations of space make it difficult to allocate spaces to other operators to facilitate competition. For courier services new and separate fully equipped courier terminals are required. State-of-the-art equipment for quick inspection of sealed containers are very costly and India cannot afford to purchase them in adequate numbers.

The National Highway system suffers from capacity constraints and inadequacies. The Government has embarked upon an ambitious project to upgrade the existing national highway infrastructure. A programme for 4/6 laning of National Highways under National Highway Development Project (NHDP) comprising the Golden Quadrilateral connecting the four metros of Delhi, Mumbai, Chennai and Kolkata and the North-South, East-West corridors connecting Srinagar-Kanyakumari and Silchar-Porbandar respectively has been formulated. An ambitious project called Pradhan Mantri Gram Sadak Yojana was launched in December 2000 with an annual allocation of Rs. 25 billion to improve road transport links in rural areas.

Special Economic Zone(SEZ) scheme has been introduced in the Exim policy from 2000 to provide an internationally competitive environment for export production. The SEZs in the public, private, joint sector or the state government domain are marked by certain features. These include duty-free enclaves, with no licence requirements for imports; exemption from customs duty on import of capital goods, raw materials, spares, etc; 100% FDI in manufacturing sector; no routine customs examination of export/import cargo; in-house customs clearance; support services such as banking, post offices, clearing agents in Zone complexes, etc.

Along India's long border with neighbouring countries, the infrastructure for storage and movement of goods and vehicular traffic is highly inadequate. Even basic facilities like post offices, banks, vehicle parking, hotels, etc. are not available at all places. Customs organizational set up along the border is barely enough to cope with the present volumes. Road conditions leading to border stations are chaotic due to traffic congestions and local law and order problems. From land border stations samples have to be brought over a long distance, e.g. the import of food articles from Myanmar involves testing of the items in laboratories located in Kolkata. Laboratories for testing of samples are a serious bottleneck in both import and export cargo. Moreover the ICDs/CFSs in the hinterland often do not function well because of lack of requisite equipment and facilities.

Trade facilitation includes a whole set of procedures for clearance of goods starting from the time of arrival at ports to deporting to warehouses. To make this process effective all personnel associated with trade, viz., licensing authorities, customs officials, inspectors, scientists manning testing and quality control laboratories, banking and insurance staff are required to be present at each of the trading points, which involve enormous time and effort. Besides, the Sunder Committee observed that the staff of department/agencies at the grassroot level are not always aware of the extant provisions of policy, law and procedures. The shortfall in personnel and information levels aggravate the delay in trade.

The number or knowledge-base of the personnel are not the only factors. The Sunder Committee also observed[17] that a very large number of problems relating to delays are attributable to tardy procedures, excessive documentation and narrow sectoral perception of the respective departments/organisations. But many of these are also the result of a lack of a positive approach and service orientation on the part of officers and staff. Thus, training inputs for officers working in the hinterland requires special attention. Prohibitive infrastructure cost is not the only reason why EDI is not developed at a quicker pace. Many operational modernisation projects have not been extended for a long time even after successful experimentation at one or two places. The Sunder Committee thought it important and essential to evolve a holistic approach to deal with the needs and difficulties of the trade. The Kelkar Committee was even more emphatic about the requirement of a change in mindset away from controls rigidly administered, towards a more liberal policy environment in line with international standards. However, it also observed that some effort has been made, e.g. the CBEC has suo moto taken up the exercise of evolving modern and efficient procedures, reflecting the changed mindset.

Much has been said about the necessity of changing the mindset of government personnel. But little has been said about a matching requirement in private parties, traders, operators and business executives. Fiddling with government rules is almost a cultural practice. Unless this mindset is changed, a regime based on trust — suggested so strongly by the Kelkar Committee can only be misused.

