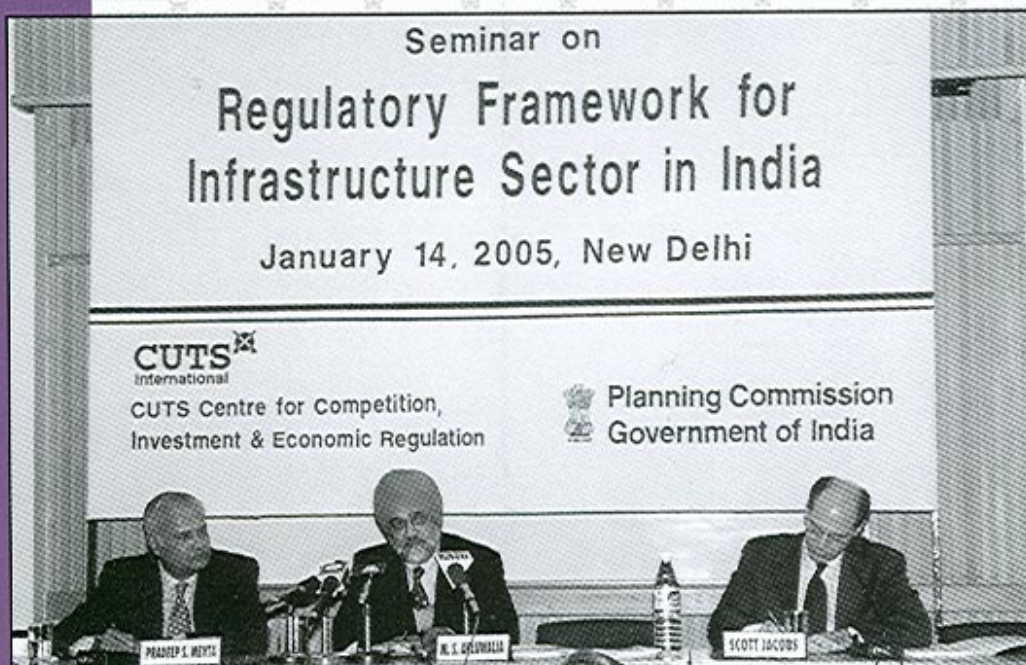


CUTS Centre for Competition,
Investment & Economic Regulation
Seminar Report

Regulatory Framework for Infrastructure Sector in India



Montek S. Ahluwalia, Deputy Chairman, Planning Commission of India speaking at the seminar, with Scott Jacobs sitting on his left and Pradeep S. Mehta on right.

CUTS Centre for Competition,
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Regulatory Framework for Infrastructure Sector in India

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Regulatory Framework for Infrastructure Sector in India

This report is the outcome of the seminar that was organised by CUTS-Centre for Competition, Investment & Economic Regulation (CUTS-C-CIER), and the Planning Commission of India, on January 14, 2005 at New Delhi. The objective of the seminar was to contribute to the Planning Commission's on going work towards developing a regulatory framework for infrastructure sector in India.

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Preface

Infrastructure is one of the key drivers of socio-economic growth. The Central Government has explicitly recognised its importance under the National Common Minimum Programme (NCMP) and resolved to facilitate the creation of a high quality infrastructure in the country. Similarly, the Prime Minister has also put special emphasis upon infrastructure, and has included it as one of the priority areas in the document entitled *'Prime Minister's Thrust Areas.'*

During the last decade, the Government opened up several areas in order to allow the private sector to enter and compete. Several sectoral independent regulatory bodies have been established to provide a conducive and stable business environment, such as in electricity, telecommunications, and the port sector.

Whilst the country is debating on the independence and accountability aspects of regulatory institutions, and the appropriate institutional design to be followed by each authority for its own respective sector, it seems that the Government has yet to adopt a coherent approach on this issue. There appears to be very little consistency in the regulatory legislation across the sectors, particularly in the electricity, telecommunication and port sectors. It is difficult to find a common baseline in order to ensure any degree of uniformity in sectoral legislation, as variance exists in almost every aspect of the law. This variance is visible in the regulatory mandates; objectives; the interface with the Government and other bodies; accountability, and so on.

The Electricity Act 2003 empowers the electricity regulator to a large extent. Regulators are expected to facilitate investment, growth, and competition in the sector and to advise the Government on policy matters. They are also empowered with the authority to adjudicate on matters regarding conflicts of interest. Electricity regulators are supposed to deal with various anticompetitive practices, such as abuse of market dominance, formation of combinations, etc. The law does not recognise a possible role of the Competition Commission of India (CCI) within its scope, though the CCI was established a year prior to the enactment of the Electricity Act.

In contrast, the amended Telecom Regulatory Authority of India (TRAI) Act has reduced the telecom regulator's role to that of a mere advisor. The regulator is required to organise stakeholder consultations, and, after discussions, submit its recommendations to the Department of Telecommunication (DoT). The implementation of such recommendations is entirely subject to the DoT's sole discretion. Moreover, the provisions, with regard to the appointment and removal of regulators, are so weak, that it is practically difficult for a regulator to maintain a different viewpoint than that of the DoT.

The Tariff Authority on Major Ports (TAMP) has been given an extremely narrow mandate, allowed only to determine tariffs for major ports, without looking at other important aspects of port management, such as safety, conservation, and so on. It seems that the Ministry concerned has drafted port regulatory legislation in isolation, failing to look at the overall sectoral regulation, resulting in the lack of macro-principles being followed across the board.

The Government is about to establish a Petroleum Regulatory Board soon, and there are reports of similar bodies being set up to regulate the aviation and transport sectors as well. Since no broader framework exists to ensure the required consistency and coherence across the board, it is most likely that these bodies will additionally end up adding to the existing diversity in regulatory legislation.

These examples demonstrate that, so far, the Government has not made a policy decision as to the clear role of sectoral regulatory agencies, the degree of independence they should have, their accountability and

so on. Therefore, as and when the need arises, the Ministry concerned drafts a Bill for the regulation of a particular sector, as per their convenience, and establishes another regulatory body.

Curiously, some desirable provisions found in the legislation of particular sectors have not been translated to other sectors, highlighting the degree of isolation in which government departments have been functioning. For instance, the Electricity Act neither leaves room for the Government, nor for the judiciary, to modify a regulator's decision, on technical grounds. To the contrary, the TRAI's sole job is to merely advise the Government. While in the case of the TAMP, the Government can modify the regulator's directive related to port pricing.

Such a diverse approach to sectoral regulation has led us to a situation where we have as many regulatory models as regulatory bodies.. This is hardly desirable. The lack of adequate empowerment has created unnecessary confusion, which is adversely affecting the credibility of the independent regulator *per se*.

What we are witnessing today is a result of policy makers' inability to anticipate. Over the years, governments have failed to foresee the need for having a consistent and coherent approach towards independent regulation. Doing so would require putting an overarching framework in place, to guide the formulation of any sectoral regulatory body.

Whilst designing the regulatory structures, there must be a set of identified criteria that each regulatory agency should be imparted with. This would require two steps to be taken. First, the proper identification of those essential attributes that the regulatory agency must possess. Second, establishing an empowered nodal agency, to examine various draft regulatory legislation, originating from various ministries. Such a nodal agency could perform the job of overseeing the regulatory law-making process and ensure desired degree of uniformity across the board.

Recently, the Prime Minister had directed the Planning Commission to evolve a regulatory framework for the infrastructure services. Rightly, the Commission is consulting various stakeholders, including consumer groups and investors, to get their views on a potential framework.

In this context, CUTS organised this Seminar on 'Regulatory Framework for Infrastructure Sector in India' at the instance of the Planning Commission on January 14, 2005. The outcome of the seminar is a report based on the presentations made, and the debates and discussions that followed on the subject.

Recommendations have been made to the Planning Commission based on the report.

Hopefully, the report will provide the needed base criteria to establish a regulatory framework for infrastructure services.

Jaipur
April 2005

Pradeep S Mehta
Secretary General

List of Acronyms

AAI	: Airports Authority of India
APEC	: Asia Pacific Economic Cooperation
ADB	: Asian Development Bank
ADC	: Access Deficit Charge
BSNL	: Bharat Sanchar Nigam Limited
CAT	: Central Appellate Tribunal
CCI	: Competition Commission of India
CEA	: Central Electricity Authority
CERC	: Central Electricity Regulatory Commission
CMP	: Common Minimum Programme
CONCOR	: Container Corporation of India
CPP	: Calling Party Pays
CSOs	: Civil Society Organisations
DISCO	: Design and Implementation of Symbolic Computation Systems
DoT	: Department of Telecommunications
EA	: Electricity Act
ERC	: Electricity Regulatory Commission
FWT	: Fixed Wireless Terminals
IPP	: Independent Power Producer
MTNL	: Mahangar Telephone Nigam Limited
MVA	: Motor Vehicle Act
NCPC	: National Competition Policy Council
NEDA	: National Economic and Development Authority
OECD	: Organisation for Economic Cooperation and Development
PSEs	: Public Sector Enterprises
RLDC	: Regional Load Despatch Centre
SEB	: State Electricity Board
SERC	: State Electricity Regulatory Commission
SLDC	: The State Load Despatch Centre
SOEs	: State-owned Enterprises
SUSRC	: State Utility Services Regulatory Commission
SPSRC	: State Professional Services Regulatory Commission
SRTUs	: State Road Transport Undertakings
STU	: State Transmission Utility
TAMP	: The Tariff Authority on Major Ports
TDSAT	: Telecom Disputes Settlement Appellate Tribunal
TERI	: The Energy Resource Institute
TRAI	: Telecom Regulatory Authority of India
UPA	: United Progressive Alliance
USO	: Universal Service Obligation
VPN	: Virtual Private Network
WB	: World Bank

Report of the Seminar

Recommendations

- Model legislation for infrastructure regulatory regime is required to ensure clarity and coherence in legislation and policy as the key determinant of regulatory efficacy. The framework offered by the Electricity Act 2003 could be used as the starting point to further build upon. The essential attributes of independent regulation referred in this report elsewhere should be considered while framing such a model legislation to be applicable across the sector. Incumbent regulation should get a specific mention in that, up front.
- Sector specific apex regulatory bodies are required at the centre, given the volume of work most Indian regulators have to deal with, which should be complemented by a well-endowed and supported economy-wide regulatory and competition authority in the States and Union Territories.
- An omnibus appellate tribunal for all appeals against sectoral infrastructure regulators needs to be established, which will include subject experts and judicial persons. If the workload increases in any one sector, these can be hived off.
- Interface between regulators and the competition authority needs to be formalised in legal terms, so that there is no conflict between them and impugned parties do not take advantage of the same.
- Benchmarking and periodic independent review for each regulator is desirable to ensure required performance, which needs to be suitably provided in each of the regulatory laws.
- Resourcing civil society organisations (CSOs) to perform a watchdog role is highly recommended to allow public participation, and for improving accountability of every regulator.
- Identification and compilation of good practices provided in different existing regulatory regimes in India, and elsewhere as well, so that a good template could emerge for adoption across the board, and cross-sectoral learning could take place without duplication of efforts.
- Capacity building efforts on regulatory issues need to be scaled up immediately. Such training programmes should cater to the specific needs of different stakeholders, which should incorporate the local context.
- Multi-stakeholder participation should be the way forward, which can effectively take care of several concerns with regard to regulatory efficacy and accountability. Consumer organisations need to be strengthened with resources so that they can be effective advocates. Financial resources can be raised through a consumer cess on billing.
- Compliance with regulatory directives in the electricity sector needs to be investigated to assess the extent of their efficacy. This will help in understanding the practical challenge regulators are facing in this regard, presently.

