COMPETITION DISTORTIONS IN INDIA – A CUTS DOSSIER

(CDI 57: July to September 2022)

For earlier Dossiers please see: https://cuts-ccier.org/competition-distortion-in-india/

This periodic dossier produced by CUTS International looks at the interface of policy issues that impact competition in India, which can be both negative and positive. News, as published, is used without verifying its accuracy. The purpose is to flag issues to the layman, specialised policymakers, and regulators, rather than be judgmental. This would require greater analysis, particularly in terms of cost and benefits in addition to that.

Dear Reader,

Greetings!

We are pleased to present the Competition Distortion Dossier #57 for the first quarter of the year, i.e., July to September 2022. To ensure that you do not miss any updates from this quarter, we have extensively covered the most important news stories from these three months that impact the competitive landscape in India. We have divided the dossier into three parts from previous editions: Trade Policies, Policies Promoting Competition, and Policies Inhibiting Competition.

The first section discusses the need for the Indian government to lower steel export duties due to a demand and supply imbalance. The section also discussed the Reserve Bank of India's (RBI) efforts to promote the Indian rupee in the international trade regime.

The second section of the dossier discusses pro-competitive policies such as the National Logistic Policy, the Central Government's approval of the Production Linked Incentive scheme for solar PV modules, and India's new DESH legislation regulating SEZs. The section also investigates the potential impact on the Indian economy of the merger of HDFC Bank and HDFC Limited and implementing a common charger policy. Further, it discusses the fundamental argument that "the government has no business running businesses" in the Indian context. The section also highlights the government's decision to establish the new Accelerated Corporate Exit Processing Centre (C-PACE) and the move to decriminalise provisions across ministries under ease of business reforms.

The final section of the dossier contains comments on the Delhi government's failed liquor policy, as well as MSMEs associations filing a complaint with the RBI about the loan foreclosure fee. The section also examines the government's new aviation policy, the UDAN scheme and the need for good sand mining governance.

We hope you enjoy reading these stories as much as we did, reporting them.

Cheers!

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A. Trade Policies

Government to Reduce Export Duties on Steel Products

The Indian government is considering lowering steel tariffs in light of declining prices and increased domestic supply. After receiving numerous requests for the same from the industry, the Steel Ministry proposes to reduce export duties.

To reduce inflation and rein in rising domestic prices, the government imposed export duties on various steel products in 2022, including pig iron, flat-rolled carbon and stainless steel products, bars, rods, and non-alloyed steel. It also increased duties on iron ore pellets, as well as on iron ore and concentrates, driving up steel prices on the international market.

The industry argues that the conflict between Ukraine and Russia has given Indian steelmakers access to European markets, but duties have made Indian steel uncompetitive. The government and the Finance Minister have received representation for removing the steel export duty from the Engineering Export Promotion Council as the domestic industry.[1]

Food for Thought

In May 2022, the Indian government imposed a 15 percent export duty on several flat-rolled stainless-steel products, bars and rods, flat-rolled iron products, and pig iron. A 50 percent duty on iron ore and concentrates and a 45 percent duty on iron ore pellets were imposed to keep domestic prices low. In addition, the government has waived import taxes on some raw materials used in steel production, including ferronickel and coking coal. The government took these actions to boost domestic availability, rein in inflation, and stabilise coal prices, thereby addressing the worries of Indian steelmakers struggling with high input costs.[2]

The Indian steel industry is experiencing a supply excess, causing prices to fall. This excess supply coincides with forecasted weak demand in the domestic market; due to the onset of monsoon season, which tends to slow down infrastructure activities in the country.[3] *Furthermore, the imposition of excessive export duties on steel products makes them expensive and uncompetitive in the global market, particularly when compared to China.*

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1 Centre mulls slashing steel export duty | Mint

2 Export duties on steel likely to go; levy on iron ore may be increased | The Financial Express

3 Steel prices crash as export duty weigh heavy, demand dries-up - The Hindu Business Line

Since the duty was imposed, production has remained stagnant while mills have accumulated inventory.[4]

So, with a depressed domestic market, high export duties, and a constant rate of production, industries are having difficulty accessing the international market to sell their products, reduce inventory, and balance the demand-supply curve. Additionally, there are worries that higher export taxes will deter potential investors and harm capacity expansion projects financed by the production-linked incentive (PLI) programme.[5]

Following several industry-aligned representations, the Steel Ministry has approached the Finance Ministry to discuss lifting or reducing export duty. The government is attempting to gather more information about the steel market to make an informed decision about whether the duty should be maintained to support domestic availability. The government is expected to reduce or eliminate recently imposed export taxes. It may opt for a phased withdrawal of the duty structure on steel products to analyse its implications on the market.[6] *It is important to consider that any inaction or delay in making a decision will negatively impact overall economic activity, and India will lose out on potential export opportunities.*

RBI Promotes the Rupee Usage in the Global Trade System

The RBI has unveiled an international trade rupee settlement system. A new mechanism has been established to settle rupee-based trade transactions. The move by the central bank is expected to boost global trade in India and support rising global interest in the rupee. The significant move comes amid mounting pressure on the Indian rupee in the aftermath of Russia's invasion of Ukraine.

