



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

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## 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 proposition.

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-modal 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
<b>Loss of time in:</b>			
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
<b>Loss perceived by exporters – cost implications:</b>			
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
<b>Trading costs other than transportation</b>			
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-à-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).<sup>1</sup> 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.<sup>2</sup> 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.

### *Training provided to Custom Staff*

The CBEC has recently initiated several measures to train the officers engaged in the work of assessment, examination, etc. so that they can efficiently deal with the situations arising out of the ongoing reforms and streamlining of the various trade measures.<sup>3</sup> An effort is being made through the quick training programmes to reduce the information gap which comes up due to a very hierarchical structure. This may eventually help in faster clearance of goods and reduce grievances from the trade. The National Academy of Customs, Excise and Narcotics (NACEN), Faridabad has several regional institutes which conduct training on a regular basis for staff who are posted for the first time and a refresher course for already working staff to acquaint them with ongoing reforms.

The training programmes are attended by such staff as is engaged in assessment, examination, bonded warehouse, container freight stations, prevention, etc. The participants are informed of all the legal/procedural changes brought about by any instructions/circulars/notifications apart from the issues arising from public notices or other technical details.

### **III Assessment of Trade Facilitation Situation**

An assessment of three GATT Articles, so as to find out existing gaps as per the WTO classification of trade facilitation measures, is attempted in this section. The information provided for all the three Articles viz. X, VIII and V is also summarized in Annex 1 and Table 12. In Annex 1, the focus is the WTO/WCO checklist. After this the coverage and focus within the three Articles has expanded which are covered in Table 12. The details here are based on extensive interviews with policy makers, government officials and secondary sources of information. As the checklist shows there are still some gaps in Articles X and VIII while major gaps are present in Article V.

Efforts have also been made to draw upon other studies as mentioned in the literature review. However, in last one year a lot of new policy measures have been introduced which are not covered in existing studies.

#### ***III.1 GATT Article X***

Article X basically deals with the publication and administration of trade regulations. The proposals received at WTO by various members also intend to cover issues related to the establishment of a single national focal point; time period between publication and implementation; consultation and commenting on new and amended rules; provisions of advance ruling; appeal procedures and maintenance of integrity among officials.

##### ***III.1.a Publication and Availability of Information***

In the recent past, the CBEC website has been made more comprehensive in terms of its data contents.<sup>4</sup> This includes detailed information on all the acts, rules, regulations, circulars and CBEC notifications issued so far apart from the latest ones. Over 25,000 pages covering these details are posted on the website. Apart from this there is a powerful search facility for extracting relevant information which has been made available now. Apart from CBEC, the RBI and MoCI are the other two agencies which help in the further dissemination of legal details and information about the new policies. Several private agencies and legal publishing house are also into the business of selling relevant publications on customs procedures apart from maintaining their own websites. The judicial decisions are also published by the private publishers.

##### ***III.1.b Time Period between Publication and Implementation***

This is an area which continues to be one of concern for Indian customs, as in some cases information related to various changes is published much after their implementation though it is made available on the CBEC website instantaneously. However, due to slow automation and lack of alternative channels for information dissemination the ground staff comes to know of changes much later. This also creates problems for the trading community. The CBEC has made some initiatives to organize short-term training courses focused on automation initiatives to bridge the gap.<sup>5</sup>

### *III.1.c Consultation and Commenting on New or Amended Rules*

Recently, CBEC has started the practice of keeping some of the proposed amendments on the CBEC website for comments from domestic industry. However, some of the rules for which legislative approval is required, are first presented to Parliament and then are opened for public comments and discussions.<sup>6</sup> The CBEC keeps interacting from time to time with trade and industry organizations to streamline working, for instance, some time back industry suggested the exemption of large traders from bank related formalities. As a result, it was decided that bank guarantee for “Shipping Lines” which are handling more than 5000 TEUs (as import containers) in a financial year for the purpose of trans-shipment of import and export cargo from any gateway ports to feeder ports/ICDs/CFSs and vice versa or by road should be exempted from furnishing bank guarantee.<sup>7</sup>

As part of the Foreign Trade (Development and Regulation) Act, 1992, the Customs Department created options for appeal. Any person aggrieved by any decision or order made by the Appellate Authority under this Act may make an appeal within a period of forty-five days from the date on which the decision or order is served.

### *III.1.d Advance Ruling*

The Union Finance Minister had announced in March 2002, the setting up of an Authority for Advance Rulings in order to ensure foreign investors, in advance, of their likely indirect tax liability in terms of customs and other instruments. The authority has started functioning since April 2003.

The government has come out with several brochures publicizing the setting up of the Authority which are being distributed at embassies in India and Indian missions abroad. In the time period, January 1, 2004 to December 31, 2004, 18 applications were received seeking pronouncement of advance ruling.<sup>8</sup> Recently, a website has also been launched by the Authority.<sup>9</sup>

### *III.1.e Appeal Procedures*

The *Customs Excise and Service Tax Appellate Tribunal (CESTAT)* was created to provide an independent forum to hear the appeals against orders and decisions passed by the Commissioners of Customs and Excise under the Customs Act, 1962, Central Excise Act, 1944 and Gold (Control) Act, 1968.<sup>10</sup> The Gold (Control) Act has been repealed. The tribunal is also empowered to hear appeals against orders passed by the designated authority with regard to anti dumping duties under the Customs Tariff Act, 1975 and matters relating to Service Tax. The Appellate Jurisdiction of *CESTAT* covers baggage, drawback and short landing cases. In these cases, the aggrieved person may file an application for revision of the orders passed. The orders of the tribunal could also be considered for reference to the High Court and certain categories of decisions involving matters relating to the classification or valuation can be appealed even before the Supreme Court. This provides a large range of options to the trading community.

An additional forum for resolution of dispute for assesseees without going into the prolonged litigation in adjudication/appeals/revisions etc., has been created by constituting the Customs and Central Excise Settlement Commission (provisions of Section 127A to 127N of the Customs Act). The guidelines prescribed for its working suggest that the Settlement Commission cannot entertain the cases which are pending with the *Appellate Tribunal* or in a Court. Similarly, the matters relating to classification cannot be raised before the Commission. It is also specified that no application can be made unless the appellant has filed a bill of entry or a shipping bill. Presently, three benches in the Settlement Commission have been constituted and they are functioning at Delhi, Mumbai and Chennai. The fourth bench at Kolkata will be constituted in near future.<sup>11</sup> Despite these arrangements, number of cases pending before the Settlement

Commission (refer Table 2) remain extremely high.<sup>12</sup> These cases involved huge amounts of duty payment ranging to several thousand million rupees. In some cases it is lack of manpower which restricts the handling of cases in the initial stage itself. The Parliamentary Standing Committee on Finance (2005) has pointed this out in two consecutive reports.

**Table 2: Cases Pending Before Settlement Commission (1999-2005)**

	(Re. million)				
	Principal Bench	Kolkata	Mumbai	Chennai	Total
Cases Received	377	47	661	465	1550
Cases Pending	79	24	149	38	390
Duty Realized in respect of settled cases	1572.30	27.90	1949.30	982.00	4531.50

Source: SCF (2005).