Background

In collaboration with the Planning Commission of India, CUTS organised a seminar at New Delhi, India, on January 14, 2005. The aim of the seminar was to facilitate brainstorming amongst stakeholders and contribute to the Planning Commission's ongoing work on developing an appropriate regulatory framework for the infrastructure sector in India.

In his opening remarks, Montek Singh Ahluwalia, Deputy Chairperson, Planning Commission, presented a strong case for having an independent

economic regulator irrespective of the extent of competition in a market. Outlining the broader regulatory objective of facilitating competitiveness, he emphasised upon the need for having an independent regulation, especially in the case of government monopolies. This is necessary, because establishing transparent systems and protecting consumer interests are the major responsibilities of any independent economic regulator.

More than 100 participants from across the country representing different groups of stakeholders, including the Planning Commission; regulators;

policy makers; CSOs; diplomats; academia and media were involved in the seminar.

Scott Jacobs, noted US-based expert on regulatory issues, also shared his experiences from across several developing countries in Asia. Many of the problems that he identified in his presentation, applied to India also.

Here follows the interpretative summary of the discussions that took place in the seminar.

1. Need for an Independent Economic Regulation

- 1.1 An independent and accountable regulatory framework is a specific response to the general mantra of promoting economic growth. Given the fact that most infrastructure services are inherently non-competitive, establishing a transparent and coherent regulatory regime can attract necessary investments to meet the huge demand-supply gap and unlock economic growth potential.
- 1.2 A regulator's role is vital in establishing transparent systems, especially in matters such as cross-subsidy and taxes. An independent regulator is needed to establish transparency and protect the interests of consumers, particularly in not-so-competitive sectors, such as infrastructure services. Therefore, transparent regulation is essentially desirable, even in case of government monopolies.
- 1.3 In addition to tariff setting, the independent regulator has to look at achieving the other important objectives, such as promoting competitiveness and efficiency; protecting consumer interests; maintaining quality of services; safety and so on.

2. Deficiencies in Existing Regulatory Approaches in India

- 2.1 More than ten years' experience of independent regulation in India suggests that so far the government has not been able to create and follow a cogent and coherent approach *vis-à-vis* independent regulation. Quite often, the policy objectives that the government wishes to achieve out of an independent regulatory regime are not spelt out clearly in the legislation. At times, the regulatory mandate falls short of achieving the stated policy objectives. A multi-stakeholder approach is nearly missing in most of the sectors and given the rather ambiguous regulatory mandate, as well as the limited regulatory capacity, this

evolving form of governance is falling short of the expectations so far.

- 2.2 For instance, existing legislation in most transport sectors remains fairly silent on several important aspects, such as Universal Service Obligation (USO); quality of services; safety etc. Often a good practice in a regulatory legislation does not find place in others. Appointment and removal of regulators is practically left with the executive at its discretion and these 'independent' bodies are not empowered to even determine the nature and number of their staff or to appoint consultants without the approval of the ministry concerned.

3. Essential Attributes of Independent Regulation

- 3.1 Spelling out a regulator's role in an unambiguous manner is the precondition for having an effective regulation. Therefore, it is necessary that both the legislation as well as the policy statement should set out the regulatory agenda in rather concrete terms. Tapping market potential to meet out the unmet demand for these services would require a credible and consistent policy environment and predictable regulation.
- 3.2 The government makes all attempts at achieving its policy objectives. Therefore, it is necessary for the government to spell out its policy objectives in a concrete manner and to adequately empower the regulator through legislation, to accomplish the stated policy objectives.
- 3.3 It appears, separating policy making from service providing is one of the major objectives that the government wishes to achieve by establishing independent regulatory regimes, so that equal opportunities exist for all competing service providers to invest and earn reasonable returns. However, actually doing that would require empowering the regulator through far more clear legislation and unambiguous policy objectives.
- 3.4 Regulating the incumbent, especially the government-owned, is a challenging task not just in India but elsewhere as well. There are several instances across the sectors when regulators find themselves unable to enforce compliance of their directives by the state-owned incumbents. Public sector service providers hardly compete with each other for better economic efficiencies. Therefore, incumbent regulation is a tricky area in any

sector. This is one major challenge that regulatory authorities are facing across the board. As long as the regulator remains vulnerable to the discretionary powers given to the executives of the related ministry to whom normally state-owned incumbents report, it would be impractical to expect the regulator to effectively push the state-owned incumbent to a level-playing field with other service providers. Addressing that would require regulators having specific strategies to ensure the compliance of their directives and developing an arms-length and objective relationship with the government.

- 3.5 This applies to legislative provisions with regard to the functional independence of regulators, including the provisions regarding their appointment as well as removal. Several other provisions too undesirably influence the regulatory process.
- 3.6 Imparting financial autonomy can substantially enhance the functional independence of regulators. Therefore, it is desirable that legislation allows a regulatory agency to raise resources on its own to the extent possible, through a fee/levy etc. Otherwise, necessary provisions need to be made to effectively ensure that regulatory agencies getting justified budget allocations are not subject to discretion.
- 3.7 Once an independent regulator is assigned with a specific agenda, which is reasonably challenging in any case, it must be provided with the necessary wherewithal to perform the job effectively. Since a regulator's job is demanding, it requires adequate skilled staff to attain an effective regulatory environment. Therefore, it should be essentially left for the regulator to determine the nature, strength, and compensation of its staff, as well as appointing consultants. Nevertheless, such decisions should always be subject to public scrutiny and comparison, with standard practices being followed in other sectors and elsewhere in the world.
- 3.8 All independent regulatory agencies should be empowered to frame the requisite regulations and notify the same in consistency with the regulatory objectives. These bodies should be empowered by having a civil court status receiving evidence on affidavits; production of documents; examination of witnesses; dismissal of applications in default; deciding matters ex-parte; passing interim orders, as well as reviewing its own orders; passing orders

with retrospective effect in extraordinary circumstances; imposing penalties for non-compliance, etc.

- 3.9 Regulatory powers with regard to dispute resolution are another grey area. It has been observed that, at times, market players take the avoidable route of litigation for seeking judiciary intervention, which costs the sector hugely in terms of delays. To the possible extent, the regulatory framework should aim at minimising the chances for judicial intervention. This can be effectively done by following a rigorous consultation process to reach upon equitable decisions; and by setting up a specialised appellate body. Still, it needs to be explicitly examined whether sector specific appellate bodies are required or to have an omnibus Regulatory Appellate Tribunal. Another proposal, following the UK model, is to empower the Competition Appellate Tribunal as the appellate body for all regulators. Such a body has been suggested by the Government in its response to the Supreme Court in the matter of the writ petition challenging the appointments to the CCI.
- 3.10 Furthermore, conflicts between the regulator and the new competition authority are envisaged due to both immaturity and legislative handicaps. These need to be sorted out by examining the sector-specific laws and making a legal provision, which can establish a Concurrence Committee to decide on the forum where such cases will fetch the best solution. A competition authority has an economy-wide remit, while the sectoral regulator has a subject-wide remit, thus, one cannot oust the competition agency's jurisdiction over competition abuses in any particular sector.
- 3.11 Attaining a multi-stakeholder approach in regulatory process is highly recommended to arrive at logical, equitable and enforceable decisions. Active stakeholder participation offers effective checks and balances that largely determine the quality of regulation. Though, so far this is largely missing for several reasons. Presently, regulators at large are not putting in adequate efforts to proactively reach out and engage different stakeholders in consultations. Important stakeholders, such as consumers, also do not have the required capacities to comprehend this evolving form of governance that essentially involves a complex mix of techno-economic, legal, and polity dimensions.

3.12 Regulation is required because of the fact that a desirable level of competition does not exist in the market. Yet, given the limited resources, the government must have a clear priority in various sectors to restructure, based upon the potential net outcome. Similarly, regulatory resources are limited as well. Hence, any regulator must set the priorities for it to work upon. Instead of exercising its powers in each and every aspect of the market, the regulator should deal with those areas up front, which are intrinsic to promote competitiveness in the sector. For instance, interconnection and access should be the primary priority for a telecom regulator, rather than engaging in issues like numbering patterns to be followed by service providers.

4 Capacity Building

4.1 Presently, capacity-building on regulatory aspects is woeful. Though independent regulation was introduced in India more than ten years ago, efforts to create necessary facilities to offer training on this subject are wanting. Some multilateral donor agencies, such as the World Bank, facilitate short-term training programmes on an *ad hoc* basis. Other than that, hardly any effort to create a sustaining facility has been attempted so far.

4.2 Importantly, capacity-building on regulatory aspects is highly desirable not just for regulators and their staff, but for other stakeholders as well. Given the fact that regulatory decisions are essentially the outcome of stakeholder consultations, capacity-building of other stakeholders is equally crucial to attain regulatory efficacy. For instance, government officials need to be adequately trained for negotiating skills, and meaningful interventions from consumer groups can only be expected once adequate inputs and skills are provided with.

4.3 Equally important is incorporating the local context in capacity-building and training modules. While learning from other's experiences is desirable, there are several local peculiarities which demand application of local wisdom to find optimal solutions, for instance meeting the universal service obligations. Therefore, any efforts to train the stakeholders has to incorporate the local context.

4.4 However, it is not recommended that the government should establish such facilities. Instead, the government and industry both should facilitate and support such efforts, which

can be initiated by professionally managed institutions of repute.

5 Independent Regulation and USOs

5.1 Given the fact that meeting the Universal Service Obligations (USOs) has to be a major policy objective for any government, it should unambiguously spell out the regulatory mandate, which often is not the case right now. It is desirable to incorporate the broader policy objectives, such as universal access to services, within the legislation.

5.2 Cross-subsidies are essentially another form of tax. Therefore, it should be the Parliament to decide the extent to which additional charges should be imposed on certain consumer class/sector to support poor sections. Currently, such decision-making is vested with the related government department. In fact, excessive taxes on certain consumers are necessary at times to meet out social obligations. However, these have to be within reasonable limits.

5.3 Once such limits for cross subsidies are put in place at the highest level, it is the regulator's job to establish transparent and objective-driven procedures, so that both public and private utilities can get indiscriminate allocations to deliver social obligations in a transparent manner.

