Asia-Pacific Research and Training Network on Trade
Working Paper Series, No. 4, March 2006

An Evaluation of the Need and Cost of Selected Trade Facilitation Measures in India: Implications for the WTO Negotiations

Sachin Chaturvedi*

---

*Sachin Chaturvedi is a Fellow, Research and Information System for Developing Countries (RIS), New Delhi, India. The views presented in this paper are those of the author and do not necessarily reflect the views of ARTNeT members, partners and the United Nations. This study was conducted as part of the Asia-Pacific Research and Training Network on Trade (ARTNeT) research effort on trade facilitation and carried out with the aid of a grant from the International Development Research Centre, Ottawa, Canada. The technical support of the United Nations Economic and Social Commission for Asia and the Pacific is gratefully acknowledged.
The author would like to thank Dr. Nagesh Kumar, Ms. Kameswari Subramanian, Dr. Jayanta Roy, Mr. Ramesh Ramchandran and Mr. Arun Sahu for their constant encouragement, support and guidance during the study. Thanks are also due to Mr. R. S. Sidhu, Ms. Lipika Majumdar Roy Choudhury, Mr. Shashank Priya, Mr. Arvind Nagpal, Mr. Syed Mehmood Akhtar, Dr. Anjan Roy and his team for helping with the collection of data and other policy related details. Comments from Dr. S K Mohanty and other participants of the Second ARTNeT Consultative Meeting of Policy Makers and Research Institutions, especially Prof Donald Lewis, Dr. Biswajit Dhar, Prof. Florian Alburo and Dr. Yann Duval, have enriched the contents. Research and secretarial support from Mr. Bijaya Kumar Sahu and Ms. Ritu Parnami, respectively, is gratefully acknowledged.

Table of Contents

Executive Summary

Though trade liberalization in India was launched as early as 1991, major policy attention paid to trade facilitation is a rather recent phenomenon. The Central Board of Excise and Customs (CBEC), a key government agency responsible for trade facilitation, has consolidated different initiatives in the past two years. The CBEC has accepted and implemented most of the key recommendations of Working Group on Trade Facilitation (WGTF). However, the current Trade Facilitation (TF) programme may have to go beyond current mandate and take into account specific WTO commitments which may emerge during the on-going negotiations as per the GATT Articles V, VIII and X. In this paper, an effort is made to take stock of the needs, priorities and cost of implementation of these Articles for India.

India has initiated several measures as part of the TF programme. While most of the measures have already been put in place in the context of Articles VIII and X, the ones left involve significant costs and require careful planning for implementation. In case of Article V, there are certainly major gaps. In countries like India, where trade facilitation is an on-going exercise, precise cost estimation is a difficult preposition.

The study finds that in case of Article X, which basically deals with the publication and administration of trade regulations, India has already implemented most of the requirements. However comprehensive efforts are required to implement, the provision related to single inquiry point which may require software compatibility among various agencies involved apart from addressing the infrastructural constraints. In case of GATT Article VIII which deals with issues related to fees and charges and import and export formalities and documentation requirements most of the provisions are in place but efforts are required to improve the border agency coordination. In case of Articles X and VIII, the minimum cost is estimated at around Re. 2,016 million. This includes a major expenditure on equipments and infrastructure (82 per cent). The installation of electronic cargo clearance units is a major requirement at most of the leading ports in India. In Article V there is lot to be expected from India, the infrastructure requirements, especially for the physical infrastructure, deserve huge and urgent funding. This includes additional efforts required to support and strengthen the level of communication at the border points. Most of the Land Customs Stations (LCSs) require better infrastructure. There is need to attach greater priority to include various provisions of GATT Article V in the bilateral trade and transit treaties especially with land locked countries for greater facilitation of transit trade.

As part of the study, a private sector survey was also conducted to identify the key remaining problem areas. The main areas identified are customs valuation (19 per cent), tariff classification (16 per cent) and submission of documents for clearance (14 per cent). Other problem areas also include in order of importance, technical or sanitary requirements, obtaining import licence (for certain chemicals), identification of origin of goods and payment of fees and penalties. This clearly shows that the current scope of the WTO trade facilitation negotiations eventually may not be sufficient in ensuring a faster movement of goods. At the same time, the private sector may not be prepared to take maximum advantage of automation and other programmes of customs and other border agencies. This may require some investments in extension services and for capacity building.

These ground realities hold important implications for any undertaking by India at the TF negotiations of the WTO. However, given the considerable infrastructural gaps, the Indian negotiating team should exhibit extreme caution towards the new proposals and ideas but should display pragmatism, at least for the measures that have already been implemented in India. In light of considerable advancement at the domestic level, a greater optimism and pro-active formulation of proposals is expected.