Furthermore, the move will allow India to circumvent certain orders prohibiting using a global currency, such as the US dollar, in trade with specific countries. For example, following Russia's attack on Ukraine, several countries imposed sanctions on the former, with the United States cutting off Russia's access to the dollar.[7]

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4 Steel export duty rollback on the agenda - Telegraph India

5 *Ibid*

6 Supra Note 4

7 How RBI's Rupee Settlement System will promote India's global trade I Explained | Hindustan Times

Food for Thought

The RBI issued a circular on July 11, 2022, stating that it had decided "to put in place an additional arrangement for invoicing, payment, and settlement of exports/imports in INR." Banks in India would open Vostro accounts of correspondent banks of the partner country to settle trade transactions with any country.

A Vostro account is one that a correspondent bank holds on behalf of another; for example, SBI in India holds an HSBC Vostro account. Indian importers can deposit INR into these accounts to pay for their purchases, and these import earnings can then be used to pay Indian exporters in INR. Banks from partner countries may approach Authorised Dealer (AD) banks in India to open Special INR Vostro accounts. The move to allow trade settlements between India and other countries in rupees was expected to benefit primarily trading with Russia. Still, it was also expected to help curb dollar outflows and slow rupee depreciation to a limited extent. [8]

The policy decision to internationalise the Indian Rupee will significantly benefit in lowering transaction costs of cross-border trade and investment operations by reducing exchange rate risk. Additionally, this will encourage the growth of financial markets. International evidence suggests that currency internationalisation in trade settlement has a significant and advantageous impact on the growth of a financial market, as noted by an ADB Study (2014).

This will also help to develop financial markets as international evidence suggests that currency internationalisation in trade settlement has a significant and positive effect on the development of a financial market (according to an ADB Study (2014)). Considering India has a significant trade deficit, using the rupee for major imports is expected to help reduce this deficit. The primary driver of this increased deficit for India is imports of essential commodities, particularly crude oil. Furthermore, the implementation of this policy will aid in the alleviation of the 'original sin,' which is the inability of countries to borrow abroad in their currency and is at the root of currency crises and financial fragility.[9]

However, the Indian rupee being recognised and accepted as a global currency calls for full currency convertibility and an open trade regime. The government must implement

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8 Govt's push for international trade in rupee: why and how | Explained News,The Indian Express

9 Global Settlement: Does the Rupee Have the Potential to Dethrone the Dollar?

adequate reforms to develop and strengthen financial markets that are open to both residents and non-residents and improve liquidity in financial markets.[10]

Furthermore, given that the Indian government is known for persistent meddling in the foreign exchange market and that the Indian rupee is trading at an all-time low against the dollar, it will be difficult for India to make a case for itself as a reliable currency in the international trade system.[11] *There have also been reports that banks are hesitant to implement this mechanism, with only a few banks opening Vostro accounts in Russian banks. Banks want the RBI and the government to provide clear guidance to protect them from any US government action.*[12]

B. Policies Promoting Competition

India's New Policy Framework to become Globally Competitive[13]

The government has introduced the new National Logistics Policy (NLP), designed to bring logistical efficiency to the economy and reduce the cost of freight movement from the current 13-14 percent to the global standard of 5-8 percent of the gross domestic product (GDP). India Inc, particularly the logistics industry, has hailed the launch of the NLP by the government.

It was a much-awaited policy as it considers the interest of all stakeholders across the vast and fragmented logistics landscape. The framework emphasises streamlining processes for seamless coordination, reduction in costs, pushing employment generation and skilling the workforce.[14]

The PM Gati Shakti National Master Plan will support the National Logistics Policy. A new digital platform, Ease of Logistics Services (ELOG), has also been launched, through which industry associations can take up any issues on operations and performance with the government.

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10 *Ibid*

11 The Indian rupee is not ready for the world stage - Nikkei Asia

12 Re vostro accounts: Banks move RBI, flag grey areas - The Economic Times

13 National Logistics Policy: India's new policy framework to become glohttps://thewire.in/economy/global-settlement-does-the-rupee-have-the-potential-to-dethrone-the-dollarbally competitive - The Economic Times

14 Need to reduce logistics cost in India to boost growth: Nitin Gadkari | Business Standard News

Food for Thought

The NLP was unveiled as the country's first holistic approach for the US$150bn logistics sector. An efficient logistics ecosystem is a foundation for improving competitiveness and sustainable economic growth, and the policy aims for this with an integrated and tech-enabled approach. With initiatives like Ease of Logistics (ELOG) and Unified Logistics Interface Platform (ULIP), shipping and transportation will become more structured, and the movement of parcels will become seamless.[15]

ULIP will bring all the digital services related to the transportation sector into a single portal, freeing the exporters from many long and cumbersome processes. Through the ELOG portal, industry associations can directly take up any such matters causing problems in their operations and performance with government agencies. A complete system has also been put in place for the speedy resolution of such cases.[16]

NLP has been touted to bring in a brand-new transformative approach to the country's logistics ecosystem, leading to increased efficiency across supply chains. It is expected that the new scheme will facilitate a modal shift in logistics, from the current over-dependence on roads (over 60 percent share currently as against 25 percent globally) to railways (30 percent currently vis-à-vis around 60 percent globally) and waterways that currently has only 5 percent share in the modal mix. Industry experts have also been quoted as saying that the policy will help them in driving ESG goals.[17]

The integrated approach and digitisation will help in pivoting SMEs and MSMEs in the direction of accelerated growth. The policy will increase the competitiveness of domestic goods in the global market, thereby strengthening exports and creating employment opportunities.