6 Regulatory Efficacy and Accountability

6.1 As far as accountability is concerned, what is needed is a workable solution for holding the regulators accountable. Presently, most independent regulators in India are supposed to present their annual report before the legislature. Unfortunately, this has been followed merely as a token exercise. In addition to this existing provision, empowered CSOs and consumer groups working as watchdogs can potentially hold the independent regulators accountable. This will work as an effective deterrent against possible 'regulatory capture' by service providers as well. Such arrangement can potentially offer a workable solution to the accountability concern, provided these CSOs are appropriately mandated and adequately resourced. Perhaps a part of the USO Fund in each sector can be set aside to fund consumer advocacy, objectively.

6.2 Regulatory efficacy should be measured against the policy objectives that are spelt out in the regulatory mandate. To the extent possible,

parameters for judging regulatory efficacy should be defined in quantitative terms in a transparent manner. Such evaluation standards should be communicated to the regulators in advance so that the quality of regulatory decisions is broadly guided by the evaluation criteria.

- 6.3 Arranging for independent/peer reviews on periodic basis is another way to further strengthen the regulatory accountability mechanism. Though, in such a case, the benchmarks should be set bearing in mind the prevailing conditions around and push them up gradually.

7. Consumer Interests *vis-à-vis* Independent Regulation

- 7.1 All stakeholders are supposed to represent themselves before the independent regulators to raise their voice and put forth their legitimate concerns. Given the paucity of funds and the institutional capacity, consumers are not in the best position to represent themselves in an effective manner. In such circumstances, the regulatory framework should ensure enabling provisions to support consumer groups to facilitate their genuine concerns.
- 7.2 The government offering performance linked resources to consumer groups and facilitating the process of addressing their capacity-building requirements are some of the measures that need to be taken up immediately. Unless these groups are sufficiently resourced to engage professionals and garner necessary inputs to make meaningful interventions, the quality of regulation is likely to remain compromised.
- 7.3 In those sectors where the regulatory bodies are not mandated to take up individual grievances, it is the responsibility of the regulator to ensure that a functional and effective redressal mechanism to address such individual complaints is in place at all levels.

8. Interface and Overlaps

- 8.1 This can only be addressed through enabling and coordinated legislation for regulatory bodies. Overlapping mandates of regulatory and competition authority and that of appellate bodies and/or judiciary can be avoided, provided government ensures that every new regulatory legislation follows certain essential norms in this regard. Perhaps the Ministry of Law can be entrusted to ensure such coherence and

uniformity across the sectoral regulatory legislation.

- 8.2 It is not desirable to have separate regulatory bodies for each sector or sub-sector; rather an attempt should be made to restrict the number of sectoral regulatory bodies without compromising the quality of regulation. For instance, there is a strong case for having a super regulatory body for the entire energy sector, rather than one each for electricity, coal, gas and petroleum. Similarly, it is advisable to have one overarching regulatory body for the entire transportation sector, instead of having separate bodies for different modes of transport, such as road, rail, aviation, and marine. Similar logic applies to the financial sector also.

9. Recommended Regulatory Framework for Indian Conditions

Looking at the volume of work before the economic regulators, it is strongly recommended to follow the model of having a sector-specific regulatory body at the central level. This should be effectively facilitated and supported by an omnibus multi-sectoral regulatory and competition authority in the states. The detailed framework for the proposed institutional arrangement follows.

- 9.1 Two state level regulatory agencies, namely the State Utility Services Regulatory Commission (SUSRC) and the State Professional Services Regulatory Commission (SPSRC) can be constituted to cover the entire spectrum of services. The SUSRC should deal with infrastructure services, such as energy, communication, transportation, water etc, while the other body should regulate the sectors like education, medical, law, entertainment etc. Inclusion of a particular sector under the regulatory purview will have to be decided locally and has to be priority based. Nevertheless, this will need to be consistent with the prevailing laws. Besides, these state level bodies can create a common forum to institutionalise the process of information exchange and cross-fertilisation of ideas.
- 9.2 At the national level, separate specialised regulatory bodies should be established for sectors such as energy, communication and broadcasting, transportation and so on. The multi-sectoral state regulator shall draw the necessary specialised technical support from central sectoral regulatory authorities, as they will work as knowledge hubs. For instance, all

State Utility Services Regulatory Commissions (SUSRCs) will have access to the specialised opinions/database of TRAI in communication related matters. Similarly, the Central Energy Regulator can provide necessary technical inputs on energy related matters. This arrangement will also help achieving a minimum degree of uniformity in regulatory approach across the states. The sectoral central regulatory bodies can also perform the role of appellate authorities against the decisions of the state regulators.

- 9.3 A Central Appellate Tribunal (CAT) can be constituted as the sole appellant body for all central sectoral regulators and the Competition Commission of India (CCI). However, rather than reviewing the facts, the CAT can look into only the legal aspects.
- 9.4 A National Competition Policy Council (NCPC) can also be constituted with representation of government departments, central sectoral regulators, CCI, subject experts on competition

issues, consumer groups, and media. This body will work as a national think tank and advise the government. Further, the government should also formulate and announce a National Competition Policy Statement, which will lay out the parameters for promoting competition in the market place.

- 9.5 To facilitate a concerted effort *vis-à-vis* competition concerns in sectoral regulation, the CCI and central sectoral regulators shall collectively identify specific issues in each sector, which are crucial from a competition perspective. It would be mandatory for the central sectoral regulators to consult the CCI on issues so that competition dimensions are adequately imbibed within the regulatory approach over the years. Identification of issues and consultations on competition concerns shall be a dynamic process between the CCI and the central sectoral regulators. In case of dispute, the matter can be referred to the Prime Minister.

Welcome Address

*Pradeep S Mehta**

The Government of India is seized of the issue in terms of promoting competition through various competition policy measures. These include regulatory measures, in order to see that we can move forward along the path of economic growth that we have set for ourselves, like trying to reach the magical figure of 8 percent, if not more. We could achieve even 10 percent, something extremely desirable in terms of creating jobs, which is the first biggest priority of the country, in order to address the issues of poverty.

How does regulatory framework fit in this context, is what will follow in the seminar. The seminar will not discuss the possible regulatory issues at the macro level. We will focus primarily on three sectors specifically, where we have gained some experience of regulatory oversight, to see what is lacking, and what needs to be done.

In particular, the government has set up a group under the Prime Minister, which is looking into the issues in order to improve our regulatory effectiveness, in which the Planning Commission has an important role of providing a paper for the purpose of carrying out the necessary amendments, including the changes required to make the regulatory structure more effective in our country.

Every country is *sue generis*. India itself is quite distinct from any other country. So the experiences that we could get from the other countries would be in terms of good practices rather than best practices that we could adopt. To that extend, our friends in The Energy and Resource Institute (TERI) have been working on this for a long time. We have been working with them closely on several issues, including

bringing forward our own experiences from the trenches. We work on regulatory issues at the trenches particularly in the State of Rajasthan. I dare say that we do have some ground level experiences, which help us understand the implications of policies, and what needs to be done to inform the policy makers in particular.

There is lack of stakeholder involvement. Due to some endemic reasons, the basic thrust of the government has been to promote investment (domestic or foreign), which indeed is welcome. But to push the whole agenda forward of better utilities in our country, one has to see how the various stakeholders, particularly consumers and trade unions, look at this issue, and where they stand in terms of the kind of reform agenda that we have undertaken in the utility sector.

With these few words, I would like to welcome you all once again at the seminar, and once again a big thanks to Montek Singh Ahluwalia for giving us this opportunity. I am particularly thankful to all of you for being here quite early on a winter morning in Delhi, which is often not the case. We were in fact keeping our fingers crossed if we could get a decent size audience at 9:30 in the morning.

I hope you will be around throughout the day to share with us your own experiences, reactions and comments on some of these issues, which will help us in creating an output from this seminar, which would further be sent to the Planning Commission in order to serve an input for the bigger paper that they are developing in order to bring forward the best regulatory practices.

* Secretary General, CUTS International, Jaipur

Keynote Address

*Dr Montek Singh Ahluwalia**

The reason why this seminar is important is that it addresses an issue, which, in the Government, is now recognised as a major problem. Three years ago, perhaps, the approach that was adopted to the need for regulation (as we were opening the infrastructure sectors to more competition and private investment) was a response to a mantra, which was generally regarded as an international good practice, assiduously promoted by international agencies, and the multilateral developing banks etc. The consensus was that if the infrastructure sector is liberalised, and private sector players brought in, there was a need to have independent statutory regulators. The stock response was that it is very easy to do so. An impression was created that all the necessary conditions have been met. But where is the inflow of our investment?

It took about 2-3 years to learn two things. First, those who argue that setting up an independent regulatory commission is a necessary condition to bring in a lot of private investment, understand that a regulator can be setup without performing a functional role. Second, apart from that, even when it is done with the best of intent, it is going to be a long process. This is simply because it is a process of institutional development, a process which is ultimately legal. The credibility of both — a statute and the way an institution functions — is really going to be subject to how it is interpreted at higher levels, and how the courts interpret it. Part of the reason as to why problems can arise is that the legislation is often not very clear, which does cause a lot of unhappiness.

When the matters are appealed at the judicial level, the outcome seems to be quite different from what those interested in the growth of the competitive industry, really want it to be. But when one goes into the reason for that, it is partly — of course — that the judiciary may not have taken as constructive and convergent an approach as the intention of the policy makers. The legislation is usually not clear. It is surely not clear on the conflict of interests. A

lot of hard work is needed before one can assure that this part of the operation is in place, though, we are not the only country in this kind of a mess. All the countries that we benchmark ourselves against seem to be in the same kind of a mess. I think this is really what the Prime Minister had in mind, when he asked the Planning Commission to prepare an overview paper reviewing the state of the regulatory apparatus in the major infrastructure sectors. We are in the process of doing that. Quite frankly, when we began, we ourselves thought that it would be a relatively simple matter, which, of course, is not the case. One of the conditions that we imposed on ourselves was that it should be firmly grounded in international experience, in this matter.

Since we are in the middle of writing this paper, we do not have any conclusions. We have been listening to outsiders. I hope that this seminar will provide a lot of inputs to the Planning Commission.

A very basic question that we need to address is what exactly is a regulator for? I would say to fight two distinct obstacles. One is, of course, the infrastructure sector, which is not competitive as there is an inherent monopoly. There is a need to protect consumer interests. We need a regulator even when there is a government monopoly. The purpose of the regulator is not only to discipline the private sector from exploiting a monopoly advantage and ensuring a level playing field, but also to discipline the government sector from exploiting the monopoly advantage. However, there is a tremendous resistance to this idea. In the case of the railways, there is an ongoing difference of outlook. Both the previous and the present Planning Commissions hold the view that we ought to have a Rail Tariff Authority. This is not a regulator in order to ensure a level playing field etc, because it is a public sector operation. This is simply a regulator to ensure transparency, to ensure that consumers are charged reasonably and that cross subsidies are not arbitrarily built into the tariff structure.