### *III.1.f Other Measures to Enhance Impartiality and Non-Discrimination*

The CBEC has been actively working towards reducing the nature and extent of examination by officers and has attempted instead, to develop a systemic management where least human intervention is required. As a part of the proposed Risk Management System (RMS), so as to enable self assessment for examination of consignments which are of high risk. As it will be a system driven programme, it will considerably reduce the discretion of the department officers. This initiative will offer a greater measure of facilitation to the credible traders and will also contribute towards the reduction in dwell time of cargo and thus to transaction cost. According to the CBEC plans, the RMS would work through the Accredited Clients Programme, where the importers and exporters are enlisted with the department which enables access to facilitation services. At present, a pilot project is being run at select points in India. The RMS is expected to cover all the EDI points by end of 2005. The Information Technology Act 2000 has empowered CBEC to issue digital signature certificates which would make it possible to provide legal validity to the electronic declarations.<sup>13</sup>

The Customs Department has initiated several measures to activate various mechanisms for dissemination of information. However, on the creation of an inquiry point, India has said at the WTO that having a single enquiry point for a country with so many offices may not be a very effective mechanism.<sup>14</sup> In some categories Indian customs administration has the right to require original documents. According to the Indian submission what seems feasible is a sectoral enquiry point with different agencies and once these agencies has come at the same level of automation eventually one may have a single point enquiry system.<sup>15</sup>

### **III.2 GATT Article VIII**

The GATT Article VIII deals with issues related to fees and charges and import and export formalities and documentation requirements. There is proposal to avoid hefty penalties for minor breaches. In some cases, consularization, tariff classification and border agency coordination are also major issues. We look into them in the context of the recent policies announced.

#### *III.2.a Fees and Charges Connected with Importation and Exportation*

The rates of customs duties that may be levied on imported goods (and export items in certain cases) are either specific or on *ad valorem* basis or at times specific cum *ad valorem*. The Customs Valuation Rules, closely follow the WTO Customs Valuation Agreement to implement Article VII of GATT. The methods of valuation prescribed therein are of a hierarchical order. The importer is required to truthfully declare the value in the bill of entry and also provide a

copy of the invoice and file a valuation declaration in the prescribed form to facilitate correct and expeditious determination of value for assessment purposes. However, the private sector faces a host of problems on this front as is discussed in section IV. The Customs Department has issued guidelines for precise valuation so as to avoid arbitration to ensure that there is a uniformity in approach at different customs offices. Section 14 of the Customs Act, 1962 lays down the basis for valuation of import and export goods in the country. It has been subject to certain changes – the basic last change being effected in July-August 1988, when the present version came into operation. Recently, tariff rates (in absolute terms) have been fixed in respect of import of crude palm oil, RBD palm oil and RBD palmolein.

The valuation of imported/export goods, in cases where no tariff values are fixed, is done in line with the price at which such or like goods are ordinarily sold, or offered for sale, for delivery at the time and place of importation or exportation, as the case may be, in the course of international trade, where the seller and the buyer have no interest in the business of each other and the price is the sole consideration for the sale or offer for sale. For all goods and services which are exported from units in the Domestic Tariff Area (DTA), remission of service tax levied is allowed.

As a follow up on the *Report of the WGTF*, accredited importers may pay duties and taxes within 8 hours of assessment so that undue delays are avoided.<sup>16</sup> Indian Customs Department has initiated some additional measures to ensure trade facilitation. The Custom offices now work overtime with nominal additional charges after normal working hours or on holidays.<sup>17</sup> The overtime fee is collected in terms of section 36 of the Customs Act, 1962 and the Customs (Fees for Rendering Services by Customs officers) Regulations, 1998 made there under. Section 36 of the Customs Act, 1962 allows unloading/loading of import/export cargo from/on a vessel beyond working hours on a working day or on holidays only on payment of a prescribed fees. The Customs (Fees for Rendering Services by Customs Officers) Regulations, 1998, prescribes the rates and the manner for collection of such fee.

### *III.2.b Formalities Connected with Importation and Exportation*

Over the years the number of documents required and the number of copies needed has been reduced. Several initiatives have been made in the last one year itself to avoid duplicate collection of information by the Customs Department.<sup>18</sup> The WGTF has worked as a catalyst in this regard.<sup>19</sup> The Action Group on Trade Facilitation at CBEC on its own also ensures possible reductions in the documents to be enclosed. For example, the current practice at Delhi Airport is to get the permission from the customs twice after the issuance of the Let Export Order (LEO), one for palletization and another for loading in the aircraft. The Action Group on Trade Facilitation felt that there is no need for permission at two different stages. As a result unnecessary documentation was avoided.

#### Documents for the Exporters

The document required to be filled by the exporters is called the “Shipping Bill”. The exporters’ community has been repeatedly raising the issue of excess documentation required by the Customs. The submission from the All India Association of Industries (AIAI), Mumbai to the Finance Minister pointed out that the large number of documents required to be signed by manufacturer and exporters for their exports only contribute to delays and consequent increase in transaction cost. Earlier the Task Force Report had also mentioned this. As a response to this, the CBEC, constituted a sub-committee to “Report on Reduction of Export Documentation for Customs Purposes” in 2004. The Sub-Committee was a multi-disciplinary group comprising of representatives from the Customs, DGFT, RBI, Federation of Indian Export Organization (FIEO) and Delhi Exporters Association.<sup>20</sup>

The Committee has recommended that the five documents needed are essential documents containing vital information and are not duplicative in any sense. These documents are viz. packing list; application for removal of excisable goods under bond for export; declaration form pertaining to the export scheme under which the export is being made, and the self declaration form for repatriation in foreign exchange of the sale proceeds of the export consignment.

The Sub-Committee has, therefore, recommended that these documents can not be dispensed with. There are, however, a number of declarations presently being filed by the exporters for exports under drawback and various export promotion schemes. The Sub-Committee has observed that many such declarations have outlived their utility and presently do not serve any useful purpose. The Sub-Committee has, therefore, recommended that these declarations should be done away with.

#### Documents for the Importers

If the goods are cleared through the EDI system no formal bill of entry is filed as it is generated in the computer system along with Bill of Entry number which may help in tracking the movement. However, the importer is required to file a cargo declaration having prescribed particulars required for processing of the entry for customs clearance. The bill of entry, where filed, is to be submitted in a set that is different copies meant for different purposes and also given different colour scheme, and on the body of the bill of entry the purpose for which it will be used is generally mentioned in the non-EDI declaration.

Under the EDI system, the importer does not submit documents for assessment but submits declarations in an electronic format containing all the relevant information to the Service Centre. A signed paper copy of the declaration is taken by the service centre operator for safety purposes of the declaration. A checklist (refer to Annex 1) is generated for verification of data by the importer/CHA. After verification, the data is submitted to the system by the Service Centre. The Action Group on Trade Facilitation has also made efforts to reduce the dwell time from 15 to 7 per cent for clearance of import cargo for which incorrect or incomplete import manifest is given. The Group suggests delayed submission is possible with full information at the time of arrival of the vessel.

#### *III.2.c Consularization*

Some national governments require consularized documents in the country of export before the goods arrive at port, and impose a penalty upon any goods arriving at a port accompanied by documents that have not been consularized. Special consular invoice, prepared in the language of the destination country, is submitted to a consular office in the country of export. Though earlier as part of GATT it was proposed to prohibit this but some how this practice continued. The United States and Uganda have submitted a proposal at the NGTF to abolish the practice of consularization.<sup>21</sup> This practice is prevalent largely in countries where English is not the official language.

The issue of consularization is a non issue for WTO negotiation as far as India is concerned as there had never been any consular charges for exporters to India.

#### *III.2.d Border Agency Coordination*

This continues to be a major problem area for the trading community as despite easy clearance of the goods by customs other agencies viz. port authority, etc. 'before' and 'after' customs, continue to lack coordination. Since the submission of the report at Task Force on Indirect Taxes (2002), some institutional mechanism have been established for ensuring better coordination among various agencies engaged in trade facilitation related programmes.