Centre Approves ₹19,500 crore PLI for Solar PV Modules[18]

The Central Government has allocated ₹19,500 crores for the domestic manufacture of solar photovoltaic (PV) modules under the production-linked incentive (PLI) scheme. This move could lead to savings of ₹1.37tn in imports and is expected to bring in an

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15 PM launches National Logistics Policy; aim to bring cost to single-digit | Business Standard News

16 Govt notifies logistics policy, infra ministries to devise plans in 6 mths | Business Standard News

17 National Logistics Policy: India's new policy framework to become globally competitive - The Economic Times

18 Centre approves ₹19,500 cr PLI for solar PV modules | Mint

investment of ₹94,000 crores and give direct employment to 195,000 people and indirect employment to another 700,000.

Notably, foreign companies will be allowed to apply for the scheme and approvals will follow foreign direct investment (FDI) norms. This is the second tranche of the PLI. The first tranche of ₹4,500 crore was approved last year and the bids were awarded to Reliance Industries Ltd, Adani Group and Sri Shirdi Sai Group.

Food for Thought

The allotment for domestic manufacture of solar PV modules under the PLI scheme aims to push India's energy transition toward renewable sources. The PLI scheme will be adequate to meet the domestic demand for solar modules and will also help boost exports. The PLI will help achieve a "giga watt (GW) scale" manufacturing capacity in high-efficiency solar PV modules. It will be disbursed over five years post the commissioning of solar PV manufacturing plants.

The announcement of this second tranche will also help India's influence in the upcoming 5th General Assembly of the International Solar Alliance (ISA), projecting India as a strategic partner in the energy transition.

It is estimated that about 65,000 MW per annum manufacturing capacity of fully and partially integrated solar PV modules would be installed. The move is towards the targeted 500 GW installed renewable energy capacity by 2030. Moreover, it will ensure the supply-chain resilience of Indian firms in the global market and make the MSMEs in the sector competent even in the global market. Thus, it is a step towards fostering competition in the dynamic renewable energy sector.

HDFC Bank-HDFC Merger to Aid Credit Growth in India[19]

The anti-trust regulator in India, the Competition Commission of India (CCI) approved the merger proposal of HDFC Bank and its parent HDFC Ltd. This will be a mega-merger between the country's largest housing finance company, HDFC Limited, with the country's largest private sector bank by balance sheet size, HDFC Bank.

Post the merger, the combined balance sheet will be ₹17.87 lakh crore and the net worth of the combined entity will be ₹3.3 lakh crore as of December 2021. As of April 01, 2022, the market capitalisation of HDFC Bank was ₹8.36 lakh crore (US$110bn) and

[19] HDFC Bank-HDFC merger will aid credit growth in India - The Economic Times

that of HDFC was ₹4.46 lakh crore (US$59bn). Once completed, the amalgamation will create India's biggest financial behemoth by market capitalisation.[20]

The merger is expected to be completed by the second or third quarter of FY24. After completing the deal with all regulatory approvals, HDFC Bank will be 100 per cent owned by public shareholders and existing shareholders of HDFC will own 41 per cent of the bank. HDFC shareholders will get 42 shares of HDFC Bank for every 25 shares held.

Food for Thought

The merger of HDFC with HDFC Bank will create a large balance sheet that can sustain large exposures and result in higher credit growth for the Indian economy. The industry representatives also emphasise that the strong distribution network will help grow the housing finance business. Housing finance will be a huge growth opportunity and one of the key drivers of India's GDP over the next decade.

The merger will provide the advantage of lower cost of funds and an extensive distribution network to capitalise on this growth opportunity. The parent-subsidiary merger is the biggest transaction in India's corporate history. Such deals beyond a certain threshold require approval from the competition regulator (CCI), which keeps a tab on unfair business practices in the marketplace.[21]

A Common Charger Policy for India

On August 17, 2022, the Government of India convened a meeting with concerned stakeholders to discuss the feasibility of adopting a common charger for mobile phones and other portable electronic devices. Consumer Affairs Secretary presided over the meeting, attended by manufacturers of portable electronic devices such as mobile phones and laptop computers from across India.[22]

The meeting also included representatives from sector-specific associations, industry bodies like CII and FICCI, and academic institutions such as IIT Delhi and IIT BHU. The meeting's goal was to try to understand from stakeholders the implications of the

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20 CCI nod for merger of HDFC Bank, HDFC Ltd. - The Hindu

21 HDFC Bank-HDFC merger update: Private sector bank says no need to pay off parent firm's liabilities | Zee Business

22 CCI approves merger of HDFC with HDFC Bank - The Hindu BusinessLine

policy of adopting a common charger in India, as well as the associated challenges and necessary adjustments to be made for the successful implementation of the policy.[23]

Food for Thought

The Indian government is considering implementing a common charger policy along the lines of the European Union's (EU) recently passed common charger law. According to a PTI report, the Indian government will soon form expert groups to investigate the adoption of universal chargers for mobile phones and other portable electronic devices. Adopting a common charger policy will help address the added burden on the Indian consumer of purchasing a separate charger every time they purchase a new device due to incompatibility of the existing charger's ports.