* Deputy Chairman, Planning Commission, New Delhi

The truth is that cross subsidy is actually a tax-cum-subsidy rolled into one. The logic behind having an independent regulator is that it is wrong to take tax subsidy matters outside the purview of Parliament. The truth of the matter is that when the Government wants to cross subsidise one sector by another, it is, in fact, levying a tax on one sector, which is, of course, a privilege of the Parliament; and using those tax revenues to subsidise the other sector, which is also the privilege of the Parliament; and to incorporate it into a governmental department is not a good idea. I am not implying that the Railways are bypassing the Parliament, because the Railways present a budget to the Parliament. It is not a transparent indicator of the components of tax and subsidy. Our view would be that it could be desirable to have a regulator; and if the Government wants to do so, it can do it transparently. They can levy a huge tax on one sector, and pass it on as a subsidy to another, and make it more transparent. Nevertheless, we remain in an area of dispute on this front, as this is not actually acceptable.

The interesting thing is that civil societies have not expressed a view on this. They get really motivated as soon as structural changes are involved in bringing in the private sector, and so on. I have not heard anyone from a civil society pronounce on whether we really need a real Tariff Authority for the railways, the way some sections of the Government have been recommending. So, I would be quite interested to know as to what the viewpoint is on this issue.

Then we get into the bigger issue. There is no doubt in anybody's mind that we need regulators when we open up. We do have regulators, but, interestingly, we do not have them in every relevant sector. If we take a quick look, we see that we have a regulator for telecom; a tariff regulator for ports; and regulators for power at the national as well as the state level. There is a bill bringing in some kind of a regulatory control on petroleum.

As I said, we do not have a regulator for railways, and roads (at least not an independent one). The present arrangement is that the tolls, which can be charged on a road, are in fact, approved by the cabinet with some price escalation built in. And when it has to be changed at some point, it has to be a cabinet decision. It is not a regulatory decision where the producers and consumers can be heard. We do not have a regulator, in the traditional sense, for civil aviation and urban water supply. And yet, these are areas where competition exists at varying degrees. Thus, the question arises as to what should be the appropriate structure of a regulator.

One of the approaches, taken in this area, was essentially of trying to make a specific response to a general mantra. My good friend, Gopi Arora, when he was my boss in the Prime Minister's office a very long time ago, used to have a plaque on his desk which read *"This is a crisis, we must do something. There is something, therefore let us do it"*. Some of the knee-jerk reactions to creating a regulator are very much in a class of that kind. The idea was to quickly put the regulator in place. From the political point of view, we do cross an important harbour. But what happens is that the system that creates the regulator does not really create an independent one. There is an intentional limiting of the degree of independence, and even when there is none, there is a huge underestimation of what needs to be done in order to create good quality regulation. When I talk to private sector players who want better regulations, they keep repeating this point.

One part of the presentation that will go down incredibly well, in many circles, is the notion that we are expanding the employment opportunities for regulators. Nothing is more popular than expanding the number of government jobs. There is no doubt that, if there is quality work, we do need more staff, which should be recruited in a better way.

The private sector operators hire the best brains in the country. So, one of the significant problems that the regulators face everywhere is that of remaining above such private sector operators. In such circumstances, they have to either adopt an exceptional tradition of public service or pay higher salaries in order to get good quality staff. The only way to get competent staff is to go into the government market and offer them more flexibility, something more professionally rewarding, etc. And the moment this is done, you get accused of hiring government servants! Therefore, hiring competent staff remains a challenge.

Another issue that we have to face is that even if there is a regulatory system having everything in place, my suspicion is that you need more clarity on the part of government policy. What exactly should the regulator do? One of the major problems is the level of clarity on the terms on which the public sector incumbents are to be subjected to competition. Moreover, there is a notion at the back of everybody's mind that the public sector incumbent is, after all, playing an important social role. As a result, they cannot be subjected to competition in a purely level playing field sense. Now, again this is connected with transparency. If there were a social role, then a simple-minded economist approach would be that

there should be transparent subsidy, for a social role, available to both the public and the private sectors. It takes a long time before an institution comes to recognise that it is also quite difficult, institutionally, to put that in place.

In many of these areas there is a lack of clarity. But this reflects a dearth of due diligence alone. There is a want of consensus, at the political level, like the legislature. Ultimately, the legislature is the creator of the regulator. It means that one has not done enough of a job of convincing people that the logic of these reforms is x, y or z. The demands that are currently being examined by the Ministry of Power are very interesting, e.g., the review of the Electricity Act. The Ministry of Power is internally viewing the Act and hearing different views. One of the opinions being expressed is that the provision in the Act, of eliminating cross-subsidies, is unacceptable. If there is no clarity, the regulator cannot be blamed for pursuing one part, rather than the other. One answer would be that nobody is objecting to subsidising. People are only objecting to cross subsidising. So, subsidise whatever you want, as long as it is done with clarity.

In genuine belief, some cross subsidy is certainly all right. If I were pushed, I would not take a fundamentalist position that cross subsidy should be completely eliminated. I think that cross subsidising, by overcharging some segments, up to say 10 percent, is all right. Maybe that would get more of a consensus. The regulator has to know exactly the framework of the policy that he is working on. Furthermore, that policy framework has to have not only a wide political support in the public, but it is also to be reflected in the legislature. Even the much-maligned practice of appointing civil servants to regulatory bodies, will not be an impediment in sensible public opinion getting sensible decisions. The real problem, in my opinion, in most of these things is lack of clarity. In my view,

dearth of clarity, very often, does not simply reflect the deficiency of due diligence; it shows the desire for constructive ambiguity to get on with the job.

Sometimes, becoming too clear means getting a lot of opposition. Now, the opposition should be addressed.

Who will the regulator be accountable to? This is a related issue, which needs to be focused on. A feedback from this seminar will certainly be quite useful.

I have talked to many political people. They raised a very valid point, i.e. when the bureaucrats took a decision, they were politically accountable. The ministers could be grilled in the Parliament. The level of accountability was totally clear. If the quality of service was not good enough, there was a forum (Parliament) where somebody could raise the issue. The consumers have been singularly ineffective in voicing their concerns through the Parliament. There could be a much bigger use of that forum to raise these questions.

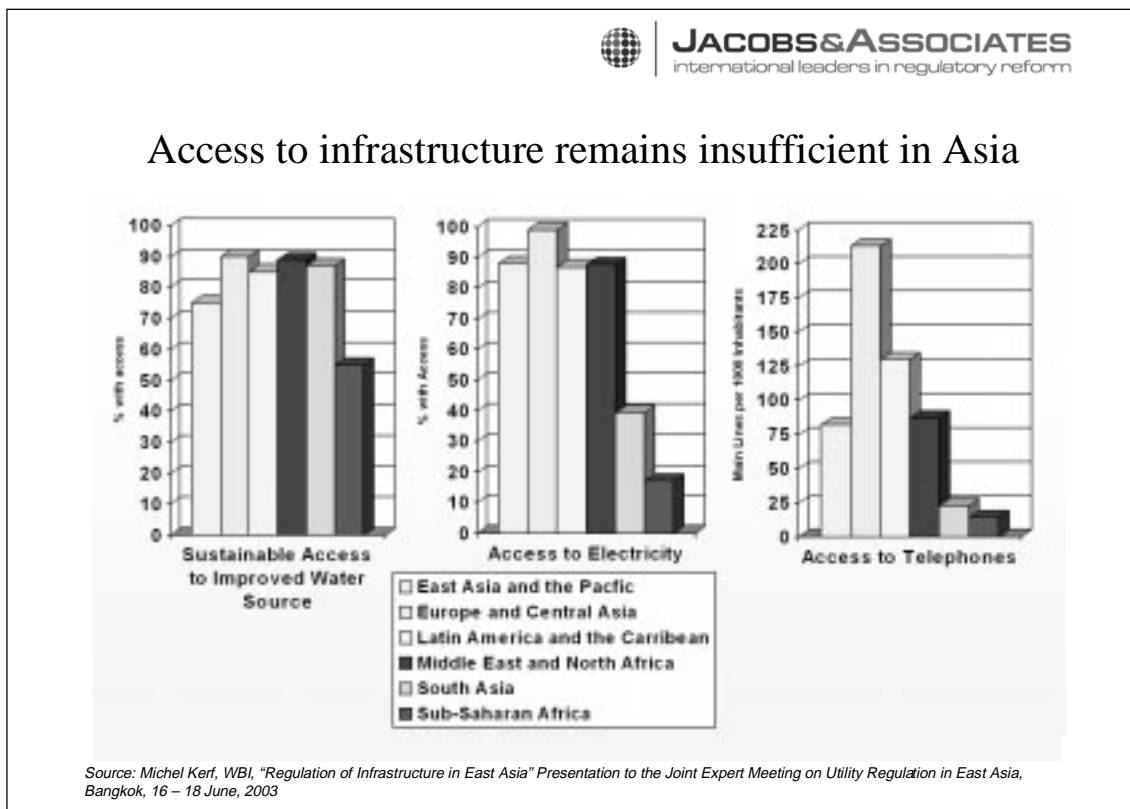
If one looks at it from a political point of view, it does look like a bit of a conspiracy that the senior bureaucracy gets itself appointed to the independent regulatory agencies. The only difference is that now nobody is answerable. I think that the question has to be raised. In other countries, there is some kind of responsibility. In the more developed countries, the degree of Parliamentary oversight is at least the ability to enquire.

A question arises whether it is or is not going to be at all acceptable to create truly independent regulators who have power. We do not really have answers to these issues. I think such consultations can help us develop a perspective.

I hope this seminar brings out some valuable inputs through debates and deliberations.

