Task Force on Transaction Costs

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Task Force on Transaction Costs: Accomplishes 1.9% of Borrowed Achievement

The Task Force on Transaction Cost appointed by Government of India to "look into various issues affecting the competitiveness of Indian exports" had raised high expectations on the part of exporters. However, the recently submitted report has failed to meet the legitimate expectations of the exporters, even though the trade bodies, in their customary, maybe compulsive necessity, mode have welcomed the report. While the Task Force gloated over the fact of "accomplishing closure of 21 out of 23 issues", the fact of the matter is that the projected savings of ₹2,100 crore is only 1.9% of the total transaction cost of Indian exports, estimated at (as per the World Bank report) US$ 24.5 billion, as against the total Indian exports of US$ 245.29 billion during 2010-11. What is even more revealing is the fact that 21 of the 23 issues identified by the Task Force had already been implemented even before the Task Force Report saw the light of the day.

The Report of Task Force on Transaction Cost in Exports was released recently by the Finance Minister, Pranab Mukherjee in the presence of Anand Sharma, Minister of Commerce and Industry and Jyotiraditya M Scindia, Minister of State for Commerce and Industry. The scope of the Task Force chaired by Scindia constituted in October 2009 "covered all parts of the export process, from procurement of raw materials to physical exports and post-export procedures, across all ministries." According to Scindia, "The mandate of the Task Force was to look into various issues affecting the competitiveness of Indian exports, provide recommendations to the Government and initiate a set of "executable" remedial measures towards reducing latencies and costs associated with trading across borders." The Task Force based its work on a quantitative app roach so that the important issues and initiatives can be prioritized and their implementation tracked.

The Task Force was headed by DGFT and supported by a seven-member Project Management Group that included senior officials from DGFT and Department of Commerce and representatives from FICCI, FIEO and CII. The Task Force also had a group of experts from six different product sectors and six different functional areas in terms of documentation and clearances. Inputs from these stakeholders were instrumental in order to define transaction cost issues and the required initiatives.

What is this Report all about?

Status of Identified Issues

The Task Force identified 44 issues across 7 line Ministries for action, after analyzing and prioritizing according to their importance and ease of implementation, out of over a hundred issues identified with associated solutions. These issues were then taken up with the relevant ministries and extensive consultations were held. Of these, ministries agreed to implement 32 issues. Out of these 32 issues, 21 issues have been implemented and 11 issues are under process of implementation. It is expected that with the implementation of 21 issues as also two additional issues pertaining to filing of a single running bond for all Customs locations, and refund of Service Tax in the form of All Industry Service Tax rate that are likely to be implemented in near future, the transaction cost is expected to come down by approximately ₹2,100 crore for the exporters.

It can be inferred that the 44 issues, identified by the Task Force were perceived and recognized as the most important and vital issues that confront Indian export scenario. However, agreement could be reached over only on 32 issues.

I would like to deal with the Report in three parts: One, where the action has already been taken even before the Report of Task Force saw the light of the day; two, what they propose on the remaining issues or action points; and three, where they erred by ignoring what was even more important than what they have already done or propose to do.

First, let us have a look at what has been implemented and what remains to be implemented which would be followed by what important has been left out by the Task Force. Brief comments have been added on wherever required.

Ministry of Commerce

Ministry of Commerce had 11 issues, which can be more relevantly called as Action Points, out of which 8 have reported been implemented. These are, as quoted in the Report:

1. "Advance authorization under ad-hoc norms to be issued without the present requirement of submission of Chartered Engineer Certificate." (Our comment: As per the Public Notices No.3/(RE:2010)/2009-2014 dated 23.08.2010, DGFT has done away with the requirement of submitting Chartered Engineer's Certificate while submitting application for Advance authorization under paragraph 4.7 of the hand book of procedures.)

2. "Ad-hoc norms ratified by Norms Committee should be made applicable to all earlier cases for the same export product for other advance authorizations issued within one year of date of ratification." (Our comment: Already implemented as stated in the Report.)

3. "For issue of Import License for Restricted items, the requirements of submission of Proforma Invoice should be removed." (Our comment: DGFT vide its Public Notice No. 24/2009-2014 dated 17.1.2011 has already dispense3d with the requirement of submitting Proforma Invoice for obtaining an import authorization).