The two specific committees include the High Level Inter-Ministerial Committee (HLIMC) which looks into the broad policy matters. HLIMC in its first meeting in 2003 initiated discussions on various policy issues concerning different Ministries as also the issues raised by the trade with regard to expeditious clearance of import and export goods.<sup>22</sup> Besides the Chairman of the CBEC, who is the Chairman of the Committee, the other members are Member (Customs), CBEC; Director General Foreign Trade; Additional Secretary, Ministry of Textiles; Additional Secretary, Ministry of Shipping; Additional Secretary, Ministry of Civil Aviation; and Additional Secretary, Ministry of Health. The Joint Secretary (Customs), CBEC, is the Member-Secretary of the Committee. The HLIMC has now included representation from the Ministry of Environment and Forests and the Department of Chemicals and Petrochemicals as well. The other committee which looks into the day-today operations is called the Permanent Trade Facilitation Committee (PTFCs), headed by a Commissioner of Customs, in their respective regions. This is based at each custom station and includes representatives from various agencies involved with the clearances including CHAs. Several leading custom houses have organized their meetings of PTFCs and the proceedings are posted on their websites.

As part of efforts for inter-agency coordination, the Indian government has now decided that data relating to EDI shipping bills (for Duty Entitlement Passbook Scheme) issued on or after October 1, 2005, from the 23 Customs-EDI Ports shall be exchanged between customs and the DGFT Server on a digital platform.<sup>23</sup> Accordingly, the application procedure and verification/registration system for DEPB licenses, which are based on the EDI-DEPB Shipping bills issued on or after October 1, 2005, have been clarified and made simpler by the MoCI through a recent circular. Exporters are also being advised not to club the EDI-DEPB shipping bills and non-EDI shipping bills with such DEPB e-commerce applications. However, there continue to exist several of these agencies at the border, and the government, so far has not identified a single agency as lead agency to manage various infrastructure related issues. As a result coherence and a consolidated action plan for infrastructural improvement is missing. Though, MoCI issued circulars naming customs to be the lead agency, WGTF also made similar recommendation but it seems that more substantive efforts are needed.

### *III.2.e Release and Clearance of Goods*

The CBEC has implemented the recommendation of WGTF to issue data on release and clearance. This is being measured through dwell time. Dwell time is defined as the time taken from the time of arrival of goods to their clearance.<sup>24</sup> The data released conforms to the suggestion made by WGTF to precisely identify the time taken in manifest filing, declaration, assessment at customs and duty payment by importers and further time taken by customs for examination. In Table 3, we provide a comparative picture for Bangalore and Chennai based on the data released as per the WGTF report (January to March 2004) and CBEC for the period January to April 2005. Though, there are visible discrepancies in the table but as explained in the WGTF report, their data was part of the rough estimation while CBEC data is an outcome of precise calculation attempted scientifically.

As mentioned earlier, the CBEC has launched a risk management system (RMS) on a limited basis at select custom ports. Based on data from ICEGATE and the EDI system 'Star Performers' are to be identified, depending on their creditability and goodwill.

**Table 3: Focus on Dwell Time: Dwell Time (in hours) Period**

		January-March 2004*		January-April 2005**	
Activity	Activity by	Bangalore	Chennai	Bangalore	Chennai
Manifest filing	Carrier	2	53	0.36	1
Declaration	Importer	55	74	55	57
Assessment	Customs	7	12	10	10
Duty payment	Importer	29	55	33	32
Examination	Customs	6	6	5	4
	Total dwell time	99	200	103.36	103

**Source:** \* MoF (2004). *Report of Working Group on Trade Facilitation*, Central Board of Excise and Customs, Government of India, October.;

\*\* Subramaniam (2005). Presentation made at the National Seminar on Trade Facilitation, Department of Commerce, Department of Revenue and UNCTAD, 18th August 2005.

### *III.2.f Tariff Classification*

This is a major area of concern not only for exporters and importers but also for various government agencies including the MoCI. According to an analysis at MoCI, 36 per cent exports are wrongly classified in terms of the ITC Harmonized System (HS) of classification while a 15 per cent error is found in the tariff chapters. In case of imports, wrong product classifications have been found in 11 per cent of the cases.<sup>25</sup> The problem continues between DGCIS and DGFT, as each one of them follow different levels of classification. This eventually gets reflected in the data being generated from customs points.

Even in case of EDI the percentage of error in the ITC HS classification is as high as 30 per cent while the error in quantity is 41 per cent as far as exports are concerned. MoCI and in particular DGFT, have launched an initiative to sensitize exporters and importers for filing correct entries in shipping bills and bills of entry.

### *III.3 GATT Article V*

The scope and issues covered under Article V have become extremely important as regional trade in South Asia has expanded. There has been a concern about lack of containerized trade in the region. Therefore, the general yardstick of measurement used is by counting of trucks. The number of trucks from Bangladesh to Nepal via India has gone up from 160 in 2003 to 290 in 2004. Similarly, the number of trucks from Nepal to Bangladesh via India reached at a number of 251 in 2003-04 (see Table 4). The number of trucks from Bhutan to Bangladesh via, India was 7240 in 2004-05 and from Bangladesh to Bhutan was 378 in the same period. The number of containers being imported/exported to/from Nepal to/from third countries being routed via Haldia itself has gone up ten fold, which is 70 per cent of exports and 50 per cent of imports.<sup>26</sup> In this situation, several measures are to be taken to ensure compliance with various provisions of Article V.

**Table 4: Number of Trucks Movement**

	2003-04	2004-05	2005-06
Bangladesh-India-Bhutan (via Changrabandha & Jaigaon/Chamurchi LCS)	161	378	518
Bhutan-India-Bangladesh	6948	7240	5410
Nepal-India-Bangladesh (via. Panitanki-Phulbari LCS)	251	174	65
Bangladesh-India-Nepal	160	290	11

**Source:** Collected by author from various customs points.

Apart from Article V related issues there are other policy issues, which may have potential to become major trade irritant, would be discussed later in this section. In the context of on-going WTO discussions the following issues are found important for instance, documentation and authorized trade and securities and guarantees which would be discussed here in details. However, the examination of transit goods based on the application of risk management system is not in place as this feature has not been introduced in the bilateral treaties. Similarly, no simplified procedures are being established for authorized consignors involved in transit procedures as this has also not been included in the bilateral treaties. In the case of Bhutan and Nepal, the Indian government is working closely to gradually evolve such a list.

### *III.3.a Documentation and Authorized Trade*

The Indian Customs require declaration of all the transit goods as per the standard declaration form available on site and also at the relevant offices. Customs is making an effort to enhance the level of coordination among various border agencies. As different degrees of security concerns are present at different points in the country there is a limited use of simplified transit declaration. As of now it is available with Bhutan and Nepal. Customs has also launched work on simplifying procedures established for the authorized consignors involved in the transit procedures. There is need to establish coordination among various border agencies for documentary requirements. After several consultations at the regional level facilitated by the SAARC a common document was developed but has yet to be accepted and implemented by the various agencies involved.

### *III.3.b Securities and Guarantees*

Among the issues related to securities and guarantees no duty or tax is charged by India on the transit goods. However, there are independent reports that at some points octroi is being charged by local authorities but there is no charge levied in connection with customs transit. Apart from working on an international guarantee system, India is working with mutual guarantee agreements with the neighboring countries. There are no cash deposits required for goods in transit and securities and guarantees are discharged as soon as the necessary requirements are met. These requirements are defined in the bilateral treaties.

As mentioned earlier traders have to pay 'overtime charges', to get their goods cleared on holidays and weekends. Since, no fee or charges are imposed on the transit goods these have to wait throughout the period. Therefore, there is a need either to allow transit goods also to be cleared even without paying overtime charges or at least with payment of these charges such goods should be cleared. Similarly, the bilateral treaties, presently do not have any scope for examination of goods in transit for risk assessment. There is a need to ensure that this is in built as part of the treaty itself.