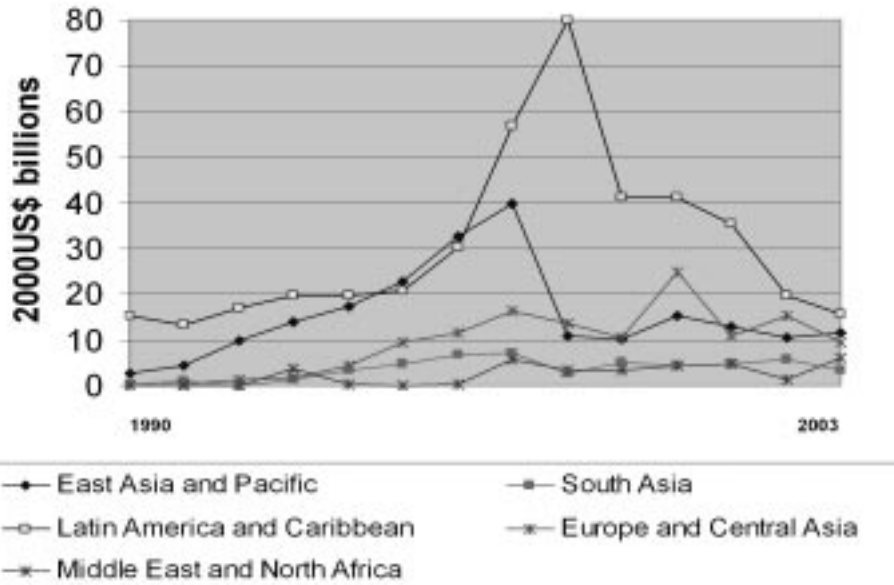
Evolution of Asian Utilities Regulators: Diversity and Challenges

Scott Jacobs*



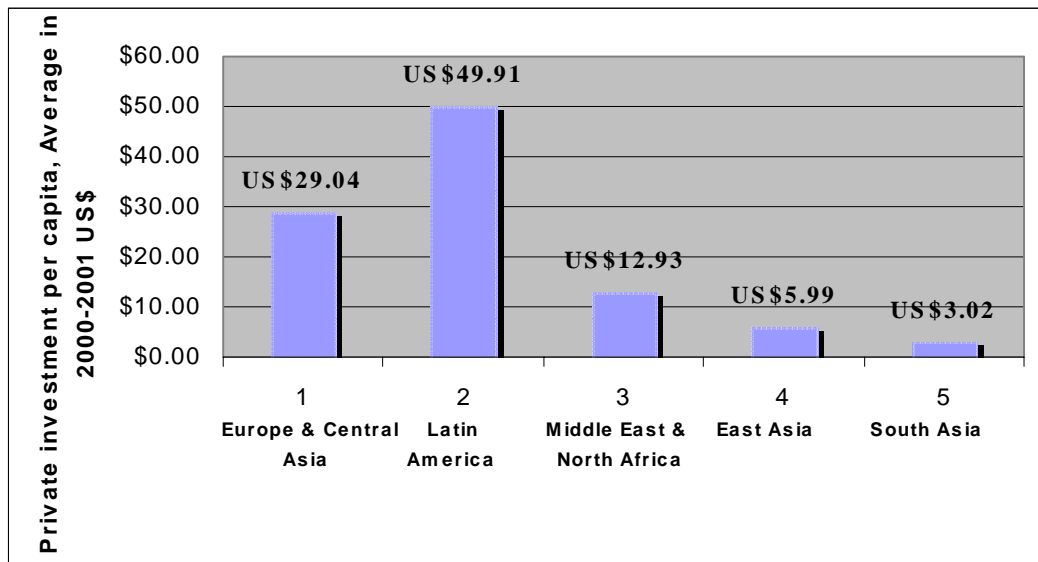
* Managing Director, Jacobs and Associates, USA

Investment in Infrastructure Projects with Private Participation
(US\$bn) 1990-2003 (Source: World Bank PPI database)



3

Private investment in infrastructure in developing countries, average annual 2000-2003, per capita





Three major problems face utility regulators in Asia

- Weak commitment to markets by Asian governments
- Hostile policy environment for good regulation
- Undeveloped institutional capacities in regulators



Part of the problem lies in slow policy reform...

- Asian countries have neglected the underlying market reforms seen in Latin America and Europe.
- Most private investment in other regions came from divestiture and reforms to create competitive markets. But, in Asia, state-owned monopolies and interventions were left largely untouched, and governments took most of the risk.



...as seen in preference for greenfield projects.

- In Asia, most private investment in infrastructure came from greenfield investments to meet growing demand.
- Green field projects, 1990-2001:
 - South Asia: almost 90 percent
 - East Asia: 61 percent
 - North Africa and Middle East: 50 percent
 - Europe and Central Asia: 45 percent
- In 1999, for the first time, revenues from divestitures exceeded greenfield projects in Asia.



Even where reform has occurred, Asian regulators face an almost impossible task

- Inherent challenges:
 - High level of poverty
 - Low consumer capacity to finance infrastructure investments
- Governance challenges (2003 APEC survey)
 - Incoherent public policies
 - Incomplete privatisation and serious conflicts of interest
 - Lack of investment in oversight institutions.



Controlling SOEs is among the most difficult challenges for regulators

- Due to incomplete privatisation, there is still substantial state ownership in utility sectors in the region. Almost all regulators regulate SOEs.
- Half of the same ministers responsible for regulatory oversight have some responsibility for overseeing the SOE. This conflict makes credible regulation nearly impossible.
- In one-third of the regulatory regimes, an incumbent firm has regulatory authority, so that it both provides services and regulates its competitors. This is the worst-case scenario.
- Separation between operation and regulation, between industry promotion and regulation, should be of a high priority for the Asian regulatory reform agenda.



Goals of regulators are incoherent

- They pursue a wide range of policy goals.
- Fair, not free, competition is preferred.
- They often pursue conflicting goals:
 - A third are responsible for protecting jobs and for reducing consumer prices
 - 80 percent must protect the financial stability of regulated firms and protect consumer interests
 - Half are responsible for enforcing competition laws and for financial stability of incumbents
- Almost half of the regulators are not responsible for universal service provision.



Competition authorities have little role in utility regulation in Asia

- OECD good practice is to involve competition authorities in key entry and structural decisions
- In Asia, competition agency is “not involved at all” in reviewing regulatory decisions in 80 percent of sectors
- Competition authorities review decisions after regulations are adopted in 10 percent
- Competition authorities conduct *ex ante* review of regulatory decisions in 5 percent



At the top of the governance challenge is capture and government pressure

- About half of utility regulators are government departments located within ministries, the traditional regulatory institutions.
- The other 13 regulators are outside ministries (a mix of commissions, authorities), the “independent” regulators.



Yet even “independent” regulators are not very independent

- Half that are outside the ministries are accountable to their own directors appointed for fixed terms (classical commissions)
- The other half are separate bodies outside a ministry, but are accountable to a minister.
- The decisions of only one-fourth can never be overturned by a minister
- Ministers can overturn of about one-fourth of decisions
- Budgets of half are set outside of a ministry, while the other half are incorporated into ministerial budgets



Asian regulators share oversight with numerous other institutions

- Utility sectors in Asia (as in most countries) are usually simultaneously overseen by multiple institutions.
- Only one-third are the significant regulators in their sectors
- Two-thirds share oversight with numerous other institutions.
- This increases regulatory complexity, confusion, and risk.



Most Asian regulators are very young institutions

- Almost all utility regulators in Asia were created in 2001 or after (10-year lag behind OECD countries)
- Most are still building fundamental capacities such as dispute resolution and access to data held by incumbent enterprises.
- Lack of checks and balances
- Lack of experience implies a substantial need for staff training.



Staffing skills are low...

- Lack of well trained staff is a major constraint on good quality regulation.
- Training of the staff of new regulatory authorities in Asia has been neglected. There is a huge gap in access to training: 3 out of 4 regulators do not have access to training courses on infrastructure regulation.
- Those with access to training rely on financing and expertise from the development banks, particularly the ADB and the WB.



...compounded by serious understaffing.

- Asian regulators employ an average of 35 people for a regulated sector.
- If compared to UK per capita benchmarks:
 - Korea electricity commission would increase from 39 to 266 staff
 - Philippines NEDA would increase from 50 to 440



Key messages about Asian regulators

- New regulatory bodies are quickly emerging in Asia, but the quality of regulatory governance does not yet support market-oriented private investment in Asian infrastructure. Governance is an urgent agenda.
- Regulators are faced with difficult external environments, multiple institutions, unrealistic expectations, and inconsistent policies and mandates.
- There is a wide diversity in design. Design issues such as independence are as yet unresolved and should be closely followed for good practices.
- There is a critical lack of skills and training.
- Institutions such as regional utility networks can play a more useful role.

Infrastructure Regulations in India: Cross-cutting Issues

*Pradeep S Mehta**

Infrastructure Regulation: Crosscutting Issues

Background

Why do we need regulatory agencies?

- **Funding the huge demand**
- **Ambiguous mix of policy, regulation and service**
- **Consumers participation**
- **Multi-stakeholder approach**

* Secretary General, CUTS International, Jaipur

Infrastructure Regulation: Crosscutting Issues

Background

How far have we reached?

- **Telecom, relatively a success story despite limited powers given to the regulator;**
- **Electricity is a major disappointment so far;**
- **Little has been achieved out of limited mandate given to TAMP (*tariff authority for major ports*);**
- **Aviation, Petroleum and Highways sectors yet to be exposed to independent regulation**

Infrastructure Regulation: Crosscutting Issues

Crosscutting Issues

1. Regulatory Mandate – Inconsistent approaches!

- **TRAI – regulator *or* adviser to government?**
- **TAMP – extremely limited mandate**
- **ERCs – fairly empowered, but..**

**IDENTIFY ESSENTIAL ATTRIBUTES OF
'INDEPENDENT REGULATION'**

Infrastructure Regulation: Crosscutting Issues

Crosscutting Issues...

2. Independence

- Appointment and removal
- Appointment of staff/consultants
- 'Policy Directives'
- Financial independence

**WHETHER REGULATORS ARE 'INDEPENDENT'
ENOUGH ?**

Infrastructure Regulation: Crosscutting Issues

Crosscutting Issues...

3. Capacities

- Sound knowledge and understanding of multiple disciplines viz techno-economic, legal, management, polity
- Attracting capable people- is compensation good enough?
- Not just regulators, but capacities of all stakeholders
- Local context in capacity building

**DO WE HAVE ENOUGH FACILITIES TO BUILD
CAPACITIES OF ALL STAKEHOLDERS ?**

Infrastructure Regulation: Crosscutting Issues

Crosscutting Issues...

4. INTERFACE & OVERLAPS

- **Competition issues? (Regulators vs. CCI...)**
- **Relationship with government- Policy vs. Regulation
(e.g. TRAI Fiasco in 1999)**
- **Judicial interventions**

**SHOULDN'T THESE RELATIONSHIPS BE ESTABLISHED
IN A RATHER CONCRETE AND COHESIVE MANNER?**

Infrastructure Regulation: Crosscutting Issues

Crosscutting Issues...

5. Accountability

- **Whether submission of 'Annual Reports' to legislature is sufficient?**
- **Whether CSOs are better positioned to hold the regulators accountable on day-to-day basis?**
- **How about independent/peer review !**

**A WORKABLE INSTITUTIONALISED FRAMEWORK IS
REQUIRED TO HOLD REGULATORS ACCOUNTABLE**

Regulatory Environment for Telecommunication in India

*Mahesh Uppal**

Broad Goals of Regulation (All inextricably linked!)

- Delivering competitive market outcomes - such as choice, quality, lower prices- to consumers;
- Protection of Consumers;
- Creating incentives for investments, especially those unlikely to be prioritised otherwise;
- Preventing market abuse by dominant players

* Director, Telecommunications & Computer Information System, New Delhi

What (Telecom) Regulators typically do?