This, in turn, will considerably reduce country's e-waste production, assisting India in meeting its NDCs. The policy is a step toward achieving Indian Prime's vision of LiFE, or Lifestyle for the Environment, which he announced at the United Nations Climate Change Conference in Glasgow in November 2021.[24]

Environment sustainability has become a popular topic recently, with governments, private companies, and individuals beginning to assess their carbon footprint globally. Brands like Samsung do not include chargers and cables with their phones, and many others follow in their footsteps. Chargers and charging cables from the original equipment manufacturer are prohibitively expensive.

The India Cellular and Electronics Association expressed concern to the government that introducing a common charger for mobile phones would raise the prices of low-end devices. Several entry-level phones, feature phones, smartphones, and other devices in India still use the micro-USB charging cable. So switching to a universal type C USB can increase the cost, making it a financial burden for many.[25]

During the meeting, most stakeholders agreed that there is a need to assess the impact of the common charger policy because India has a large charger manufacturing base and aspires to be a world leader in the sector.[26]

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23 Common charger for all electronic devices in India: Govt to meet stakeholders | Mint

24 Common charger for all devices: What govt wants, what it means for industry | Explained News,The Indian Express

25 How will 'one charger for all' affect you and device makers? | Business Standard News

26 Common charger for all mobile phones in India? Govt to setup expert team | India Today

Countries worldwide are potentially switching to standard chargers, which will impact export potential. Further adopting such policies in the domestic market without due consideration will result in lower domestic demand, negatively impacting the promising industry. This is why several industry organisations have urged the Consumer Affairs Ministry not to implement the common-charger policy until we can assess the EU's experience of the same. Before taking any action at home, they want a closer look at the regulation's feasibility and called for extensive market and consumer perspective research.

Some have also argued that charging standards for devices like laptops are determined by their power requirements, and thus laptops are served by multiple charging ports. For the same reason, they have expressed their strong opposition to the policy of using a single charger for all devices.[27]

Considering all of the concerns, the government decided to form three expert groups to investigate the adoption of a universal charger for all portable electronic devices such as mobile phones, tablets, and laptop computers. In the coming months, the expert groups will submit detailed reports on the implications of a common charging port, USB-C type, and its associated challenges for each category of smartphones, feature phones, and laptops.

Government Should not be Running a Business

In a recent interview, the chairman of Maruti Suzuki India, R. C. Bhargava, addressed the debatable issue of whether or not governments should be running businesses. He has a steadfast belief that the government should not run businesses, based on his many years of experience and observation of the transformation of the once-government-owned Maruti Udyog Ltd into Maruti Suzuki India Ltd (with a majority stake of the Japanese car company).

He points out that because public sector businesses are inefficient and do not produce enough income to support their expansion, they constantly require assistance from the government for their capital expenditures. He added that industrial growth must come from internal resources and that a company must create wealth rather than

[27] Why Government Is Pushing For Common Chargers Across All Portable Electronic Devices

erode wealth. A country with many such government-funded public-sector companies will suffer because you are using taxpayer funds to support ineffective businesses.[28]

Food for Thought

The capitalist business paradigm forbids government involvement in business ownership and management. According to the capitalist model, government involvement in the ownership and operation of a business is "a recipe for failure". The World Bank and the International Monetary Fund (IMF) have recommended a strict private sector-driven economy for Africa's socioeconomic development strategy. They argue against direct government involvement in businesses as it impedes development. These agencies' arguments are based on well-collated empirical evidence of the mass failure of State-Owned Enterprises (SoEs) in most African economies.[29]

However, the concept of government business failure is not limited to a stated few and can be viewed as a global phenomenon. Maruti Suzuki India ltd. Chairman, in an interview, pointed out that the failure of the public sector is not unique to India or a few limited economies but a scenario elsewhere, such as Russia, the UK, France and Japan etc.[30]

Business is the production of economic goods and services. The government is not very efficient as a producer of goods and services. Governments are the best at formulating laws, enforcing regulations, and preserving law and order.[31] *Public Sector Undertakings (PSUs) have to engage in numerous non-value-added activities that interfere with and increase the costs of their operations.*[32]

This is why, in the economic sense, it is widely assumed that the government has no explicit involvement in the business sector other than providing a legal and regulatory framework and creating an enabling environment for private ownership of the corporate world.