I Introduction

Among the Singapore issues at the WTO, trade facilitation is the only issue, which has emerged as the brightest part of Post-Cancun trade negotiations. The current mandate of the Negotiating Group for Trade Facilitation (NGTF) is to clarify and improve the three articles viz. Articles V, VIII and X of the GATT 1994. The NGTF has also focus on identifying special and differential treatment for developing and least-developed countries apart from exploring areas for technical assistance and support for capacity building for the developing and the least-developed country members. As part of the "July Package", the General Council on 1 August 2004 decided by explicit consensus to commence negotiations on trade facilitation and the Trade Negotiations Committee established, on 12 October 2004, the Negotiating Group on Trade Facilitation (NGTF). The Annex 'D' of the July Package defines the modalities of the negotiation drawing on the relevant work of the WCO and other relevant international organizations in this area. It clearly suggests that negotiations should lead to certain commitments whose implementation would require support for infrastructure development on the part of some Members. In the process three pillars of approaching trade facilitation have emerged: a non-binding action programme, capacity building and special and differential treatment.

The role of developing countries in this remarkable convergence of views is of great importance in the history of WTO negotiations. For India and for many other developing countries, the perception of a multilateral understanding on trade facilitation is gradually changing. The initial resistance and the perceived negative implications of an agreement on TF are disappearing and pragmatism seems to be setting in at various submissions being made at the WTO by developing countries including India. At the domestic level also the comprehensive economic liberalization programme launched in India in the early nineties is being supplemented by various policy measures for TF including efforts to improve cargo clearance. The growing external orientation through enhanced trade and policy commitment to achieve a one per cent share in global trade by 2007, as espoused by the Ministry of Commerce and Industry (MoCI), is a major policy impetus for TF further supplemented by the introduction of the Information Technology Act (2000) which has also worked as a major catalyst. The IT Act proposes institutional support to ensure commitment for e-governance. This led to the establishment of a Certificate Authority for accepting electronic signatures and a sharp growth in information technology (IT) services and IT Enabled Services (ITES) in the trade sector.

The Budget Speech of the Union Finance Minister (1999-2000) provided the necessary political will for launching various TF measures. In this Budget address a Task Force on Indirect Taxes, the Kelkar Committee (2002), headed by Mr. V. Kelkar was appointed. The Task Force provided the much-needed rationale and policy framework for TF. It suggested evolving specific policy instruments that related to dwell time, greater automation and other issues to improve the efficacy and effectiveness of the Indian trade facilitation measures. The Ministry of Finance later in 2004 constituted a Working Group on Trade Facilitation (WGTF) headed by Jayanta Roy for suggesting a roadmap to develop a comprehensive action plan for trade facilitation. Since October 2004, when the WGTF gave its report, the CBEC has implemented several measures.

The process of implementing a TF programme with a sharp focus on WTO commitments especially in the context of Articles V, VIII and X, raises concerns regarding the cost implications of possible commitments under the three articles. In countries like India, where trade facilitation is an on-going exercise, the precise cost estimations are difficult to segregate. The GATT Article V deals with trade in transit goods whereas Article VIII deals with issues relating to fees and charges; import and export formalities and documentation requirements. Article X basically deals with publication and administration of trade regulations. The absence of any estimate at the government level to identify the costs of implementation of possible WTO commitments on Articles V, VIII and X is therefore not surprising. In the context of Articles VIII and X though some measures are already in place but there are certainly some gaps while under Article V, India needs to do a lot. In this paper we attempt to take stock of the current status and future work agenda before India as the WTO negotiations and the debate on TF evolves. Section II provides an overview of the TF framework in India. Section III assesses the implementation of Articles X, VIII and V while Section IV presents the perceptions of the private sector and the cost of implementation is analyzed in Section V. The WTO implications are examined in Section VI and the last section provides the conclusions.

II Trade Facilitation in India: An Overview

Broadly, there are three major agencies in India which enable TF in different ways. The Central Board of Excise and Customs (CBEC), the main arm of Government of India under the Ministry of Finance, came out with a 'Vision and Strategy Document', 1998, emphasizing commitment to TF through a practical and pragmatic approach. The section reviews the literature on trade facilitation in India, lists major government initiatives and gives an overview of the recent or on-going capacity building programmes.