- Promote and enforce competition
- Recommend/define entry and exit conditions
- Implement –sometimes, also recommend- sector policy
- Provide a layer between policymaking and operations
- Remove perverse incentives that undermine policy goals for the sector
- Enforce interconnection for a seamless network
- Ensure optimal use of spectrum

Ingredients of Effective Regulation

- Capacity to deal with sector issues
- Independence from all market players & government
- Credible Hiring & Firing, job security
- Transparency
- Predictability
- Accountability
- Consultative process
- Cost effectiveness
- Proportionality

Market Entry

- Open entry in most segments except mobile, though 6-7 mobile players world highest
- No recent entry in most segments, (except mobile as a consequence of migration to unified licences).
 - *Reports about new companies interested in entry;*
- Unification proposals were unorthodox & have perverse incentives against rural telecom
- New unification proposals liberal, niche player proposal positive, thwart new entry, especially of smaller players

Relationship between Policy and Regulation

- Has become more robust and stable
- Market sentiment broadly positive
- However, separation between policy and regulation imperfect;
 - *Cases in point: WLL(M), Long distance, VPN, unification proposals*
- Access and tele-density confused
 - ADC arguments would sound more banal if access and rural tariff were also invoked

Consumer Protection

- TRAI has no mandate on individual consumer disputes
- Low Prices are a protection in themselves
- Some movement in comparing performance of service providers
- Private Internet consumers not so lucky
- **Tariff**
 - *misleading Advertisements; Confusing Bills*
 - *approach confusing, contrast Reliance's 40p to anywhere, with approach to advertisements of FWT players*
 - *TRAI talks of 'effective charge' one year after CPP!!*

Consultative Process

- TRAI open houses have set valuable precedents for regulation in India but problems remain
- Quality of papers and questions variable,
- Recording of inputs is still inadequate
- Engagement has to improve

Financial and Institutional Independence

- Dependent on government for funds
- Job security lower than initially
- Needs funds for external professional inputs
- Dependence on deputation staff
- Two way movement of Government staff a serious credibility issue
 - *Several senior staff have been in and out of DoT/BSNL/MTNL*

Interconnection

- TRAI's role in Interconnection reflects serious effort
 - *problems similar to other regimes*
 - *access charge issues seem resolved*
 - *mobile interconnection does not suffer international aberrations*
- Genuine problems about power to enforce interconnection in the light of TDSAT ruling

Poor Economic Regulation of Competition is a Serious Problem

- Confusion on jurisdiction in competition issues
- Continued failure to create parity between BSNL and other licence holders
- ADC regime, though defensible, rewards BSNL even as it thwarts TRAI's accounting separation efforts
- BSNL allowed to be cross-subsidised by its competitors even though its urban tariffs are unregulated
- Internet market seriously distorted by incumbents

Regulatory Approach

- Enlightened about issues like Broadband, Wi-Fi, Niche Players;
- Risk Averse
 - Approach to rural telephony, unification
- Reluctance to confront issues head-on
- Often out of sync with market dynamics
 - sharing of private infrastructure vs BSNL's
 - BSNL can refuse roaming
 - Quality of Service rules for Internet meaningless

Design of Regulation

- Poor design of regulation
 - *Enforceability of regulation not prioritised (e.g. cable TV, quality of service in internet, billing, advertising)*
 - *ADC could have been linked to accounting separation*
 - *Content to plead helplessness after issue of orders*
 - *Failure to anticipate responses of players, especially BSNL*

Conclusion: Indian Experience in Telecom Regulation

- Incrementally superior regulation but long way to go before distortions disappear
- Probably demonstrates the impact of raw competition, more than effective regulation
- Mobile story impressive, but dominates regulatory agenda;
- Design of regulation & regulatory bodies requires attention;
- Limited consumer mandate is a regulatory risk;
- Rural users still to see any serious impact of regulatory initiative,
- Market and political economy is taking care of many aberrations

Regulatory Structure in Indian Power Sector

*K Ramanathan**

Presentation Outline

- Development challenges
- Power sector characteristics
- Regulatory structure and role of regulator
- Issues and concerns in improving regulatory efficacy



* Distinguished Fellow, TERI, New Delhi

Development Challenges

- Enhancing Access:
 - Per-capita consumption ~ 590 kWh
 - Access : 55 percent (Rural : 44 percent)
- Meeting Capacity additions
 - ~ 132 GW by capacity additions required by 2012 (corresponding to 7.4 percent GDP growth , LOLP 1.07 percent and ENS 0.0342 percent)
 - Installed capacity to be around 40, 000 MW by 2025 for per capita consumption of ~ 2500 kWh
 - Electricity for all by 2012
- Improving Efficiencies : both technical and financial
- Mobilising finances
 - Investment requirement for X and XI plan estimated at around Rs900, 000 crores (Ahluwalia committee report)
 - Over Rs2000, 000 crores by 2025



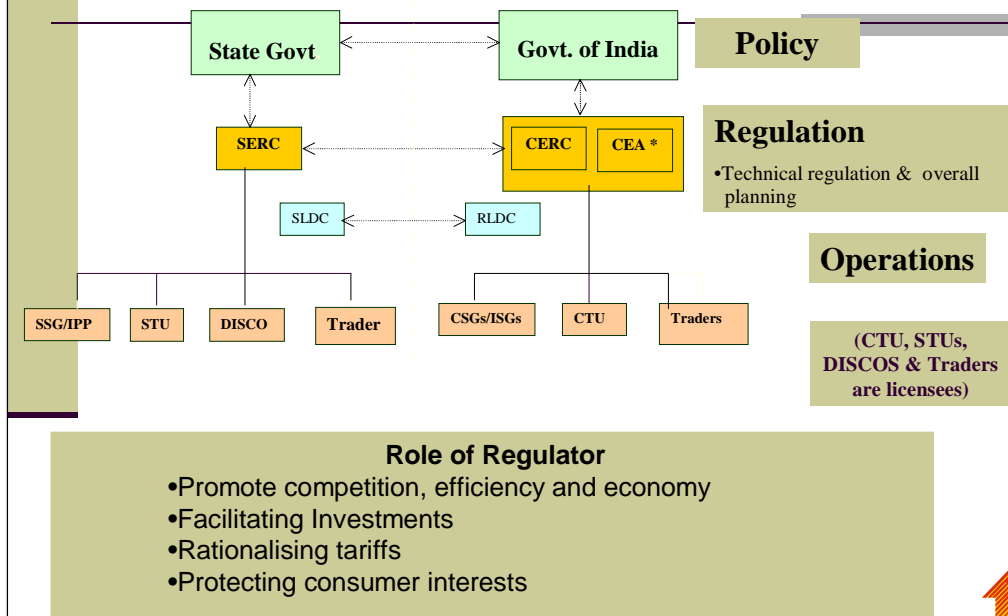
Power Sector Characteristics

- Concurrent subject
- Complex network features
- High socio-political sensitivity
- High dependence on subsidies
- Little competition in the market at present
- Access needs more stringent

Regulatory structure and process have to take note of these special characteristics



Regulatory Structure & Role of Regulator



Issues and Concerns in Improving Regulatory Efficacy

- Delays in implementation of EA 2003
- Independence and accountability of ERC's
- Credibility of ERC's
- Institutional relationships
- Need for an energy regulator ?



Implementation of EA 2003

- Policy guidelines not finalised
- Restructuring of SEB's not as per schedule
- Plans and regulations to be issued by CEA
- Regulations for open access and trading to be introduced by ERC's
- Inconsistencies in approach
- Grey areas in trajectory for reduction of cross subsidies, delivery of subsidies



Independence and Accountability of ERC's

- Question of defining independence
 - Independence should not be translated into adversarial relationship with government and vice versa
- Accountability to public at large should be ensured
- Accountability to Parliament/legislature
- Code of practices to be developed



Credibility of ERC's

- Regulators of eminence , strong personal credibility and open to knowledge
- Staffing on ERC's
 - Selection
 - Capacity building
- Well argued bold regulations to achieve policy objectives
- Adequate powers to penalise non-compliance
- Regulatory Governance
 - Establishment of Regulatory Academy ? – Self accountability
- Institutionalise regulatory impact assessment



Institutional Relationship

Regulatory bodies

- Government
- Parliament/Legislature
- Comptroller & Auditor General
- Appellate bodies/Courts
- Regulated entities
- Central Electricity Authority
- Consumers/Civil Society

Need to have clear definitions and understanding of the roles of various stakeholders



Need for an Energy Regulator?

■ Points both for and against

- **For:** inherent interdependence – coal and gas major feed stocks for power generation, economies of scale in regulatory resources, possibilities of cross learning, reduced risk of industry capture, greater independence from sectoral ministries
- **Against:** acceptance of line ministries difficult, level of evolution of regulatory bodies different, absence of sector specific focus and expertise and high cost of failure

■ Practices vary country to country

Do We Need an Energy Regulator at the Federal Level in India?



Regulatory Issues in the Transport Sector in India

*S Sundar**

Regulatory Issues in the Transport Sector in India

- Universal Service Obligation
- Tariff
- Quality of Service
- Safety
- Competition issues
- Environmental regulation



* Distinguished Fellow, TERI, New Delhi

...regulating transport in India

- Meeting the universal service obligation
 - Significant for passenger transport
 - Accessibility and livelihood issues for the poor
 - Rural connectivity
 - Current responsibility
 - Public transport by state transport authorities
 - Railways
 - Civil Aviation, largely by IA
 - No legislative or financial support as in Telecom; only policy statements
 - Issues
 - Despite rapid growth of the sector, significant gaps remain



...regulating transport in India

- Tariff issues
 - Tariff regulation in major ports by TAMP
 - Tariff regulation in trucking industry and bus transport by state governments
 - Need for independent regulation to:
 - Make tariff setting transparent
 - Improve viability of PSEs - Rail and SRTUs
 - Remove political interference
 - Ensure uniform tax and the incentive structures



...regulating transport in India

- Quality of Service (QoS)
 - Provisions for regulation
 - Passenger transport under Road Transport Corporations Act
 - No provisions for railways - QoS matter of public policy
 - Road sector
 - Quality of service poor in most operations
 - Inadequate regulation of private sector
 - Need for independent regulation?



...regulating transport in India

- Safety
 - High mortality in road and rail accidents in India
 - Current responsibility
 - Railways - Commissioner of Safety
 - Public transport and trucking industry - State Transport Authorities
 - Inadequate safety standards and ineffective implementation
 - Case for strengthening regulation
 - Road sector, through a national road regulator
 - Railways, through legislation



...regulating transport in India

- Environmental regulation
 - Significant improvements in the recent past
 - Through tightening of emission standards
 - Nevertheless, large gaps remain
 - Standards for in-use vehicles
 - Inspection & Certification
 - Fuel efficiency improvements



Competition Issues

- Cartelisation in freight transport by road by booking agents
- Cartelisation of liners in shipping
- Monopoly of AAI for regulating, operating airports and providing air traffic services
- Monopoly of CONCOR in container movement
- Need for an independent regulator to promote competition?