In recent years, the Indian government has decided to disinvest many major PSUs except those from strategic sectors. In support of the fundamental premise, the Indian Prime

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28 Government should not be running businesses; can't have industrial growth from taxation: Maruti chairman - Times of India

29 (PDF) Government Has No Business Being in Business: Evidence to the Contrary

30 Public sector firms can't grow from taxation, need govt help: Maruti Chairman | Mint

31 Productivity Matters: Why Governments Should Not Be In Business

32 Supra Note 30

Minister has stated that while it is the government's responsibility to promote enterprises and businesses, owning and running firms is not essential. The budgetary aid offered to ailing public sector units burdens the economy, and these should not be run merely for the reason of legacy.[33]

The Central Government's National Monetisation Pipeline Scheme, 2022-2025, aims to monetise many under-utilised assets to raise funds for basic operations and development programmes.

India's New Legislation Regulating its SEZs

To update the Special Economic Zone (SEZ) Act of 2005, the Indian government introduced the Development of Enterprise and Service Hubs (DESH) bill during the monsoon session of Parliament in 2022. The proposed DESH bill aims to rekindle interest in India's SEZs and more inclusive economic hubs.

While discussing the new legislation, India's Finance Minister stated three goals: to (i) cover all major existing and new industrial enclaves to best utilise available infrastructure, (ii) make it possible for the states to participate in the hub development, and (iii) improve export competitiveness.

The new law aims to make the regulations governing special economic zones more WTO-compliant. This revival will also help improve India's SEZs' global competitiveness and position India as a desirable manufacturing destination.[34]

Food for Thought

India aspires to be a manufacturing powerhouse, but this is being jeopardised by the failure of its SEZs to meet expectations. The competitive advantage of India's SEZs has been eroding, and several issues have arisen in their operations. The Ministry of Commerce and Industry, Government of India, constituted the Baba Kalyani Committee to address the shortcomings in the country's SEZ model. The Committee was tasked with investigating India's existing SEZ structure and developing strategic policy measures to capitalise on global growth opportunities in the manufacturing and service sectors.

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33 Government has no business to be in business, says PM Modi - BusinessToday

34 DESH Bill: A change only in name? | The Financial Express

Adopting the recommendations of the Baba Kalyani Committee report, the government planned to present the DESH Bill during the ongoing monsoon session of Parliament.[35]

The government wants to expand beyond export-oriented manufacturing and focus on broad-based factors like increasing economic activity, creating jobs, and integrating multiple industrial centres. This is understandable given that, as the geopolitical struggle between the United States and China escalates, global investors are anticipated to seek more lucrative and stable alternatives.

Many Asian nations are competing for this investment and bolstering their SEZs to attract it. Bangladesh, for example, provides SEZs with exemptions from 16 national laws, 10-year tax breaks, and a well-crafted one-stop shop housed under the Bangladesh Economic Zone Authority, an independent agency led by the prime minister herself. As a result, India's SEZs will compete with SEZs in other nations.[36]

In recent years, the business environment in India has changed dramatically. With several disruptive events hastening global supply chain shifts, investment-intensive manufacturing capabilities in new sectors are becoming increasingly important. The current SEZ regime has benefited the Indian IT industry in the service sector. However, as the IT/ITES company's business and delivery models evolve, they necessitate readjustments. Further, the manufacturing sector has not been able to leverage SEZs to deliver the expected level of export-based economic benefit.[37]

It is also known that despite substantial improvements in the ease of doing business rankings, India is still a difficult place to do business. Between 2014-2019, around 2,783 foreign businesses closed their operations in India for various reasons. According to the US State Department, India's fundamental problem has been its inability to simplify its regulatory environment, which is marked by complicated rules and regulations, bureaucratic interference, and corruption at all levels.[38]

The government's new Bill intends to address institutions that stifle economic progress and assure flexible regulatory frameworks, as well as streamlined administrative procedures and methods for conducting business.

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35 *Ibid*

36 Supra Note 34

37 The DESH Bill 2022 has the Potential to Change Our "Desh" - Fox Mandal

38 Supra Note 36

The following are some salient features that are expected to be included in the new legislation[39]:

- *Unlike in the SEZ ecosystem, the government has proposed establishing development hubs where the focus is not solely on exports and units that can produce for domestic and international markets.*
- *The proposed Development of Enterprise and Service Hubs (DESH) Bill will likely be amended to include minimum employment and production levels requirements.*
- *The government may levy an equalisation fee to bring products or services from development hubs into the domestic market on par with local suppliers.*
- *In contrast to current law, units in development hubs will be allowed to sell goods in the domestic market, with customs duty paid only on imported raw materials and not on the finished good. This was a significant deterrent in the current SEZ regime.*
- *The performance will now be assessed using net positive growth criteria rather than rules based on net foreign exchange and direct tax incentives.*
- *The minimum land condition under the proposed Bill is 50 hectares of contiguous land, the same as in the case of the SEZs Act. Still, the new legislation would allow services development hubs to de-notify floor-wise.*
- *The Bill also proposes to provide tax benefits and other concessions. According to reports, the draught bill would freeze the corporation tax rate at a favourable 15 percent for Greenfield and brownfield units in development hubs.*
- *The Bill also aims to integrate current industrial parks like food and textile by repurposing them as development hubs.*
- *The SEZ Act of 2005 promised a single-window mechanism to address these institutional challenges, but it fell short. In addition, the DESH Bill proposes a more functional one-stop shop for both central and state-level clearances.*
- *Additionally, the Board of Approval institution in the pre-existing SEZs Act, 2005 has been replaced by the Integrated Development Hub Board; the Unit Approval*

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[39] On DESH Bill, new conditions likely to apply | Mint
html; DESH A Road Map To Swadesi

Committees have been replaced by State Boards and Development Commissioners by Hub Directors.