The DGFT may issue, from time to time, such instructions or frame such schemes as may be required to promote trade and strengthen economic ties with neighboring countries. Transit of

goods through India from or to countries adjacent to India is regulated in accordance with the bilateral treaties between India and those countries and is subject to such restrictions as may be specified by DGFT in accordance with international conventions. In order to tackle abuse of the custom transit corridor, the Government of India issues a list of sensitive commodities at periodic intervals, keeping domestic market requirements, up as criteria. At present there are nine such commodities identified as sensitive commodities. In the recent past, the Directorate of Revenue Intelligence (DRI) has caught several consignments worth millions of rupees which were being directed for domestic consumption in India. This has become a major issue especially with Nepal.

### III.3.c General Issues

The bilateral and transit trade with landlocked countries viz. Nepal and Bhutan as mentioned before is governed by bilateral treaties. India has signed a formal treaty with Nepal for trade and transit while with Bhutan, the treaty signed in 1995 is only a trade treaty. India is also working out a trade and transit treaty with Bhutan as well. Efforts are also being made to sign a similar treaty with Afghanistan.<sup>27</sup>

There are several concerns about the abuse of the custom transit system. The 35 kilometers area between Phulbari in Bangladesh to Panitanki in Nepal is one of the most difficult territories which even requires army support for protection purposes.<sup>28</sup> Table 5 enumerates some of the major transit points between India and Bhutan. The overall performance of these corridors is not particularly impressive. The time and cost requirements for moving cargo along these corridors are much higher than those for other major economies in Asia. For instance, an example of inefficient cross-border operation is the Kolkata-Petrapole / Benapole-Dhaka corridor, which provides a major connection between the eastern part of India and Bangladesh. This 300 kilometre corridor takes 3-6 days for any Kolkata-originating cargoes to reach Dhaka, which otherwise would take 2 days in river routes.

**Table 5: Land Customs Stations for Transit Trade**

Name of the LCS	Nature of Transit Cargo Handled	Location	Distance
Panitanki	Nepal transit cargo to and from Bangladesh	In the district of Darjeeling, WB on Indo-Nepal border	604 km from Kolkata 55 km from Phulbari LCS on Indo-Bangla Border
Phulbari	Nepal transit cargo to and from Bangladesh	In the district of Darjeeling, WB	55 km from Panitanki LCS
Changrabandha	Bhutan transit cargo to and from Bangladesh	In the district of Coochbehar, WB	80 km from Jaigaon LCS on Indo Bhutan Border
Jaigaon	Bhutan transit cargo to and from Bangladesh as well as gateway port at Kolkata	In the district of Jalpaiguir, WB on Indo-Bhutan Border	695 km from Kolkata 80 km from Changrabandha LCS on Indo-Bangla Border.

**Source:** Based on communications with Commissionerate of Customs, West Bengal (2005).

The security concern apart from lack of infrastructure defeat the implementation of concerns like time limit, etc. At the LCS, infrastructural provisioning is a major limitation. The warehouse facility, weighing gadgets, proper parking facilities and quarantine facilities are some

of the key infrastructural facilities which are to be urgently placed under some minimum required standard. There is no effective mechanism with neighbouring countries for better control of border ports. Therefore, effective mechanisms are needed by India for improving the control and responsibilities at the border ports.

#### *III.3.d Recognizing Mutual Commercial Vehicle Act*

There is no commercial motor vehicle agreement between India and Bangladesh as is the case with Nepal. Consequently, trucks carrying various consignments have to be de-loaded at Bangladesh border and then taken to the containers from the Nepal as Nepalese trucks can easily enter in Indian border. Though, Nepal officially allows Indian trucks but unofficially goods are to be carried by Nepalese trucks as the local agents do not allow Indian trucks to enter.<sup>29</sup>

#### *III.3.e Infrastructure at Land Customs Stations (LCS)*

Moreover, there are no gadgets installed at the LCS so containers can not be scanned. This is a major challenge for RMS and is also a potential quarantine threat. Since the LCS also lack automation it becomes a major crippling factor.

At the level of Indian Government there is an urgent need to nominate a single agency to coordinate/lead infrastructural development projects for LCS with detailed planning. For instance, several LCS have a small building but no place for parking of vehicles, area for goods examination, standardized zones, etc. Shortage of handling equipment including Stakers Gantry Crane, etc. for loading and uploading of cargo is a perpetual problem. Though MoCI issued a circular suggesting customs to be the lead agency but in practice this has not happened so far.

#### *III.3.f Alternative Options*

Apart from this, alternative options could be considered for transit goods for instance, strengthening rail links and allowing riverine routes especially for Bangladesh. In fact, cargo movements and channeling facilities should be examined from the traffic engineering view point in terms of adequacy of cargo handling facilities. Most of the transit goods from Bangladesh come in trucks and not in pilferage proof containers. There is therefore more than one seal to be checked and this increases work pressure and takes more time. Nepal of late has started using modern containers, which is of great help.<sup>30</sup>

Recently, the Customs Department agreed with the industry demand to allow clearance of export goods for Nepal and Bangladesh at an Inland Clearance Depot (ICD) and after stuffing and sealing, containers could be taken to Nepal and Bangladesh by rail or/ and road through an LCS. This would allow faster movement of cargo from hinterland ICDs to Nepal and Bangladesh resulting in reduction of transaction cost. There has also been a demand from the industry desiring direct shipment from Haldia Port of their products by the riverine route to Bangladesh. Under the present system, the Shipping Documents are presented to the LCS in the Office of Commissioner of Customs at the Customs House, Kolkata, whereas, the customs clearance of the export cargo is being undertaken at Namkhana LCS.

### **IV. Trade Facilitation Needs and Priorities of the Private Sector**

As discussed earlier, there are two substantive private sector surveys available which were conducted by the Madras Institute of Development Studies, MIDS (Sengupta and Bhagabati, 2003) and Ace Global (2005). Both these surveys had a different focus. However, there are certain issues which have synergies with the focus of the current study. The EXIM Bank (2003) study provides additional focus on geographic variations in transaction cost, which adds another dimension to the whole issue. The study found that firms in the eastern region suffer mostly

from the poor infrastructural facilities including transportation. The latter includes shipment and air facilities along with port facilities. In our current pursuit we have tried to balance that dimension as well. The results of our survey and survey instruments are being discussed herewith.

#### **IV.1 Survey Instrument and Methodology**

The survey method was based on a questionnaire, developed with the help of the ARTNeT Secretariat and select interviews with key industrialists and representative from leading private sector firms including the major CHAs. The questionnaire is enclosed as Annex 4. In order to solicit greater response from industry, RIS partnered with Federation of Indian Chamber of Commerce and Industry (FICCI), a leading industry organization for conducting the survey. Our joint survey tried to reach various private sector units and export organizations.

The sample size was selected taking into account the relative importance of various sectors in total exports of India. At the sectoral level, export shares were worked out and accordingly a representative target base was identified. As shown in Table 6 manufacturing goods represent a greater share hovering at around 76 per cent, primary products are at around 16 per cent and petroleum products occupy approximately 5.2 per cent.