Passenger Transport

- Need for independent regulation to
 - Set tariff
 - Promote private sector participation
 - Ensure mobility access to the poor and the villages
 - Ensure safety and
 - Quality of service

- Jurisdiction over entire state
 - SRTUs, Private buses and urban rail



Freight transport

Trucking industry

- Need for independent regulation to
 - Prevent cartelisation
 - Facilitate modernisation of trucking industry
 - Enforce provisions of MVA
 - Enable free movement on National highways
 - Ensure Safety

- Jurisdiction over entire country



Railways

■ Need for independent regulation to:

- Introduce competition
- Set tariff transparently and objectively
- Ensure quality of service
- Enforce safety



Maritime Industry

■ Set up an Independent Maritime Authority to:

- Ensure conservancy as ports are corporatised and private ports developed
- Create a level playing field
- Improve efficiencies
- Rationalise port tariff
- Prevent cartelisation of shipping companies and agents
- Promote inter-port and intra-port competition



Civil Aviation

- Need for an independent regulator to
 - Provide a level playing field for incumbent operators and new entrants
 - Regulate airport charges as airports are commercialised and privatised



How Many Regulators ?

- One or more at the national level?
- Multi-utility regulators at the state level?
- One Transport Regulator
 - Will bring about an integrated approach
 - Address cross cutting issues
 - Reduce costs and personnel requirement



Agenda

Regulatory Framework for Infrastructure Sector in India

Friday, 14 January 2005

*India International Centre (Annexe), Conference Room III,
Lodhi Estate, New Delhi, India*

0845-0930 Registration

0930 – 1030 Inaugural

Welcome and Introduction: Pradeep S Mehta, Secretary General, CUTS International
Infrastructure Regulation – International Perspective: Scott Jacobs, Jacobs and Associates
Keynote Speech: Montek Singh Ahluwalia, Deputy Chairman, Planning Commission

Open House Discussion

1030 – 1045 Tea break

1045-1145 Session I: Infrastructure Regulation in India: Crosscutting Issues

Chair: S Sundar, Distinguished Fellow, TERI

Speaker: Pradeep S Mehta

Discussants: Shrawan Nigam, Advisor, Planning Commission of India
Virat Bhatia, Managing Director, AT&T India Ltd.

Open House Discussion

1145 – 1315 Session II: Regulatory Structure in Telecommunications Sector

Chair: Shyamal Ghosh, Administrator, USO Fund

Key Speaker: Mahesh Uppal, Director, Telecommunications and Computer Information
(TCI) Systems

Discussants: Harsh Vardhan Singh, Secretary, Telecom Regulatory Authority of India (TRAI)
Ashok Desai, Advisor, National Council of Applied Economic Research
(NCAER)

Open House Discussion

1315 – 1415 Lunch

1415 – 1545 Session III: Regulatory Structure in Power Sector

Chair: V S Ailawadi, Former Chairman, Haryana Electricity Regulatory Commission

Speaker: K Ramanathan, Distinguished Fellow, TERI

Discussants: Gajendra Haldea, Chief Advisor, NCAER

S S Ahluwalia, Joint Secretary, Ministry of Finance

Open House Discussion

1545-1600 **Tea break**

1600- 1730 **Session IV: Regulatory Structure in Transportation (railways, roads, civil aviation, and ports)**

Speaker: S Sundar, Distinguished Fellow, TERI

Discussants: V K Mathur, Chairman & MD, Inapex Ltd.

Anand Bordia, Advisor, National Highways Authority of India

Open House Discussion

1730-1800 **Closing**

Recommendations: Pradeep S Mehta

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CUTS' PUBLICATIONS

Competition, Investment & Economic Regulation

EVENT REPORT

1. The UN Code of Conduct for TNCs: Why it collapsed...The Way Ahead

It contains evidence submitted at the Permanent Peoples' Tribunal, London, November 1994. It includes a statement with supporting enclosures that include several original documents. An extremely good resource material for anyone interested in the issues of regulation of global business. (pp 121, #9401, Rs.30/US\$15)

2. Investments: Consumers, Development and the Environment

This is a report of the CI-CUTS International Seminar on Multilateral Frameworks for Investment, Geneva, 18-19 October, 1996. It contains 10 papers from eminent experts of different viewpoints. The report covers issues concerning investment liberalisation and its impact on consumer, development and environment. A must-read for those following international investment agreements. (pp 93, #9602, Rs.50/US\$15, ISBN: 81-87222-03-4)

3. Liberalised Trade & Fair Competition

This is a report of the IOCU-CUTS International Conference on Competition Policy in the Context of Liberalisation, New Delhi, 20-21, January, 1995, containing 19 papers from eminent competition practitioners and economists from all over the world. The recommendations include calling upon the WTO and UNCTAD to develop work programme on trade and competition and governments to involve public interests groups in policy-making. A good documentation for anyone interested in trade and competition issues. (pp 144, #9501, Rs.100/US\$25)

4. Too Big for Rules

This is a report of the IOCU-CUTS International Conference on Fairplay in Global Business, February 14-15, 1994, New Delhi, which contains several documents relating to trade and Trans-national Corporations (TNCs). It is a comparative statement of the draft UN Guidelines for Transnational Investment, the International Chamber of Commerce's (ICC) Guidelines for Investment and the OECD Declaration for Multinational Enterprises. It also contains the Delhi Declaration adopted in the conference. (pp 105, #9409, Rs.50/US\$25)

5. Challenges in Implementing a Competition Policy and Law: An Agenda for Action

This report is an outcome of the symposium held in Geneva on "Competition Policy and Consumer Interest in the Global Economy" on 12-13 October, 2001. The one-and-a-half-day event was organized by CUTS and supported by the International Development Research Centre (IDRC), Canada. The symposium was addressed

by international experts and practitioners representing different stakeholder groups viz. consumer organisations, NGOs, media, academia, etc. and the audience comprised of participants from all over the world, including representatives of Geneva trade missions, UNCTAD, WTO, EC, etc. This publication will assist people in understanding the domestic as well as international challenges in respect of competition law and policy.

(pp 48, #0202, Rs.100/US\$25, ISBN: 81-87222-54-9)

6. Competition Policy and Pro-Poor Development - A report of the Symposium on Competition Policy & Pro-poor Development

This document covers the deliberations at a one-day symposium looking at how competition policy and law relate to pro-poor development. This report carries the papers, which were produced and presented at the three sessions by young researchers associated with the project. The proceedings carry the rich debates, involving many of the experienced and highly recognised experts from all over the world, which were held around the three presentations.

(Rs. 250 for India/US\$20 for OECD countries/US\$15 for others, ISBN: 81-8722-93-X)

DISCUSSION PAPERS

1. Capacity Building on Infrastructure Regulatory Issues

The role of civil society is critical in shaping regulatory capacity. It helps in resource mobilisation and experience sharing, which in turn, helps regulatory agencies to form a strong platform from where they can build further. This document is intended to kick-start debate among the stakeholders – Government, regulatory bodies and civil society – to catalyse an appropriate regulatory environment in India.

(Rs.100/US\$50, ISBN 81-8257-020-4)

2. Multilateralisation of Sovereignty: Proposals for Multilateral Frameworks for Investment

The paper written by Pradeep S Mehta and Raghav Narsalay analyses the past, present and future of investment liberalisation and regulation. It also contains an alternative draft, International Agreement on Investment.

(pp 148, # 9807, Rs.10/US\$25, ISBN: 81-87222-14-X)

3. Investment Policy in Zambia—Performance and Perceptions

Is the current investment framework and legislation sufficient to attract FDI in Zambia? If not, what additional measures need to be put in place? The report addresses these questions through review of Zambian investment

policies and their performance and aims to create awareness about the investment policymaking process by a study of data and perceptions of stakeholders. (Rs.100/US\$25, ISBN: 81-8257-011-5)

4. Investment Policy in Brazil—Performance and Perceptions

This report highlights the important issues in policy reform, investment trends and civil society view on the contribution of foreign investment to Brazil's economy. It is a valuable contribution to the understanding of FDI trends and their impact in the past decade. A useful compendium of information, it is a handy guide for comparative studies of other developing countries. (Rs.100/US\$25, ISBN: 81-87222-95-6)

5. Investment Policy in Tanzania—Performance and Perceptions

The report captures the perceptions of the Tanzanian civil society of the contribution and benefits of FDI to Tanzania's social and economic development and its potential in attracting FDI. While development partners and the private sector have a role to play in enhancing FDI inflows, the brunt of making FDI work for the development of Tanzania lies within the remit of the government, says the study. (Rs.100/US\$25, ISBN: 81-8257-009-3)

6. Investment Policy in India—Performance and Perceptions

Foreign investment may have begun coming in after India launched its liberalisation programme in 1991, but India's performance in attracting FDI has not been very encouraging. This report attempts to study the investment regime and actual performance of India with a view to build capacity and awareness of investment issues and draw out the lacunae of the present system. (Rs.100/US\$25, ISBN: 8257-007-7)

7. Investment Policy in South Africa—Performance and Perceptions

This report reviews key policy issues related to investment in South Africa, and the performance and perceptions of investment with specific focus on FDI. It represents a comprehensive treatment of South Africa's investment regime since the inception of its democracy in 1994. Containing a systematic overview of related policy areas, it provides an understanding of the interface between economic performance and domestic and foreign investments. (Rs.100/US\$25, ISBN: 81-8257-013-01)

8. Investment Policy in Bangladesh – Performance and Perceptions

Despite favourable investment regime on paper, Bangladesh has not been receiving FDI in greater quantity, particularly in recent times. The study makes a good attempt at understanding the investment regime and

actual performance of multiple actors in the field of FDI in Bangladesh in the global and national context. (Rs.100/US\$25, ISBN: 81-8257-012-3)

9. Investment Policy in Hungary – Performance and Perceptions

The transformation process in Hungary had some experiences with FDI even before 1990. It is therefore possible to regard Hungary as an example of FDI-led economic reconstruction and development model. The following analysis tries to sum up both the gains and pitfalls of this FDI-led economic development model. (Rs.100/US\$25, ISBN: 81-8257-020-4)

10. Restrictive Business Practices in Nepal

This paper attempts to study the restrictive business practices (RBPs) prevalent in the Nepalese market. The main recommendation of the study is that the bureaucrats and policy makers have to be educated about the need to promote competition in the marketplace. Similarly, there is also a need to formulate and implement a dynamic and comprehensive competition policy that suits the structure of the Nepalese market. The study introduces the reader to the Nepalese history and the process of industrialisation and economic reforms, and throws light on the RBPs experienced at the local level.

RESEARCH REPORTS

1. Analyses of the Interaction between Trade and Competition Policy

This not only provides information about the views of different countries on various issues being discussed at the working group on competition, but also informs them about the views of experts on competition concerns being discussed on the WTO platform and the possible direction these discussions would take in near future. It also contains an analyses on the country's presentations by CUTS. (Rs.100/US\$25, ISBN 81-87222-33-6)

2. The Functioning of Patent Monopoly Rights in Developing Economies: In Whose Interest?

Advocates of strong international protection for patents argue that developing countries would gain from increased flows of trade, investment and technology transfer. The paper questions this view by examining both the functioning of patents in developing economies in the past and current structural trends in the world economy in these areas. The historical research revealed no positive links between a strong patent regime and FDI and technology transfer. Current trends are largely limited to exchanges amongst the industrialised countries and to some extent, the newly industrialising countries. While increased North/South trade flows are expected, negative consequences are possible. (Rs.100/US\$25, ISBN 81-87222-36-0)

3. **Towards a New Competition Law in Sri Lanka**

This is the Sri Lanka country report, which will feed into the first phase of the Comparative Study of the Competition Law Regimes of select developing countries of the Commonwealth also known as 'the 7-Up Project', undertaken by CUTS, supported by the Department for International Development (DFID), U.K. The research project aims to identify measures that would assist developing countries in strengthening their competition laws and introducing such laws where they are absent. Sri Lanka is in the process of formulating and adopting a new competition law in the year 2002, twenty-five years after market liberalisation. The issue for Sri Lanka may very well be whether the Sri Lankan economy is sufficiently mature to sustain an effective competition policy regime to reap the many benefits that such a policy has to offer.