This new law calls for coordinated action from the Government of India, state governments, industry associations, investors, and other stakeholders. It also brings a newer approach to addressing the teething problems that have plagued India's SEZs. If properly implemented, the DESH legislation has the potential to be a game changer for India, contributing significantly to the country's potential GDP growth.

Centre to Speed up a Corporate Exit in India

In the Union Budget 2022-2023, the Government of India proposed establishing the Centre for Processing Accelerated Corporate Exit (C-PACE) for the speedy winding-up of companies. The government is looking to incorporate several information-based systems even to accelerate new companies' registration.

The new C-PACE will be established with the process re-engineering and facilitate reducing the time taken in winding up companies from the current two years to less than six months. In her budget speech, the Finance Minister also proposed to carry out necessary amendments in the Insolvency & Bankruptcy Code to enhance the efficacy of the resolution process and facilitate cross-border insolvency resolution.[40]

Food for Thought

To improve the overall regulatory framework, the government plans to establish a national centre for quick, faceless decision-making on requests from companies to wind up operations. The Corporate Affairs Ministry is launching a national centre for accelerated corporate exit (C-PACE). An IT infrastructure will support C-PACE to enable national-level decision-making without individual field officer discretion. Businesses will benefit from the Centre by having an easier time winding up since they will not need to visit the registrar of companies of that region. Instead, they can submit an online request demonstrating that they have no liabilities or enough assets to cover or exceed liabilities.[41]

The government believes that the ease of exit for businesses that have failed to take off or want to close operations for various economic reasons will be a key consideration for

[40] Closure process to get shorter - The Hindu

[41] Centre for corporate exits being set up | Mint

investors when making investment decisions. Some companies that have no liabilities may wish to dissolve. Ease of doing business includes the ease of entering and doing business and the ease of exiting. The proposed national centre will randomly assign requests from businesses across the country to different officers to prevent any irregularities in company winding up.[42]

A voluntary company closure differs from a company being wound up by the government for failing to file annual reports for two consecutive years. In the current system, businesses can fill out voluntary closure through the Registrar of Companies (RoC) under Section 248 of the Companies Act of 2013 or the IBC. The first method, filling out the voluntary closure form through the Registrar of Companies, is the most popular.[43]

The new voluntary closure system proposed by C-PACE will streamline the process, ensure the predictability of action, and reduce the cost of issuing advertisements about such business closures at the national level.

The Indian Finance Minister, to further improve India's winding up procedure, emphasised the need for more global collaboration to promote cross-border bankruptcy. The Ministry of Corporate Affairs (MCA) is already devising a framework for cross-border insolvency, allowing creditors to claim the assets of defaulters located overseas and vice versa. Furthermore, MCA is also developing a single portal that will integrate each step of the liquidation process, from the application by businesses to the processing by all government agencies.[44]

Law to 'Decriminalise' Provisions Across Ministries for Ease of Business[45]

The Union Government is close to finalising a new law to back 'Ease of Doing Business and Ease of Living.' The new law is aimed at 'decriminalising' imprisonment provisions for minor economic offences/ trivial procedural violations/non-compliance in more than 30 business-related laws administered by various union ministries from commerce to environment, telecom, road transport & highways, among others.

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42 *Ibid*

43 Budget proposes to accelerate corporate exits by reducing timeline - The Economic Times

44 *Ibid*

45 https://economictimes.indiatimes.com/news/economy/policy/law-to-decriminalise-provisions-across-ministries-for-ease-of-business/articleshow/93486893.cms

Decriminalising of provisions under the Indian Telegraph Act, Indian Wireless Telegraphy Act, Air (Prevention and Control of Pollution) Act, 1981, The Water (Prevention and Control of Pollution) Act, Legal Metrology Act, the Trade Marks Act, among others, are proposed to be subsumed through amendments under the proposed new legislation.

Food for Thought

The Department of Promotion of Internal Industrial Trade (DPIIT) is piloting the Bill, which would seek to achieve the objective of "to eliminate constant fear of being prosecuted for trivial defaults while retaining strict criminal enforcement for serious fraudulent offences that jeopardise and prejudice public interest."

Over 80 provisions have been identified across central laws and states which require decriminalisation for trivial defaults. Over 850 provisions are under examination for possible decriminalisation. While ministries have been trying for amendments to 'decriminalise' in their relevant laws through executive orders, the common Bill will go a step ahead.

The proposed legislation will also further the larger idea of facilitating 'Ease of Doing Business' and the 'Ease of Living' to "simplify, rationalise, digitise and decriminalise" government-to-business and government-to-citizen interfaces across ministries and reduce "compliance burden". Overall, more than 33,000 compliances have been simplified, rationalised, digitised or decriminalised by the central ministries/departments and states/union territories for "ease of doing business".