**Table 6: Percentage Share of Individual Commodity Groups in India's Total Exports**

<b>Commodity Group</b>	<b>April-March 2002-03</b>	<b>April-March 2003-04</b>	<b>Average Share</b>
I. Primary Products	16.6	15.5	16.1
Agriculture & Allied	12.8	11.8	12.3
Ores & Minerals	3.8	3.7	3.8
II. Manufactured goods	76.6	76	76.3
Textiles incl RMG	21.1	19.0	20.1
Gems & Jewellery	17.2	16.6	16.9
Engineering goods	17.2	19.4	18.3
Chemicals and related products	14.2	14.8	14.5
Leather & manufactures	3.5	3.4	3.5
III. Petroleum, crude & products	4.8	5.6	5.2
IV. Others	1.9	2.9	2.4

**Source:** Economic Survey, 2004-05.

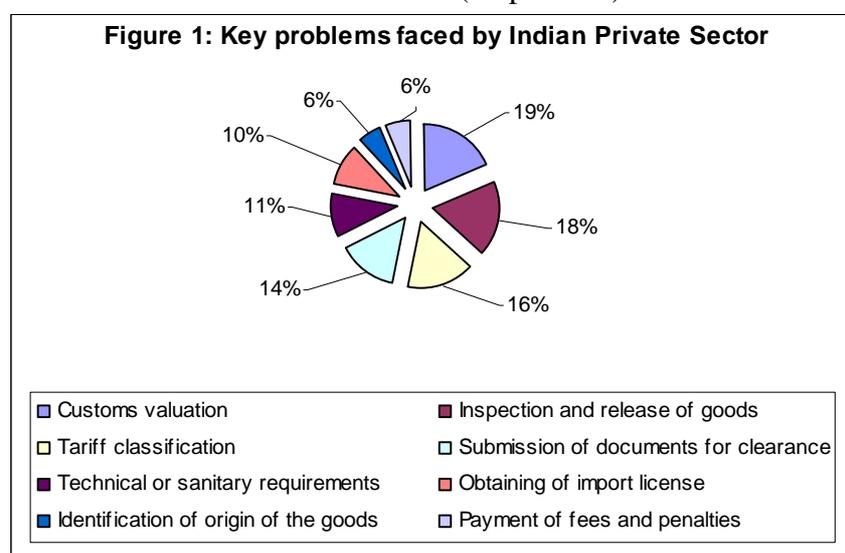
The questionnaire was sent to various firms according to the weight assigned to their sector as shown in Table 7. While selecting the firms, care was taken to ensure that these firms also engaged in substantial imports so as to avoid any kind of bias in the sample selection for export related activities only. The sample size was decided in a way that major private sector firms in the leading export sectors were covered. In this study since we have limited time in hand we covered the private sector firms through a very limited but representative sample size. Out of 1020 firms approached we could get responses from 51 firms. The highest emphasis was given to manufacturing sector in which 620 firms were approached and out of that more than 41 firms responded excluding three more firms from the category of others.

**Table 7: Sample Size and Number of Responses Received**

Commodity Groups	Number of Sample (category wise) in the target sample	Number of Sample points (category wise) in the original sample
I. Primary Products	200	4
Agriculture & Allied	167	4
Ores & Minerals	33	0
II. Manufactured goods	620	41
Textiles incl RMG	160	9
Gems & Jewellery	140	0
Engineering goods	160	23
Chemicals and related products	120	9
Leather & manufactures	40	2
III. Petroleum, crude & products	100	2
IV. Others	100	4
Total	1020	51

#### IV.2 Survey Results

The private sector survey could get a reasonable response on both aspects of the questionnaire viz. perception about level of implementation and also ranking of needs and priorities (Annex 2 and 3). The firms were quite keen to identify key problem areas in TF (see Figure 1). The key problem areas identified by respondents of the survey are in the following order, customs valuation (19 per cent); inspection and release of goods (18 per cent); tariff classification (16 per cent); and submission of documents for clearance (14 per cent).



The other areas listed in order as key problems are technical or sanitary requirements, obtaining of import license, identification of origin of the goods and payment of fees and penalties. This clearly shows that the current scope of trade facilitation negotiations at the WTO eventually may not be sufficient in ensuring quicker flow of goods. It is evident that the private sector should also be prepared to take maximum advantage of automation and other programmes of customs and other agencies. As Box 1 shows, the preparedness of Hewlett Packard (HP) has helped them in faster clearance of their cargo and has also helped them in reducing the demurrage charges.

The survey results on perceived level of implementation of trade facilitation measures in India are summarized in Table 8, in which an effort has been made to compare the private sector

responses with the responses received from the government officials. As is clear from the table, in most of the cases perceptions from most of the traders match well with the official positions. However, there are some key areas where views are different. For instance, the majority of the private sector feels that the laws, regulations and judicial decisions are not applied in a uniform, impartial, and reasonable manner but the government does not agree with that. Similarly, the private sector feels that a formal and effective private sector consultation mechanism is still not available which is quite contrary to the stated position of the government. The private sector does not believe that there is an effective advance ruling system in place. There are also differences in Article V as the private sector has opined that goods in transit are subject to unreasonable transit duties or transit charges while the government does not agree with that. Here, we discuss the results of the private sector survey in details.

**Table 8: Comparison of Survey Results from Private and Government Sector**

Perceived Implementation of Trade Facilitation Measures	Private Sector		Government
	Yes (%)	No (%)	Yes(1)/No (0)
Customs procedures and regulations are publicly available	85	15	1
Changes in regulations and procedures are made available	72	26	1
Laws, regulations and judicial decisions are applied in a uniform, impartial, and reasonable manner	45	51	1
Independent system to appeal trade and/or customs authorities' decisions is available	58	40	1
Formal and effective private sector consultation mechanism exists, which allows traders to comment on proposed changes to regulations and procedures before they are issued and implemented	47	49	1
An effective advance ruling system is in place	45	45	1
Documentation requirements for import/export are excessive and time consuming	68	34	0
Fees and charges levied on export and import are reasonable	49	49	1
Penalties and fines for minor breaches of customs regulation	55	40	1
Easy to submit required trade documentation to trade/customs authorities for approval	57	43	1
Computerization and automation of customs and trade procedures have noticeably reduced average time of clearance	72	25	1
The treatment of goods and vehicles in transit is non-discriminatory	55	28	1
Goods in transit are subject to unreasonable transit duties or transit charges	32	60	0
Regulation and procedures for goods in transit are clearly defined and widely available	49	40	1
Vehicles in transit are allowed to use the most convenient routes to their destination	60	25	1

#### *Article X*

A large number of firms appreciated the CBEC efforts for dissemination of information by making customs procedures and regulations publicly available; as high as 85 per cent respondents endorsed the availability. They (72 per cent) also agreed that changes in regulations and procedures are made available well in time. Incidentally, this also is indicated as the highest priority area in TF efforts. As high as 60 per cent assessed it as a high priority concern.

Though many respondents (58 per cent) find that an independent system to appeal trade and/or customs authorities' decisions is available; however, 51 per cent of them feel that laws, regulations and judicial decisions are not applied in a uniform, impartial, and reasonable manner. An equal number of respondents feel that formal and an effective private sector consultation mechanism exists, which allows traders to comment on the proposed changes to regulations and procedures before they are issued and implemented.

A large number of respondents find an effective advance ruling system is in place (45 per cent) but a large number of them still suggest greater policy attention in making it further effective (40 per cent). They also state that documentation requirements for import/export are excessive and time consuming (68 per cent).

There is a greater satisfaction (72 per cent) with the computerization and automation of customs and trade procedures which has noticeably reduced the average time of clearance. Highest priority is also attached to computerization and automation of trade procedures, e.g., online submission and approval of customs declarations, cargo manifests, including electronic payment of fees and customs duties.

#### *Article VIII*

There is a general perception that Fees and charges levied on export and import are reasonable (49 per cent each). However, a large number of respondents (55 per cent) find penalties and fines for minor breaches of customs regulation too high. They (57 per cent) also feel that irregular and arbitrary payments are often required to expedite release of goods from customs. A high priority is attached for separating release from clearance procedures, i.e., allowing goods to be released before all clearance formalities have been completed (this may be subject to providing a financial guarantee to customs and/or post-release audit). There is a general satisfaction about the required trade documentation to trade/customs authorities for approval (57 per cent). However, the highest priority for policy formulation is attached on harmonization and standardization of documentation requirements based on international standards (55 per cent). Similarly, improvement of coordination between relevant agencies, particularly on document requirement, e.g., through the establishment of a single window for one-time submission and collection of all trade documents (64 per cent) is highly emphasized.