(pp 51, #0206, *Lankan Rupee (LKR) Rs. 150/Indian Rupees (INR) Rs.100/US\$10* ISBN: 81-87222-65-4)

4. **Competition Law & Policy – A Tool for Development in Tanzania**

The report makes a critical assessment and review of the competition regime in Tanzania based on the Fair Trade Practices Act of 1994 and the subsequently created institutions. In this report, economic and law based researchers carefully explore the competition regime in Tanzania, bringing to fore the different facets of competition policy in the country, including the socio-economic and public policy context. These sections explain concentration issues, direct investment, trade orientation, financial sector reforms and various policies important for competition law and policy to work.

(pp 49, #0207, *Tanzanian Shilling (TSH) 1000SH/ INR Rs.100/US\$10* ISBN: 81-87222-66-2)

5. **Promoting Competitiveness & Efficiency in Kenya – The Role of Competition Policy & Law**

Since the beginning of the 1990s, competition policy has been increasingly recognised as a key component in the ongoing reforms of most developing countries. For Kenya, an important dimension of current changes in competition policy involves the introduction of competition to areas from which it was previously absent, in particular telecommunications and related public infrastructure services. Another important dimension of competition policy in Kenya concerns mergers and takeovers. The Monopolies and Prices Commission (MPC) has responsibility for lowering monopolistic tendencies in the economy. This report examines the scope and context of competition policy and competition law in Kenya, the socio-economic development of the country, an assessment of Kenya's competition law, administrative aspects of the law and capacity and needs of the MPC.

(pp 54, #0208, *Kenyan Shilling (KSH) 100/ INR Rs.100/ US\$10*, ISBN: 81-87222-62-X)

6. **Competition Policy & Law in South Africa – A Key Component in New Economic Governance**

The report assesses the competition framework in South Africa, with a view to the effectiveness in promoting

economic efficiency and consumer welfare as part of economic development. The report is an input into the 'Comparative Study of Competition Regimes in Select Developing Countries', co-ordinated by CUTS. The report locates the rationale for competition policy in a South African context. It then outlines the changing competition regime with the enactment of the Competition Act of 1998 and the establishment of the Competition Commission, Competition Tribunal and Competition Appeals Court in 1999.

(pp 45, #0209, *Rands (RN) 10/ INR Rs.100/US\$10*, ISBN: 81-87222-64-6)

7. **Competition Regime in Pakistan – Waiting for a Shake-Up**

The report introduces the existing competition legislation and competition policy issues in Pakistan and gives recommendations on how to improve upon the existing legislation and the capacity of the competition authority. It discusses the economic performance of the country, the nature of markets and competition in Pakistan, provides a brief overview of the available literature on industrial concentration, establishing a case for a well-defined competition policy and law. It also deals with the social and economic policies of the Government that affect competition.

(pp 41, #0210, *Pakistani Rupees (PKR) Rs. 100/INR Rs.100/US\$10* ISBN: 81-87222-63-8)

8. **Enforcing Competition Law in Zambia**

The paper examines the adequacy of the Competition and Fair Trading Act of 1995 as applied in Zambia. An attempt has been made to relate competition law to economic development policy in general and, more specifically, to market liberalisation policies, policies on FDI, consumer protection and other sector-specific regulations. Since competition law in Zambia seeks to protect consumers by encouraging competition and fair-trading, this project also addresses the effectiveness of the regulatory authorities in prohibiting/regulating the monopolies that operate in the economy. While assessing the effectiveness of the Zambia Competition Commission (ZCC), procedural issues regarding its powers and responsibilities, its functions, coverage, constraints and prospects are also examined.

(pp 54, #0211, *Zambian Kwacha (ZK) 5000/INR Rs.100/ US\$10*, ISBN: 81-87222-67-0)

9. **Reorienting Competition Policy and Law in India**

The Report reviews the existing Competition Law, the Monopolies and Restrictive Trade Practices Act (MRTP) and the proposed new law, focusing on the implementation of the MRTP Act. A number of important issues, such as the division of overlapping jurisdictions between the Central Competition Authority and Sectoral Regulators, the composition of the new Competition Authority proposed under the new law and most importantly, the extent of discretionary powers to be vested with the new Competition Authority, still elude broad consensus in the country. However, by pulling together the diverse elements of the competition regime in India and focusing on the gaps between the laws and

their implementation, it is hoped this Report will lead to improved awareness of this critical area of policy reform in the economy. (pp 47, #0212, INR Rs.100/US\$10 ISBN: 81-87222-61-1)

10. Pulling up Our Socks

This report is the compilation and synthesis of the research results of the 7-Up Project, which is a comparative study of the competition regimes of seven developing countries of the Commonwealth, namely, India, Kenya, Pakistan, South Africa, Sri Lanka, Tanzania and Zambia, implemented by CUTS, with the support of the DFID, UK. The report compares the institutional framework in the project countries and analyses important issues like legal provisions, autonomy of the institutions, financial and human resources, etc. It concludes with suggestions and recommendations for strengthening the competition regimes in these countries. If you are interested, please ask for a copy. (pp 68, #0303, INR Rs.250/US\$15 ISBN: 81-87222-74-3)

11. Putting our Fears on the Table

Analyses of the proposals on investment and competition agreements at the WTO

“Putting our Fears on the Table” is the title of a recently published report of the CUTS Centre for International Trade, Economics & Environment. It provides analyses of the proposals on investment and competition agreements at the WTO, especially in the areas taken up and/or proposed at Doha for possible future negotiations. This volume is a product of comprehensive research and dialogue of leading international experts, practitioners and other stakeholders. It will really help developing countries to comprehend and deal with the issues in the WTO context. This timely and comprehensive report will provide valuable inputs to negotiators and all other stakeholders who play a role in evolving negotiating positions of countries.

(Rs.300 for India/US\$25 for OECD Countries/US\$15 for other) ISBN 81-87222-84-0)

12. State of the Indian Consumer: Analyses of the Implementation of the UN Guidelines for Consumer Protection, 1985, in India

The UN Guidelines for Consumer Protection, 1985, outlined eight consumer rights. In India, the Consumer Protection Act, 1986, mentioned six consumer rights. The report analyses the state of implementation of the UN Guidelines in India.

(pp 218, #0103, Rs.200/US\$25, ISBN: 81-87222-21-2)

13. Approaches to Competition Policy in South Asian Countries

There has been a growing concern, both at the international and the domestic level, more particularly among the developing countries, about the need to develop a comprehensive legal framework to deal with anti-competitive practices in order to promote an orderly

market growth. This research report of the CUTS Centre for Competition, Investment & Economic Regulation intends to trigger debate and discussions on competition policy in the South Asian Countries from national, regional and global perspective. (Rs.100/US\$25, ISBN: 81-8722-78-6)

14. Towards a Functional Competition Policy For India – An Overview

The project report, edited by Pradeep S Mehta, comprises of 22 chapters, which highlight various systematic and sectoral issues. The report is being published as two separate volumes. One is an overview, which presents all the papers in a précis form, so that a busy reader can go through them easily and get a flavour of what the issues are. The second is a more detailed report, with all papers offered in a greater depth. The study helps in getting a better understanding of the competition scenario in India and will be useful to those who are interested in economic policies, in general, and competition policy, in particular. (Pp 248, Rs. 495/US\$32.95, ISBN: 817188449-0)

MONOGRAPHS

1. Role of Competition Policy in Economic Development and the Indian Experience

Competition and efficiency are the guiding principles of the liberal economic order. Any healthy competition must have rules that the players should follow. This is more so when the players are business organisations and their activities have a larger impact on the society. This monograph examines the role of an effective competition policy in economic development from an Indian perspective.

(pp 32, # 9908, Rs.50/US\$10, ISBN: 81-87222-25-5)

2. FDI, mega-mergers and strategic alliances: Is global competition accelerating development or heading towards world monopolies?

Foreign Direct Investment, mergers, amalgamations and strategic alliances are the rules of the present day global economy. However, the crucial question is whether the movement of capital leads to further development and welfare of the society or the growth of monopolies. The monograph sheds light on the main contours of the global competition and its implication for consumers. (pp 24, #9909, Rs.50/US\$10, ISBN: 81-87222-26-3)

3. Competition Regimes Around the World

In this paper, an attempt has been made to compile, briefly, the current state of competition law in some select countries on which information is readily available. The paper steers clear of any value judgements on the design and implementation of competition law in the countries covered therein.

(pp 40, #2002, Rs.50/US\$10, ISBN: 81-87222-31-X).

4. Globalisation, Competition Policy and International Trade Negotiations

This paper maps out the issues concerning multilateral competition policy from a southern perspective. It concludes that there is a need for a realistic assessment of the extent to which developing countries would be able to control MNCs under the disciplines of competition law. (pp 38 #2003, Rs.50/US\$10, ISBN: 81-87222-32-8).

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Foreign Direct Investment has assumed increasing importance as a source of finance for development in recent years. This monograph, written by Dr. Peter Nunnenkamp of the Kiel Institute of World Economics, Germany, and published by CUTS, is an important

contribution towards answering the question: Does turning to FDI put development finance on a more sustainable path?

It presents two broad policy challenges for developing countries, which, if met, could contribute to the fulfillment of development goals: first, making the domestic environment attractive to FDI and second, ensuring that beneficial effects of FDI are reaped. It drives home the point that attracting greater FDI inflows does not necessarily imply that FDI will contribute to poverty reduction through income growth.

The monograph gives a balanced assessment of the role of FDI and thus, makes an interesting read! (pp 34, #0216, Rs. 50/\$10, ISBN: 81-87222-80-8)

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Much attention has been paid so far to the role of Foreign Direct Investment (FDI) in economic development, particularly on various dimensions of the interaction between transnational corporations (TNCs)-the undertaker and conductor of most FDI in the world today and host countries-the receiver and main beneficiary of those private capital flows. This wedded relationship, however, is indeed triangular with the presence of a no-less-important actor, *i.e.* home countries, whose role as the countries of origin exerts significant influence on the direction and development impact of FDI flows from TNCs into host countries. This monograph, which highlights various measures adopted by home countries to influence outbound FDI and draws attention to issues and implications for developing host countries, provides some food for thought and makes worthwhile contribution in this direction. (pp 31, #0316, Rs. 50/\$10, ISBN: 81-87222-90-5)

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