Legal changes are needed to make many facilitation measures effective. The Customs

Act 1962 provides for advance filing of Bill of Entry only for vessels and not for aircraft. In most countries, the MTD (multimodal transport document) includes air transport. A major lacuna in the Indian legislation is that it excludes air transport so the trade is restricted to sending containers only through rail, road and sea. Also, Indian Railways have not taken any initiative in tying up with transport companies or shipping lines. This will require amendments to the Railways Act. Most Indian banks still do not recognise the MTD as a single document valid for all modes of transport. A RBI notification is required permitting domestic banks to treat MTD as a negotiable instrument. No major domestic insurance company is willing to offer insurance cover, a value addition for the customers. On the other hand, some foreign insurance firms have agents in India and provide insurance cover for cargo sent through multimodal transport.

TF measures in some areas may be offset by increase in trade restrictive measures in some other areas. In the trading world NTBs (Non-Tariff Barriers) are increasing rapidly. In the EU, some 75 percent of the value of intra-EU trade in goods is subject to mandatory technical regulations. An estimated 60 percent or more of exports to the U.S. are subject to mandatory health, safety, and related Trade Registration System (TRS) (Messerlin and Zarrouk, 1999). While developed countries are critical of the complex and slow customs procedures of developing countries, the latter are increasingly worried about the imposition of ever expanding technical regulations and standards by the former. Delays in clearance for NTBs like SPS (Sanitary and Phytosanitary Measures) lead to an increase in the transaction value. This increase in transaction cost is writing off the effect of even the decrease in tariffs brought about by the WTO. Since we are discussing the trade facilitation measures in India in this paper, the fact that Indian exports suffer on this account at the borders of the developed countries remain out of our purview. However, the trend is worth our attention. At present India does not impose many NTBs on imports into the country. But things may change in future along the lines of the US, EU and other developed countries.

Conclusion

The tangible benefit of trade facilitation is a reduction in trade transaction cost. Trade transaction costs consist of the following: a) direct costs such as those directly related to formalities, and costs incurred for trade-related services; and b) indirect costs incurred due to procedural delays, lost business opportunity, and lack of predictability. An EXIM Bank study (1998) estimated that firms perceived avoidable[18] transaction costs in different sectors. These worked out to an average of 10.78% of export revenue in 1998. The estimates may provide an indication of the type of benefits available from trade facilitation; however, this is an underestimate of the benefits.

The EXIM Bank study includes transaction costs due to procedural delays like delayed clearance at customs, complex bureaucratic regulations, avoidable harassment faced by firms, problems with licences, banks, transportation, etc.. But there are other heads which were not covered by this study. Factors such as multiple documentation requirements,

lacunae in the existing system of automation (EDI), bottlenecks in implementation of reform measures including lack of efficiency among personnel, infrastructure and capacity constraints, also add to transaction costs. Also indirect costs such as loss due to (a) lack of predictability and (b) lost business opportunity were not included in the estimates. Taneja and Pohit's (2002) study for example, shows the high level of illegal trade between Nepal and India much of which is due to high transaction cost in official trade.

The EXIM Bank resurvey in 2003 shows that reforms in the five years after 1998 could eliminate on an average 60% of avoidable transaction cost identified in the earlier survey. These estimates refer to transaction costs for exports leaving India. Exports incur transaction costs at the destination country as well, for which no estimate is presently available. Nor have we arrived at any figures for the avoidable transaction cost of imports into India.

The Kelkar Committee had very correctly put equal stress on trade facilitation on both the fronts – domestic and international. To be competitive in the international market, the export product must match, if not better, the competition in terms of pricing and quality. Also, the exporter must have an incentive to enter the highly uncertain export market. Trade facilitation, along with infrastructure, financing, income tax relief, etc. can help attain these objectives. In the import sector, trade facilitation makes imported items cheaper. It follows that domestic reforms must match with foreign trade. Otherwise domestic traders will be at a disadvantage while global trade is privileged.

End Notes

1 For this and other acronyms please see the Glossary at the end.

2 Briefing note issued before Doha Ministerial Conference (WTO website-Ministerial Conferences).

3 As listed in (a) *Compendium of Trade Facilitation Recommendations,* UN 2001 and (b) *Trade Facilitation: Background Note:* (Revision), -G/C/W/132/Rev.1; 29 March 1999, Council for Trade in Goods, WTO.