4. "For issue of Export License for Restricted items (except for SCOMET items), the requirement of submission of Proforma Invoice should be removed." (Our comment: As per Public Notice no. 20 dated 5.1.2011 there is no need to submit Proforma Invoice for obtaining export authorization for restricted items (except SCOMET items)

5. "In the present EDI environment where DEPB EDI shipping bills are transmitted by Customs to DGFT through online message exchange, submission of hard copies of DEPB EDI shipping bills for issuance of DEPB scrip should not be insisted, except in exceptional cases". (Our comment: Already being implemented as stated in the Report)

6. "Grant of MDA assistance for participation in international fairs/exhibitions should be made company-specific and not individual specific." (Already implemented as claimed in the Report)

7. "Clubbing of Annual Advance Authorization with Advance Authorization should be allowed." (Already implemented as claimed in the Report)

8. "Better EDI facilitation to be provided by DGFT i.e. -Offline software for filing advance authorization and EPCG applications on DGFT serve; and-online status holder application facility." (Already implemented as claimed in the Report)

Ministry of Finance

Department of Revenue

1. "Since factory and transportation operations are usually round-the-clock, a shift-wise working system should be developed for Customs and Excise officials especially to cater to import/export workload on weekends. This can be done initially, on a trial basis, for some identified locations."

2. "For faster import/export clearances and decongestion at ports, more firms should be enlisted under Accredited Client Programme (ACP) of Customs. For this, eligibility criteria for ACP should be relaxed e.g. issue of Show Cause Notice for procedural irregularities should not be a criteria for ineligibility under ACP. In addition, Risk Management System (RMS) of Customs should include export status of the firm i.e. Export House/ Trade House etc. as one of the risk parameters in the RMS module." (Our comment: The Recognised Status Holders have been extended benefit of Accredited Clients Programme (ACP) to provide them assured facilitation vide CBEC circular No. 29/2010-Customs dated 20 August, 2010).

3. "Scheduling of factory stuffing inspection should be provided online by Excise and a single factory stuffing permission should be provided by Customs which will be valid for all Custom Houses." (Our comment: A single factory stuffing permission valid for all Customs ports has been introduced; subject to certain conditions vide Circular No. 20 dated 22 July 2010).

4. "A large number of cases exist where unutilized CENVAT credit has not been refunded to the exporter by the Excise. Clear procedures and guidelines nee to be prescribed by CBEC for grant of refund of credit balance lying in CENVAT Credit (beyond a period of 3 months); and a system of monitoring where refunds are not granted on time may be institutionalized." (Our comment: The CBEC had already issued instructions to its entire administrative staff to ensure timely refund of credit balance in CENVAT accounts to exporters.)

5. "Requirement of Mate receipt by Central Excise for establishing actual date of export should be dispensed with."

Department of Financial Services (Banking)

1. "Banks charge a high penal interest for export payments/received beyond the due date. Moreover, the penal rate is charged for the entire period from the date of shipment whereas it should be charged for only the delayed period as per the terms of payment." (Our comment: RBI has instructed all the banks to ensure post-shipment credit availability at prescribed rate up to 180 days as stipulated in case of over-due bills.)

2. "Processing charges levied by banks for annual renewal of limits are very high and need to be reduced." (Our comment: Leading banks have reduced the processing charges for renewal of Annual Limit.)

3. "Banks need to lower charge being levied as booking and cancellation chares against every booking of FOREX with them." (Our comment: Booking charges for the foreign currency have been reduced from ₹750 per transaction to ₹40p0-500 per transaction.)

4. "Contrary to instructions being issued by RBI, additional charges are being levied by banks while releasing pre-shipment credit in foreign currency. In addition, pre-shipment credit in foreign currency to MSME export sector may be made available on a priority basis." (Our comment: The leading banks have again been instructed by RBI and have confirmed to extending the pre-shipment credit in foreign currency at LIBOR+ 2% with no additional charges levied.)

Issues to be implemented shortly

1. "Till the time, EDI connectivity between Customs and Excise is put in place, a system as prevalent in Excise may be introduced for EP schemes to enable filing of a single running bond for all Customs locations." (No comments as the action on this issue needs to be monitored).

2. "A suitable mechanism to provide refund of service tax in the form of All Industry Service Tax Rate like All Industry Rate of Duty Drawback needs to be developed. Exporters, who are not satisfied with the All Industry Services Tax rate, may opt for brand rate fixation." (No comment as the matter is still under consideration.)

My Comments

Credit for Closure for 23 Issues

In this connection, I would like to make the following points.

In his Foreword to the report of Task Force, Scindia proudly claims, "Thus, from this exercise, it gives me a sense of accomplishment that of the 44 issues identified; we have achieved closure on 23 issues resulting in a benefit of approximately ₹2,100 crore in perpetuity to the stakeholder community."

First, it may be pointed out that the "closure" if that is the word to be used for "implementation" can be claimed only for 21 issues and not for 23 issues, since "two issues to be implemented shortly" cannot be deemed to have been implemented or "closed".