C. Policies Inhibiting Competition

Delhi Reverting to its Old Liquor Policy[46]

The Excise Policy 2021-22 of the Delhi government, which brought in big discounts for consumers, was scrapped on July 31 amid allegations of corruption and irregularities in the drafting and implementation of the policy. After scrapping the new policy, the Delhi government decided to bring back the 'old excise regime' in force before November 17, 2021. Therefore, from September 01, 2022, the old excise regime came into effect again and will continue for the next six months till a new policy replaces it for the next financial year.

[46] Delhi reverting to its old liquor policy from Sept 1

Food for Thought

The new liquor policy was proposed with ambitious goals. Primarily, the policy aimed to crack down on liquor mafias in the capital, very much in line with the Aam Aadmi Party's anti-corruption narrative. Additionally, the new policy also aimed to reform the culture in Delhi by reforming the liquor stores to sleek joints, improving customer experience and increasing government revenue. For this, Delhi was divided into 30 zones with 27 liquor vends, a minimum of five super premium liquor vendors throughout the city and a minimum carpet area of 2,500 square feet. The main component of the policy was the Delhi government completely pulling back and allowing private players to take up the space in the liquor business. A total of 849 private vendors were issued licences under this new policy following a bidding process initiated by the Excise Department headed by Delhi's Deputy CM Manish Sisodia.[47]

The policy also promised several major changes to how liquor was bought and consumed in Delhi, such as lowering the drinking age from 25 to 21 and reducing the number of dry days down to three. For the first time, the policy also allowed liquor vendors to sell alcohol at discounted rates to their customers. As an effect, the government stores sold off old stocks before the roll-out of the policy and offered significant discounts and offers.[48]

Initially, the policy helped the government increase revenue by 27 percent to Rs 8,900 crores and removed the dominance of the liquor mafia. However, there were many issues with the Policy, such as location of vends near schools, religious places of new shops, violations related to non-conforming areas where certain businesses such as liquor retail are not allowed and other issues related to discounts and schemes such as 1+1. Moreover, in terms of surrendering of licence, only 468 of the around 850 liquor vends could actually open.[49]

47 Explained: All about Delhi reverting to its old liquor policy from Sept 1

48 Explained: What is the controversy surrounding Delhi government's liquor policy?

49 EXPLAINED | How the controversy over the Delhi Liquor Policy unfolded.

MSMEs Move RBI over Loan Foreclosure Fees[50]

The Federation of Indian Small and Medium Enterprises (FISME), an association of small enterprises, approached the RBI to seek relief on the high foreclosure and non-compliance charges levied by banks at a time when wholesale price inflation in the economy is causing pressure on working capital.

In a letter to RBI, FISME alleged that top private banks of the country, namely, HDFC, Axis and Kotak been resorting to foreclosure and non-compliance charges as a punishment for MSME borrowers looking for better terms and credit facilities elsewhere. This means that MSMEs are subjected to harsh terms and penalties when moving to a different bank or financial institution.

The banking ombudsman also did not deliver justice to the aggrieved MSMEs. The number of the affected enterprises is 100, who have complained about these charges. These charges became a tool to extract higher interest rates, as in one case, INR 14 lakh and INR 54 lakh were levied as foreclosure and non-compliance charges, respectively, for a credit arrangement of 3.5 crores.

Food for Thought

Foreclosure charges are levied when a customer seeks to close a loan before its tenure ends, either because of dissatisfaction with services or high-interest rates. Banks impose a 2-4 percent penalty as charges to discourage customers from leaving. Axis bank, in one case, sought INR 80 lakh as charges from Jaipur-based small enterprises when they shifted their banks. Services were negligent as the firm had asked for enhancement of limits for funding new projects to meet export commitments for land allotted by the state, as per information from FISME. Another instance has been quoted wherein Kotak Mahindra Bank levied INR 15.34 lakh as charges from an SME based in Jodhpur. According to FISME, the bank alleged a disparity in financial ratios and charged the penalty with retrospective effect. [51]

The Banking ombudsman did not come to the aid of these MSMEs, as per the allegations. It disposed of the complaints as closed, observed no deficiency in service, and considered the complaint adequately settled by the bank. The MSMEs and FISMEs were barred from appealing the decisions. Such practice disincentives business and especially hurts MSMEs

50 MSMEs move RBI over loan foreclosure fees | Mint

51 *Ibid*

and SMEs. With additional burdens on the smaller companies in the sector, fair competition is impacted adversely.

The Highs and Lows of the Udan Scheme[52]

The regional connectivity scheme launched by the government termed the "Ude Desh ka Aam Nagrik" scheme was completed five years ago. The scheme offered incentives to consumers, airlines and airports to boost air traffic on regional routes that had never been on the map or were less used. The government invited proposals for the scheme's next phase last month and said the cumulative number of passengers under Udan had crossed 10 million.[53]

Other than the pandemic-induced drop in 2020-21, Udan numbers have been progressively increasing. The 2021-22 figure was 3.3 million passengers, about two percent of the total domestic passengers for the financial year. The importance of that small share lies in the network effects it can enable.