II.1 Literature Review

As the debate on TF intensifies, the stock of knowledge on trade facilitation is also expanding in India especially in the context of the on-going WTO negotiations with a focus on Articles V, VIII and X. There are three detailed studies available so far viz. Sengupta and Bhagabati (2003); Taneja (2004) and Banerjee and Sengupta(2005). These studies examine the on-going initiatives in India to simplify trade-related procedures, especially customs rules and other trade facilitation measures. Substantial contributions to the debate have come from the *Report of WGTF (2004)* and the study from *Ace Global (2005)* which has attempted to identify the key challenges.

Sengupta and Bhagabati (2003) detail various trade facilitation measures introduced in India, especially those initiated by the CBEC since 1998. The paper also lists various related announcements in the Union Budget, the export-import policy of India including measures for data and documentation, electronic facilities, transparency, time reduction, faster clearance and risk analysis. The study also conducted a preliminary survey targetted at two different categories of respondents covering one exporters and importers and the other category covering clearing and forwarding agents, multi-model transport operators, express delivery, road carriers, airlines, ships agents and shipping lines. The observations in Taneja (2004) suggest that India is autonomously pursuing most of the recommendations being discussed at WTO as part of a debate on Articles V, VIII and X. This study provides an inventory of several of these measures. The study recommends pursuing of trade facilitation negotiations by focusing on issues related to time schedule, details and level of obligation and coverage. Banerjee and Sengupta (2005) provide an elaborate list of the documents required for export clearance along with cargo dwell time at two major entry points that is Delhi and Mumbai. The study also presents evidence on the degree of correlation between transport cost and project export growth. Apart from this there are other relevant papers for instance ESCAP (2000) discusses the alignment of trade documents and procedures of SAARC countries especially among India, Nepal and Pakistan. Satapathy (2004) and Mathur et al. (2005) give India specific details on the custom tariff structure and trade facilitation measures.

The transaction cost of Indian exports has been worked out in EXIM Bank (2003). In this study, the author identified the various contours of procedural complexities which hinder the trade facilitation efforts. The study has identified nine such indicators on the basis of which data is collected from various firms representing major export sectors in the Indian export basket. The factors identified are as follows: complex administrative processes; dishonesty of public agents; procedural delays in clearing imported inputs for exports at the customs; multiplicity of rules and regulations; stringent but inefficient implementation processes; informational constraints regarding credit availability and export remittances; infrastructural bottlenecks related with transportation and communication; institutional factors which intensify rent-seeking activities in an economy; and political environment as it affects any change in policy stances and other related parameters concerning the factors listed above.

There are various studies available attempting to quantify transport, regulatory and other costs at the bilateral level between India and Bangladesh. The World Bank also commissioned some studies on bilateral trade cost with Nepal and Sri Lanka. In this context, studies by, for example Das and Pohit (2004), Pohit and Taneja (2000) and Subramanian and Arnold (2001) may provide some indication of the current magnitude of cost. Their major focus is on loss of time at different stages of trade including in the securing of export licences, etc. In Table 1, a comparison of the three studies is presented.

Table 1: Comparisons of Various Studies on Transport and Other Cost Estimations

Factors/Elements	**Studies**		
	Pohit and Taneja (2000)	**Subramanian and Arnold (2001)**	**Das and Pohit (2004)**
Cost per kilometer/cost per 10 tonne truck	No	Yes	Yes
Cost as proportion of annual total exports/single shipment	Yes	No	Yes
Loss of time in:			
Obtaining export licence	Yes	No	Yes
Loading at Kolkata	No	No	Yes
Transportation	Yes	Yes	Yes
Parking	No	No	Yes
Customs clearance	Yes	Yes	Yes
Crossing of border	No	No	Yes
Unloading at Benapole	No	No	Yes
Crossing of border while returning	No	No	Yes
Export remittances	Yes	No	Yes
Loss perceived by exporters – cost implications:			
Due to delay in customs clearance and transportation including parking and queue at border	No	Yes	Yes
Due to delay in obtaining export remittances	No	No	Yes
Trading costs other than transportation			
Incidence of bribes (speed money)	Yes	Yes	Yes
Cost of credit	Yes	No	Yes

Source: Das and Pohit (2004).

However, since most of these studies were done before the actual debate started at the WGTF, they do not provide any estimate on cost of compliance and possible time frame for resource generation. Recently, MoCI commissioned a study with Ace Global (2005) which has identified key TF related problems faced by Indian exporters in other countries. As the title suggests the study covers various destinations and sector specific suggestions and constraints as received through a comprehensive survey of Indian exporters. There could have been a section covering problems of exporters and importers inside India. However, a comprehensive review of transit issues is given in one of the sections.