#### *Article V*

Most of the respondents have indicated that the treatment of goods and vehicles in transit is non-discriminatory (55 per cent) and goods in transit are not subject to unreasonable transit duties or transit charges (60 per cent). They have also indicated that regulation and procedures for goods in transit are clearly defined and widely available (49 per cent). Though, vehicles in transit are allowed to use the most convenient routes to their destination (60 per cent) but more needs to be done to improve infrastructure on these routes. Some of them pointed out in their communication that alternative routes also should be developed so that excessive pressure on existing ones is avoided. However, in terms of policy the private sector lays emphasis on the implementation of international and regional transit systems based on international standards and practices (38 per cent) which at present are not in place. The private sector feels that the existing mechanism of bilateral treaties does not take into account the views of the private sector.

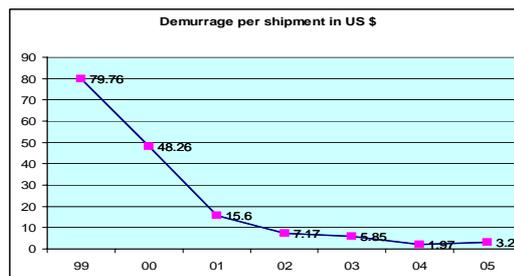
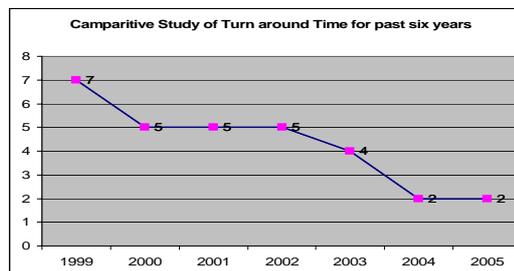
### Box 1: Automation for Efficient Logistics: Case of Hewlett Packard

After initial investments in India for R&D purposes, HP has now expanded India-specific operations in manufacturing sector as well. These are in the areas of networking products, software and mobile, general office and wide-format printing categories.

HP's presence in the region also consists of 12 manufacturing sites located across various countries including India. HP has achieved the leadership position in the over all server market in India capturing 29% share in units and 35% in revenue terms according to International Data Corporation (IDC) reports. HP has recorded a year-on-year 35% growth both in revenue and in unit terms.

Since HP has shifted manufacturing activities, over the year the cargo movement has gone up. The e-preparedness at HP is now at par with the requirements of various trade options offered by the CBEC through EDI and ICEGATE. For this, HP initially identified some key source persons and then got the staff at the operational end trained for the e-filing job. Thus a competent staff could easily supplement the efforts of the CHAs. As a result the time taken for cargo clearance has come down from seven days in 1999 to just 2 days in 2005. Similarly, the demurrage paid by the company per shipment has come down from \$80 paid by the company to just \$3 in 2005. This was when the volume of transaction from HP has gone up by 350 per cent.

**Source:** Based on Communication with HP.



## V. Cost of Trade Facilitation and Selected Trade Facilitation Measures

As discussed before, modernization and automation of customs in India is an on-going process especially since 1995, when EDI was introduced. The submission of the task force report has catalyzed the process further. This along with the implementation of IT Act 2000 has given fillip to the automation programme. The government's commitment towards implementation of WGTF recommendations have also helped in a major way. Some of the recommendations vis-à-vis. implementation status are summarized in Table 9. The automation programme has been expanded which now covers 96 per cent of total transactions. Paper documentation is also reduced. For imports, presently the number of documents required has been reduced from 18 to 6 and for exports it has been reduced from 15 to 5.<sup>31</sup> Government has also issued official data on dwell time in September 2005. India has decided to accede to the Revised Kyoto Convention on the Simplification and Harmonization of Customs Procedures, which gives an added impetus to the country's efforts towards trade facilitation.

In countries where trade facilitation is an on-going exercise precise cost estimation are difficult to arrive at. The absence of any estimate at the Indian government level to suggest the costs of implementation of possible WTO commitments on Articles V, VIII and X is therefore not surprising. However, we are making an effort to put together various expenditure details related to the Articles V, VIII and X together to arrive at a precise figure. These numbers have been compiled from various audit reports, from export related agencies and individual experts. There is thus a fair possibility of having a completely different number scenario. In Tables 10 and 11 an effort is made to put various elements pertaining to Articles VIII, X and V together so as to draw out the tentative cost estimates for implementation of these Articles. The idea in this section is not to give precise numbers, estimating the cost of compliance but to provide an indicative figure to work out the minimum cost being incurred for compliance. Nevertheless, these numbers would at least give us an idea of the minimum cost.

There are certain elements for which separate figures are possibly not available as many of these form part of a comprehensive budget for various units of customs. OECD (2005) enumerates the typology of cost components which may help in capturing various cost elements which may include new regulation, institutional changes, training, equipment and infrastructure. In this section we follow a similar analytical framework.

**Table 9: Status of Recommendations of WGTF**

<b>Recommendation of WGTF</b>	<b>Action taken by Government</b>
Constant monitoring of trade facilitation programme at CBEC	<ul style="list-style-type: none"> <li>- Permanent Body established</li> <li>- Identifies problem areas</li> <li>- Provides inputs for trade facilitation negotiations at the WTO</li> </ul>
Reduce time and paper work in filing of Bills of Entry	<ul style="list-style-type: none"> <li>- Can be filled round the clock through ICEGATE using internet</li> <li>- Can be filed 30 days in advance of arrival of cargo</li> </ul>
Reduce time and paper work in filing of Manifests	<ul style="list-style-type: none"> <li>- Amendment of Customs law to provide for filing of manifest before arrival of vessel/aircraft</li> </ul>
Streamline Duty Payment system and reduce time taken	<ul style="list-style-type: none"> <li>- Importers having accredited status to pay duties and taxes within 8 hrs of assessment</li> <li>- Levy of interest for delayed payment of duty beyond 5 days</li> </ul>
Rectify bottlenecks in Assessment and Examination	<ul style="list-style-type: none"> <li>- Basic approach – goods to be normally cleared on the basis of importer’s declaration</li> <li>- Permit clearance of goods in disputed cases with adequate safeguards</li> <li>- Use of EDI system for monitoring of time taken for assessment and examination</li> <li>- Clearance of containers directly from the port without examination under Green Channel Facility</li> <li>- Increased transparency through e-tracking IVRS and Touch screen kiosks</li> </ul>
Develop adequate mechanisms to respond effectively for redressing constraints faced by traders	<ul style="list-style-type: none"> <li>- Consultations with trade through open houses/trade facilitation meetings</li> <li>- Grievances redressal committee meetings</li> <li>- Improving skills of Customs Officers in assessment and examination work</li> </ul>

<b>Recommendation of WGTF</b>	<b>Action taken by Government</b>
Time- Release studies should be carried out at all major Customs formations on a six monthly basis. The Directorate General of Inspection in the CBEC could be entrusted with the task of coordinating these studies	- CBEC has launched this exercise in September 2005. The first data and the series was released in November 2005
Customs should be increasingly equipped with the technological aids for the examination of cargo	- Accepted. One cargo scanner installed at Nhavashieva port, Mumbai
The Government should move fast towards a regime where there is no need to issue a license scrip	- Could not be implemented as electronic data link with DGFT is yet to be established

Source: WGTF 2004; Subramaniam, 2005.