Airlines that selected routes underneath Udan have traced completely different flight paths. To one degree, they are often divided into massive, nationwide airways and small, regional airways. While the drop-off on Udan routes is throughout the board, massive operators have held on higher. Among them, SpiceJet, battling a monetary crunch, has seen more route drop-offs than IndiGo and Alliance Air. Routes plied by IndiGo have the best continuity, with 71 of its designated 85 routes registering passenger motion in June.

Food for Thought

The UDAN scheme was well conceived. For customers, it provided connectivity to extra-regional locations at cheap fares. For airways, it provided extra routes and higher community potentialities. Airports were the third node, the scheme aimed to place extra airports on the aviation map. It added 68 airports, heliports and water dromes, and 19 under-served ones (like Belgaum, Gwalior, Hubli, Kannur, Puducherry and Prayagraj) and the remaining being unserved ones. As half of a ₹4,500-crore plan to enhance such airports, the federal government had spent ₹2,600 crores until June 2022.[54]

In the way the scheme was conceived, routes had been pairings between two small airports in the identical area (for instance, Bikaner-Jaipur) or between a big airport and

52 The highs and lows of the Udan scheme

53 *Ibid*

54 The advances and retreats of Centre's Udan scheme, in charts » The Nations : News, Views, Politics, Sports

a small one (Bikaner-Delhi). Such a community sample was seen enabling an enterprise mannequin for small, regional airways. But it cannot be said that the scheme provided enhanced competition in the aviation sector. Other than FlyBig and Star Air, some have shut down (Deccan Air) and some like Air Taxi and Pawan Hans present zero passengers for 2022.[55]

Why Unlawful Sand Mining in India Needs Good Governance[56]

Sand, after air and water, is the most-used natural resource. It is used more than oil. It is a component in manufacturing food, wine, toothpaste, glass, microprocessors, paper, paint, plastics and beauty care products. It is used in the construction sector as well. The need for sand as a resource has thus led to a proliferation of sand mining activities and businesses. Rapid urbanisation has been a major driver of this growth, and major environmental implications accompany the growth of sand mining. As sand mining is a lucrative business, over the years, illegal sand mining has become a major issue in India.

To address this unregulated extraction of sand, the Union Ministry of mines prepared a uniform set of frameworks that the states can follow as per their suitability and applicability. Under the framework, suggestions for various elements of the process chains, from the objectives of the states, demand-supply situation, operations, monitoring, transportation and sales of sand, etc. were provided.

The Union Environment Ministry also released guidelines in 2016,[57] emphasising monitoring and recommending alternative sources of extraction of sand and gravel. Yet, several cases against illegal sand mining are pending with the National Green Tribunal (NGT). The present regulatory system has not been effective and needs a revision for effective monitoring of sand and rock mining.

Food for Thought

The UN Environment Programme (UNEP) published a report on April 26[58] *highlighting the dire issue of rapid sand extraction. The report has ten specific recommendations,*

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55 *Ibid*

56 https://www.downtoearth.org.in/blog/mining/why-unlawful-sand-mining-in-india-needs-good-governance-78773

57 http://environmentclearance.nic.in/writereaddata/SandMiningManagementGuidelines2016.pdf

58 https://www.unep.org/resources/report/sand-and-sustainability-10-strategic-recommendations-avert-crisis

including classifying sand as a 'strategic resource', mapping and monitoring sand resources and adopting laws and policies to counter sand greed.

These recommendations are extremely relevant to the context of India, as sand extraction is an environmental concern which destabilises river beds, making them flood-prone. Moreover, illegal sand mining has led to the creation of mafias (that control the extraction of sand), due to which many workers, activists, lawyers and journalists have been murdered.[59]

This applies to India, where sand extraction is a major environmental problem. Both legal and illegal sand mining destabilises river banks and renders them more prone to floods. The demand for sand is driven by rapid urbanisation and a construction boom.

The government guidelines have not been implemented and enforced properly. A strong political will is required for this critical business to be sustainable," said Sumaira Abudlali, Founder of Awaaz Foundation, a non-profit.[60]

Strong governance is needed to address the issue, which affects the environment, environment and market competition among industries dependent on the sand as a crucial manufacturing component. India is progressing on the technological front, and a lot of progress has taken place in remote monitoring as well as surveillance in the field of mining. Hence, it is only reasonable to use technological progression to effectively check mining activities, especially illegal sand mining, in the country.

DISCLAIMER:

This information has been collected through secondary research and CUTS C-CIER is not responsible for any errors in the same. The press clippings used here have been suitably adapted/ summarised to convey their essence to the reader without any distortion of content.

59 https://www.downtoearth.org.in/news/governance/bihar-advocate-alleges-threat-to-life-from-sand-mafia-seeks-protection-78624; Unnao: Journalist Who Reported on 'Sand Mafia' Killed

60 https://www.downtoearth.org.in/blog/mining/why-unlawful-sand-mining-in-india-needs-good-governance-78773