Second, the Report of the Task Force was published on 8th February 2011. It is interesting to note that the Report takes the credit for implementation of as many as 23 issues (in fact, these were only 21 and not 23) which can be more appropriately termed as Action Points/Recommendation) even before it was published. While we have listed above the issues as identified within the jurisdiction of different ministries and the reported implementation of each of those issues/action points, we have quoted the chapter and verse as proof of action having been taken on various issues, apart from the claim of "closure" of these issues by Scindia.

A moot point is what was the purpose and the mandate of the Task Force? According to Jyotiraditya Scindia, under whose guidance the Task Force was set up, "The mandate of the Task Force was to look into various issues affecting the competitiveness of Indian exports, provide recommendations to the Government and initiate a set of "executable" remedial measures towards reducing latencies and costs associated with trading across borders."

Third, Scindia felt "a sense of accomplishment that out of 44 issues identified, we have achieved closure on 23 issues, resulting in a benefit of ₹2,100 crore" without realizing the fact that this amount represents no more than *only 1.9% of the total transaction cost of Indian exports, estimated at (as per the World Bank report) US$ 24.5 billion, as against the total Indian exports of US$ 245.29 billion during 2010-11.*

India's exports and has to be read in the context of Finance Minister's statement that exporters suffer transaction costs to the extent of 7 to 10 per cent. Further, even if all the 44 issues are "closed", the total benefit that would accrue to the exporters would be of the order of a mere ₹6,500 crore.

This only shows how very little; in fact miniscule, has been claimed to be the benefit to Indian exporters out of all that great exercise on transaction cost, as compared a whopping and mammoth annual recurring loss of US$ 24.5 billion. What an accomplishment!

Our Ground Realities

According to Anand Sharma, Union Commerce Minister, in his Foreword to the Report "In the last two years global economy has passed through a grim recessionary phase and we saw contraction in global demand, especially in the developed world, which had an adverse impact on India's exports. In August 2009, we set for ourselves a policy target of doubling India's exports by 2014 and doubling India's share of global exports by 2020. One of the key elements of the policy strategy, apart from providing fiscal incentives to exporters, was to address the issue of high transaction cost in India. This was part of overall competitiveness paradigm of India's export sector to enable cost effective production, storage, transportation and distribution mechanisms." Adds his Junior in the Foreword in the same report, "At the global level, ease of doing business is one of the important parameters on which the status of trade facilitation in a country can be benchmarked. The World Bank brings out a Doing Business Report every year. As the Report of 2010, India ranks 94 among various nations in terms of ease of trading across borders. We notice that we are far behind comparable economies like China, Indonesia and Mexico in this regard." While feeling a "sense of accomplishment", did anybody realize that how extremely and utterly we have failed to rise to the occasion or to the demands of the ground realities, as assessed, judged and recorded by them by both the ministers in the same report?

Left-outs or "Non-executable" Remedial Measures

There are indeed a very large grey; to be more honest even black areas in the entire export value chain. Exporters incur transaction costs not only in transportation of goods to various destinations and dealing with banks, but also in complying with various laws and procedures, besides meeting copious documentation. In fact, the costs involved in getting the benefits of various export promotion schemes are indeed very high. At every stage of obtaining Excise rebates, refunds of unutilized Cenvat Credit, verification of duty credit scrips, proving discharge of export obligation, release of bonds furnished to Customs, fixation of input output norms or brand rates for duty drawback etc. exporters have bribe their way through. What the Task Force under the able guidance of Scindia has failed to understand, appreciate and address is the strong lacunae in matter of policies and procedures, which offer enormous scope of widely different interpretations of the rule book, providing discretionary powers to those, who deal with the public at large. It appears that the members of the Task Force, on whom Scindia had to depend for almost everything, did not adequately support him with full and facts of ground realities leading to too narrow reference framework right from beginning through the end.

What needs to be done

Having discussed in detail what the Task Force has done (or more accurately claimed the credit for whatever had already been done) or propose to do, it is now the time I should deal with what important has been left out.