### ***V.1 Costs associated with Articles VIII and X***

The major expenditure head for Articles VIII and X are enumerated in Table 10. The Standing Committee on Finance (SCF) 2005 envisages specific steps proposed by CBEC in the near future, which would be discussed under various sub-sections below. The cost of compliance for Article V would be extremely high as there are several initiatives to be launched for ensuring a smooth flow of goods in transit. As the trade linkages of the region is growing there is a need to initiate various policy measures and in other areas such as communication infrastructure, cargo clearance facilities and other infrastructural measures that need to be established.

#### *Regulatory Costs*

This generally covers the cost of introducing new legislations or substantive amendments which may entail excessive expenditure in terms of new legislative and regulatory processes either at the central government level or at the level of local governments. As mentioned before, trade reforms under India's economic liberalization is an on-going process. As a result, though trade facilitation related regulations may have other costs but very low regulatory cost as the system may not require any kind of overhauling. Establishment of new set of regulatory authorities, etc. is no more required.

#### *Institutional Costs*

As part of institutional cost, the heads covered are the establishment of new units such as post clearance team, a risk management team, which may require further mobilization of human resources. In India, the CBEC 'Vision and Strategy Statement', 1998, envisages customs role not only as in terms of revenue collection but also as an agency committed to TF and a lead agency at border. As part of the CBEC plans, the introduction of self-assessment based risk management system and post audit in customs clearance to promote faster clearance of cargo for low risk importers and exporters and to provide effective enforcement in high risk cases is being ensured. Out of the allocation of Re. 34.9 million (USD 0.80 million), 43 per cent has already been spent. The project is likely to be in place by the middle of 2006. In the case of publications of rules, regulations and notifications and maintenance of web pages separate cost figures are not available as they are part of routine budgetary allocations and may not lead to excessive expenditure in any case.

#### *Training Costs*

This is a key cost element among various TF initiatives apart from equipment costs. CBEC has already undertaken a training programme for customs officials to re-orient them for the new role. There are no separate estimates available for training cost for customs officials, as it is part of the regular budget. In case of introduction of electronic signatures the setting up of a Certifying

Authority may require additional manpower. The CBEC has acquired a 5-year license to act as a certifying authority for implementation of digital signature certificates in customs clearance to ensure authenticity and confidentiality of transactions over the internet. The process of issuing electronic signature has been launched. The target for 2005-06 is to issue 5000 certificates. At this point only 4 persons are working but in the near future the idea is to have 36 persons on the project with a minimum salary of Re. 14,000.

#### *Equipment/Infrastructure Costs*

This generally covers the cost of new equipments and infrastructure-related expenditures. A broad focused umbrella project for infrastructure improvement has been introduced by CBEC. This is described as consolidation of application and infrastructure of CBEC. As part of this it is proposed to cover: (i) consolidation of existing and proposed IT infrastructure; (ii) comprehensive networking; (iii) development of web based applications for customs; (iv) setting up of data warehouse for further analysis; (v) setting up of intranet service for CBEC staff. The suggested time spent for the project is 18 months and the estimated cost is Re. 1670 million (USD 38.31 million). Another major equipment cost relates to the purchase of container scanners. As of now, one such container scanner has been placed at Jawharlal Nehru Port Trust (JNPT), Nhava Sheva, Mumbai at the cost of Re. 151 million. More such scanners have been planned for early clearance of cargo. The infrastructure cost requires the setting up of a testing laboratory for certifying food levels at a number of customs points keeping the growing imports in mind. A separate World Bank project has been launched to upgrade and establish additional laboratories with cost Re. 1000 million (USD 22.94 million).<sup>32</sup>

**Table 10: Minimum Compliance Cost for Articles VIII and X (in million rupees and percentage share of total)**

(1) <u>Institutional Costs</u> Self-assessment based risk management system + Cost of Publication	1.73 (Re. 4.9 million) No separate figures available but part of routine budget
(2) <u>Training Costs</u> Certifying Authority (Re 14,000 x 36)** Training of Customs Officials	0.02 (Re. 0.50 million) No separate figures available but part of routine budget
(3) <u>Equipment/Infrastructure Costs</u> Consolidation of existing and proposed IT*** Infrastructure Comprehensive Networking Development of Web-based applications for customs and all major activities of CBEC Data Warehouse Setting of Internet services for CBEC Testing Facilities at border points (1)* <ul style="list-style-type: none"> <li>• Labs for Food (7-10 days waiting period for juices)</li> <li>• Labs for Leather goods</li> <li>• Labs for Garment testing</li> </ul> Electronic Cargo Scanning Machine++	82.82 (Re. 1670 million)          3.87 (Re. 78 million) 2.23 (Re. 45 million) 1.81 (Re. 36.5 million)  7.51 (Re. 151.44 million)
(4) <u>Regulatory Costs</u>	No estimate available but would not be very high
<i>Total Estimated Cost</i>	(100%) >Re. 2016.34 million

**Source:** Standing Committee on Finance (SCF), 2005, Lok Sabha Secretariat; Export Inspection Council (EIC).

**Note :** + SCF p. 42; ++ SCF p. 7; \* EIC personal communication; \*\* SCF p. 43; \*\*\*SCF p. 44

**Table 11: Minimum Compliance Cost for Article V: (in million Rupees and percentage share of total)**

(1) Institutional Costs Self-assessment based risk management system + Cost of Publication	No Additional Cost
(2) Training costs Certifying Authority Training of Customs Officials	Part of the Overall Budget
(3) <u>Equipment/Infrastructure Costs</u> Infrastructure at transit points* <ul style="list-style-type: none"> <li>• Site preparation</li> <li>• Connectivity</li> <li>• Tele-enquiry system</li> </ul> Automation* <ul style="list-style-type: none"> <li>• Hardware</li> <li>• Application Software</li> <li>• Development of Software</li> <li>• Message exchange server</li> </ul> Electronic Cargo Scanning Machine ++  Warehouse and Storage <ul style="list-style-type: none"> <li>• Space for Parking of Vehicles and warehouse</li> </ul>	1.63 (Re. 2.6 million)    3.27(Re. 5.2 million)   95.10 (Re. 151.44 million)  No estimation available
(4) <u>Regulatory Costs</u>	No estimate available but would not be very high
Total	(100%)>Re. 159.24 million

**Source:** Standing Committee on Finance (SCF), 2005, Lok Sabha Secretariat.

**Note:** ++ SCF p. 7; \* Based on consultations with various officials and ground staff.

## ***V.2 Costs associated with Article V***

In case of Article V, 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 as desired at the border points. Most of the LCSs require better infrastructure. For optimum results other neighbouring regional members may even require technical assistance to bring e-communication of customs and other border agencies at par with each other. Some of the transit points lack even basic amenities for cargo clearance. The existing LCSs need to take a lead role to establish linkages with other agencies like banking, telecommunications, custom house agents and testing laboratories, etc.

The government has earmarked Re. 2.6 million (USD 0.59 million) for improving infrastructure at transit point and Re. 5.2 million (USD 0.119 million) for automation (Table 11). The additional cost would be of installing electronic cargo scanning machines which may cost somewhere around Re. 150 million (USD 3.44 million) as mentioned in the Table 11 as well. No separate cost estimates are available for warehouse and storage. However, in the case of Nepal, India and Nepal have launched a joint exercise to establish the minimum infrastructure required for TF of goods in transit.<sup>33</sup>

With Article V, though there are already certain instruments available to provide mutual recognition of each other's customs control procedures and customs seals and stamps however, efforts need to go beyond that. In the case of Nepal the renewed Treaty of Transit between the

Government of India and His Majesty's Government of Nepal does deal with issues related to trade in goods and transit consignment. Similarly, with Bhutan there is an agreement between the Government of the Kingdom of Bhutan and Government of India. The draft of the revised treaty with Bhutan is soon to be signed.