The WGTF came up with different suggestions to streamline the implementation of trade facilitation measures. At the conceptual level it has helped in developing novel policy instruments such as dwell time, etc. Though the report suggests provocative numbers for instance, it says developing countries to shave off an average of one day in time spent in handling their trade; the savings would amount to about US $ 240 billion annually! However, it is review of the on-going initiatives like Electronic Data Interchange (EDI) and other capacity building measures which have attracted a lot of imaginative suggestions. The study also attempts to calculate dwell time at various points of customs. In one of the chapters existing export promotion schemes are reviewed vis-á-vis delays in consignment arrivals.

II.2 Major Government Initiatives and Institutions Involved

The main objective of Article X is to ensure publication of all information related to laws, regulations, border-crossing trade, border rules and procedures for customs administration. In the context of the appeal procedure, this Article requires members to establish judicial, arbitral or administrative tribunals or procedures for review and correction of administrative actions related to customs.

India has already initiated several measures which may eventually ensure a speedy implementation of this Article. There are three major agencies which are engaged in dissemination of information about trade related rules and procedures. The key agency among these is the CBEC, which publishes all customs related acts, rules, regulations, tariff details through the CBEC manual and notifications. The CBEC maintains an exhaustive website which contains all the relevant and necessary information along with latest updates. The Customs Act, 1962 and Customs Tariff Act, 1975 are the two major Acts, which guide the working of the Customs Department. The Foreign Trade (Development and Regulation) Act, 1992 and Foreign Trade (Regulation) Rules 1993 are the other major legal instruments promulgated to streamline trade in the post-reforms era.

II.3 Major On-going Capacity Building Projects

Adoption and application of information communication technology (ICT) is the major plank of Indian Customs initiatives to expedite the clearance of import and export cargo and provide a fool-proof paperless system of assessment and clearance. A framework has also been created for electronic message-exchange between customs and their trading partners, such as banks, airlines, Directorate General of Foreign Trade (DGFT), Directorate General of Commercial Intelligence and Statistics (DGCIS), Reserve Bank of India (RBI), shipping lines, Customs House Agents (CHAs) and export promotion agencies like Apparel Export Promotion Council (AEPC), etc. The idea is to ultimately ensure that the end users are able to conduct the complex transactions, with various agencies, concerning trade and transport by electronic means right from their own offices. The CBEC has taken steps for the setting up of a Customs Data Warehouse (CDW) to store data which may be made available in a standard format for any enquiry/investigation or analysis, reporting, etc.

In order to further facilitate matters, the Customs Department has issued Bill of Entry (Electronic Declaration) Regulations, 1995, to enable the submission of import details through electronic declarations. As part of this the authorized person shall furnish for the purpose of clearance of the imported goods a cargo declaration, in the format set out to these regulations for preparing an electronic declaration of the bill of entry, at the service centre. The facility of ‘round the clock’ electronic filing of customs documents for clearance of goods is now extended from 9 to 23 centres.

EDI

The EDI exercise is underway in India since 1995, when the CBEC launched the Indian Customs EDI System (ICES).[1] Initially, this was confined to Air-Cargo Delhi but now is operational at 32 Customs locations covering over 80 per cent of the country’s international trade. At the automated locations 98 per cent of the exports and 95 per cent of import documentation are processed electronically. According to the data provided by CBEC more than 4 million documents are being processed annually on the system which constitutes almost 86 to 89 per cent of total trade transactions.

ICEGATE

As part of this initiative, the trading community may file customs documents through the internet. The programmes developed for the purpose are featured to take care of various exemptions being given to exporters. This has streamlined paper work and the time required in processing. There are some options for touch screen, SMS enquiry, kiosks and other web based facilities including document tracking system which enable clients to know the latest status of their document over the internet. This facility is known as ICEGATE (Indian Customs and Central Excise Electronic Commerce/Electronic Data Interchange Gateway). The Customs E-commerce Gateway is functional at 23 Custom locations. Apart from its role in facilitating message exchange with agencies, it also facilitates the remote filing of import and export declarations by the importer/exporter. CHAs have also started working at 17 of these 24 locations.[2] On an average, about 8000 import and export declarations are being filed daily using the ICEGATE facility. The facility will be extended to other Custom Houses in phases. Most of the airlines are filing their import and export manifests using the Gateway.

iCert

In order to ensure privacy, authenticity, integrity and reliability of the transactions the CBEC has introduced the public key infrastructure (PKI) technology popularly called digital signature. The Licensed Certifying Authority (iCert), established by CBEC makes available PKI to its trading partners and departmental staff. At present, iCert has five regional offices viz. in Bangalore, Chennai, Delhi, Calcutta and Mumbai.