The first suggestion is that all the old notifications and circulars need to be dumped and new circulars being issued to modify or to clarify or to elucidate the old circulars must be halted, since such circulars have been interpreted wide off the mark giving rise to interminable disputes, hold-ups and litigations. These suffer heavily from serious infirmities and serve the purpose, exactly opposite to their intentions. **Only an updated Foreign Trade Policy book, incorporating the latest on foreign trade policy in an unambiguous and simple language, without requiring any criss-cross references within and outside the circulars, could be best bet for removing the heavy cost that even the biggest of export houses have to pay to ensure compliance of the rules. This would need to be done in a time-bound manner.**

Second, it has been observed that as and when any exporter needs to have any clarification or authoritative interpretation of a given rule or circular, he runs from post to pillar and yet fails to get a clear line of action, with the result that he falls in trap of lower officials, who are unable or unwilling or both, to help the exporter, with the result that despite his best of intentions and efforts, an exporter is pushed into a situation where he acts in a manner with which any junior official can find a fault with. The inevitable result is the long, multiple and constant harassment of the exporter. **Why, for example, the Government cannot consider and appoint one senior level officer at the export hubs, to start with, who could readily, willingly and competently advise the exporter on any issue. A "Call Centre" on the lines of one being run both in Denmark and Singapore customs on a 24x7 basis, could also form a part of this officer's secretariat. It is rather strange that such basic and central issue has escaped the attention of the Task Force, headed by a MOS but functionally under the august and high office of Director General of Foreign Trade.**

Third, everybody knows this universal and ubiquitous fact that Customs EDI systems are quite often malfunctioning which has been unequal to the task of handling plethora of paperwork. This has resulted in difficulties in getting refund of Service Tax as also of accumulated Cenvat credit. Huge claims are held up on frivolous grounds of purely technical nature. This harassment does drive the exporters to "get the problems solved" by paying bribe to the officials. These matters of primary importance should have attracted the attention of the Task Force. It would be strongly advisable that despite the systems being in place, the difficulties continue to multiply for the supposed beneficiary, the exporter. **The Government does need to take a hard look on the ground realities and ensure hassle and problem-free working of the EDI systems, which is responsible for "invisible and unaccounted for transaction costs."**

Fourth, the Task Force has also failed to make note of and suggest measures to ensure that the present system of grading the exporters for the purpose of bank loans is heavily titled against small proprietorship and partnership export companies. **Ministry of Finance needs to look into this matter and advise banks to adopt a more practical system of assessing and grading the exporting houses that have been functioning on proprietorship or partnership basis.**

Fifth, the Task Force should have had a closer look at the very concept of DEPB scrips. While the decision to dispense with the need of submission of hard copies of DEPB (Duty Entitlement Pass Book) to EDI shipping bills for issuance of DEPB scrip in the case of online digitally-signed applications is a welcome measure, **but even a more pertinent that should have been examined is whether it is necessary to issue the DEPB scrip at all. As everyone is aware DEPB scheme involves credit, debit and transfers which activities can always be managed as well as the banks do in case of their clients' accounts. Let the Government examine this.**

Sixth, it is somewhat surprising that the Task Force which visited Singapore and Denmark has not introduced any of the innovative systems that are in operation in these countries. Automation is the answer for many of our ills, and the observation of the Task Force on the fact of 90 per cent of the declarations being made online in Singapore are processed within 10 minutes of submission of Customs declaration on the Trade Net has not been made use of while making recommendations. Similarly, in Denmark, SKAT e-Customs system could be usefully adopted by India. **Though a beginning has been made in automation and e-Customs system in India, it is yet to free itself from system problems resulting in malfunctioning. The Task Force should have gone the whole hog on automation in a big, efficient and reliable manner.**

Seventh, the Task Force, in the course of its visit to Singapore, had noted that only a single sub mission is made to multiple agencies through Trader Net and 34 agencies are maintaining connectivity with this web-based online system. Any individual permission required from the 34 associate agencies are processed by the specific agencies and fed into the Trade Net system. **There is an apparent need for introducing a single-window system in case of imports and exports, about which we have been talking about in seminars and conference, but nothing has ever been done anything in this regard.**

None of recommendations made above relate to provision of fiscal relief, but largely constitute procedural corrections and introduction of innovative automation. All of these recommendations essentially fall in policy domain and do not involve any doles in any form, but with a sure promise of exceedingly good returns on whatever cost is incurred in introducing a new culture in foreign trade policy.

It is indeed a pity that the Task Force has failed to live up to what was expected of it and it should even feel "a sense of accomplishment that of the 44 issues identified, we have achieved closure on 23 issues resulting in a benefit of approximately ₹2,100 crore in perpetuity to the stakeholder community", which represents no more than 1.9% of our total transaction costs as per the estimates based on a World Bank report. What is even more important is the fact that the purported benefit of ₹2,100 crore is based on the policy decisions that had already been made and announced and applied pretty well before the report of the Task Force saw the light of the day.

To my mind, the report has caused only a ripple, it perceives it has caused, but this cannot be seen by the stakeholders, who are already getting advantage of "closed" issues.

Of course, credit does go to the Task Force for "accomplishing" 1.9% borrowed achievement, based on recommending what was already in practice.

Here 'I' refers to author; he shares his comments on the issue of 'Task Force on Transaction Cost'