4 Also known as Colorado Group

5 An UN ESCAP estimate.

6 Customs Law Manual, 2002-03, pp 1.14

7 In May 1999, the UN ESCAP with the financial support of the Government of Japan initiated the Project on the Alignment of Trade Documents and Procedures of India, Nepal and Pakistan.

8 CBEC website, http://www.icegate.gov.in/ICES.html

9 Kelkar Committee Report

10 ibid

11 Earlier known as CEGAT (Customs Excise and Gold Control Appellate Tribunal)

[12] Pending matters are in the range of ten or twenty thousand

[13] Sunder and Sarkar (1999)

[14] IPA data

[15] Sunder (2000)

[16] Source: AAI website www.airportsindia.org.in/aai/about.htm

[17] The Sunder Committee Report, pt.2.2

[18] This was not the estimate of transaction costs. The survey conducted inquired about the impediments and the costs arising therefrom

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Abbreviations

AAI	Airports Authority of India
ACCP	Accelerated Customs Clearance Procedure
ACS	Accelerated Clearance of Import and Export Scheme
AEPC	Apparel Export Promotion Council
AFACT	Asia Pacific Council for Facilitation of Procedures and Practices for Administration, Commerce and Transport
APEC	Asia Pacific Economic Cooperation.
BIN	Business Identification Number
BIS	Bureau of Indian Standards
CBEC	Central Board of Excise and Customs
CEGAT	Customs Excise and Gold Control Appellate Tribunal
CEPA	Comprehensive Economic Partnership Agreement
CESTAT	Customs, Excise and Service Tax Appellate Tribunal
CFS	Container Freight Station
CHA	Custom House Agent
ChPT	Chennai Port Trust
CONCOR	Container Corporation of India
DGCI&S	Directorate General of Commercial Intelligence and Statistics
DGFT	Directorate General of Foreign Trade
DGRI	Directorate General of Revenue Intelligence
EC	European Commission
EDI	Electronic Data Interchange
EDIFACT	United Nations Electronic Data Interchange for Administration, Commerce and Transport
ESCAP	Economic and Social Commission for Asia and the Pacific
EU	European Union
EXIM	Export and Import Policy
FAL	Convention on Facilitation of International Maritime Traffic
FDI	Foreign Direct Investment
FEMA	Foreign Exchange Management Act
FNCCI	The Federation of Nepalese Chambers of Commerce and Industry
FTA	Free Trade Agreements
GOI	Government of India
ICC	International Chamber of Commerce
ICD	Inland Container Depot
ICEGATE	Indian Customs and Central Excise Electronic Commerce/ Electronic Data Interchange Gateway

ICENET	Indian Customs and Central Excise Network
ICES	Indian Customs EDI System
IMO	International Maritime Organisation
ITC	International Trade Centre
JNPT	Jawaharlal Nehru Port Trust
LCL	Less than Container Load
LCS	Land Customs Station
LIBOR	London Interbank Offer Rate
MES	Message Exchange Servers
MFN	Most Favoured Nation
MMT	Multimodal Transport
MPTA	Major Port Trusts Act
MTD	Multimodal Transport Document
MTO	Multimodal Transport Operators
NHDP	National Highway Development Project
NIC	National Informatics Center
NIDB	National Import database
NTB	Non-Tariff Barrier
OECD	Organisation For Economic Cooperation and Development
PAN	Permanent Account Number
SAARC	South Asian Association for Regional Cooperation
SAD	Single Administrative Document
SAFTA	South Asian Free Trade Area
SEZ	Special Economic Zone
SMEs	Small and Medium-Sized Enterprises
SPMs	Single Point Moorings
SPS	Sanitary and Phytosanitary Measures
TAMP	Tariff Authority for Major Ports
TEU	Twenty-foot Equivalent Units
TEXPROCIL	Textile Export Promotion Council
TF	Trade Facilitation
TRS	Trade Registration System
UCP	Uniform Customs and Practices for Documentary Credits
UN/CEFACT	United Nations Centre For Trade Facilitation and Electronic Business
UNCTAD	United Nations Conference on Trade and Development
UNECE	United Nations Economic Commission for Europe
WTO	World Trade Organization