These documents now need to take into account the established international norms for transit goods which may require concerted legal and regulatory reforms and accession to major international conventions which in terms of cost may not be much but may go a long way in terms of contributing to the trade facilitation efforts.

**VI. Implications for the WTO Negotiations on Trade Facilitation**

As discussed earlier, in the context of ongoing economic liberalization and expansion in India's external orientation, the Government of India has launched several initiatives to streamline export and import procedures. Several, trade facilitation measures launched, as per the recommendations of the WGTF are well in place now. The number of documents required has been reduced both for exports and imports; government has also issued with dwell time estimates at major customs points and initiatives have been launched at the bilateral and regional level to improve the time taken for clearance of goods in transit. Funding of these measures is part of the on-going budgetary allocations as is the scheme for automation and modernization of customs and such other programmes.

**VI.1 Indian Negotiating Position**

India has been actively participating at the NGTF meetings. In the first six meetings of NGTF that is from November 15, 2004 to June 14, 2005, India raised several issues. Some of these are presented in Box 2. Clearly, the concerns raised by India should have been substantive proposals rather than mere reactions to various proposals from other countries.

<b>Box 2: Key Points raised by India at NGTF Meetings (November 15, 2004 to June 14, 2005)</b>	
November 22-23, 2004	<ul style="list-style-type: none"> <li>- The publication mandate in the Article X should only cover laws and regulations and not judicial decisions.</li> <li>- Need of database on problems faced by customs officials in different countries.</li> </ul>
February 7-9, 2005	<ul style="list-style-type: none"> <li>- Standard time for the resolution of minor appeals at the administrative level.</li> <li>- Proposal for customs and other agencies' joint management plans may not work.</li> <li>- Members to notify to WTO the place where relevant information regarding their regulations/procedures would be available. Philippines backed this proposal.</li> </ul>
March 22-24, 2005	<ul style="list-style-type: none"> <li>- Collection of unpublicized fees and charges should not be prohibited.</li> <li>- Possibility of fee and charges being fixed by a private agency as some ports and airports are being privatized. Indonesia backed this concern.</li> <li>- Specific criteria for risk management and for identifying authorized traders be left on individual members.</li> <li>- One time submission of imports or exports documentation to one agency (i.e. single window) seems difficult to implement. Brazil came out with similar perception.</li> <li>- Flexibility needed in adopting international standards to decrease and simplify import and export documentation required. Trinidad backed this concern.</li> <li>- Prior consultation should be limited to the domestic consultations only.</li> <li>- Calculation of standard time period and its various components.</li> <li>- Proposed to set up separate enquiry points instead of single window.</li> <li>- There should be either value or weight limitation on express shipments.</li> </ul>
May 2-3, 2005	<ul style="list-style-type: none"> <li>- No duty deferment is needed.</li> <li>- Coordination between neighboring countries is important.</li> <li>- India requires internal consultation on different fees by various agencies.</li> </ul>
June 13-14, 2005	<ul style="list-style-type: none"> <li>- Re statement of earlier interventions.</li> </ul>

Given the current shape of negotiations at WTO and in light of proposals already on the table it does not seem to be very difficult for India to agree with some of the basic elements of Articles V, VIII and X. It is also evident from Table 12 and Annex 1 in which the current status of TF measures is detailed. However, India would have to seriously consider sequencing of TF measures as the current work plan, though may be for TF, but essentially does not focus on possible WTO commitments. As a result there are certain gaps. After making commitments under TF, India would have to bridge those gaps. These gaps are varied in nature and as the coordination among the agencies which is highly disappointing will take time. From the private sector survey, it is clear that, customs valuation and tariff classification are the key problem areas which make claims about prior arrival clearance irrelevant. Frequent changes in message formats due to a change in the legal requirements creates problems for the working of EDI and ICEGATE. If one scans through the proceedings of the various NGTF meetings one finds several concerns raised by India on various proposals submitted by other countries. In this context, there is need to balance negotiating positions with ground realities. In some areas, the private sector response and ground level situation may not match so that implication would have to be adequately weighed. The private sector has also urged that highest priority be accorded to an electronic single window, which is also a proposal at the WTO. However, given the current state of automation at various agencies, it seems difficult to put a single window clearance in place. Some of the gray areas which may easily be addressed relate to the formalization of consultative mechanisms and issuing of clear guidelines on the documents required.

However, in some of the other submissions an additional interpretation has been tabled, which may enhance the scope of the current negotiations. If that is avoided then, in terms of costs, India may not have to incur huge sums. For example, Article X envisages the publications of rules related information to help out traders well in time. The EU came out with a proposal to publish not only the rules and regulations but also the judicial decisions and administrative rulings. Similarly, the submission from Korea (TN/TF/W/7) increases the scope of 'prior comment' to include even other WTO Members, which means government would have to think of measures beyond the usual consultation meetings with industry. This may require the additional burden of publications, etc. This is far ahead of the stated understanding that covers domestic industry only. An enhanced scope would make the whole exercise completely unmanageable. The proposal from New Zealand (TN/TF/W/24) not only enhances the scope but suggests giving Members and traders a right to comment on judicial decisions as well. This may not be acceptable as, before the passing of any judicial order, the affected parties are already given an opportunity to put forth their views. The proposal from Canada and the United States (TN/TF/W/9 and TN/TF/W/12) recognized that a system of advance rulings could lend greater predictability to the trade regime and would thus advance the cause of Trade Facilitation. However, it should be carefully considered whether it could be covered under the scope of GATT Article X, which dealt with the publication of rules and regulations of general application rather than for specific cases, as was the case for advance rulings. Members should also carefully consider the coverage of commitments under advance rulings.

**Table 12: Status of Trade Facilitation Measures in India and WTO TF Proposals  
(TN/TF/W/43/Rev. 4)**

<b>Main Areas Covered</b>	<b>Groups of Measures Falling Under Those Areas</b>	<b>Status in India</b>
A. PUBLICATION AND AVAILABILITY OF INFORMATION	<b>1. Publication of Trade Regulations</b>	√
	<b>2. Publication of Penalty Provisions</b>	√
	<b>3. Internet Publication</b>	√
	(a) Internet "publication" of the elements set out in Article X of GATT 1994	X
	(b) Internet "publication" of specified information setting forth the procedural sequence and other requirements for importing goods into a Member's territory (W/13)	
	<b>4. Notification of Trade Regulations</b>	√
	<b>5. Establishment of Enquiry Points /SNFP/ Information Centers</b>	Only at a limited level
B. TIME PERIODS BETWEEN PUBLICATION AND IMPLEMENTATION	<b>1. Interval between Publication and Entry into Force</b>	There is no gap between publication and entry into force but the problem is with dissemination of needed information.
C. CONSULTATION AND COMMENTING ON NEW AND AMENDED RULES	<b>1. Prior Consultation and Commenting on New and Amended Rules</b>	√
	<b>2. Information on Policy Objectives Sought</b>	√
D. ADVANCE RULINGS	<b>1. Provision of Advance Rulings</b>	√
E. APPEAL PROCEDURES	<b>1. Right of Appeal</b>	√
	<b>2. Release of Goods in Event of Appeal</b>	X
F. OTHER MEASURES TO ENHANCE IMPARTIALITY AND NON-DISCRIMINATION	<b>1. Uniform Administration of Trade Regulations</b>	√
	<b>2. Maintenance and Reinforcement of Integrity and Ethical Conduct Among Officials</b>	
	(a) Establishment of a Code of Conduct	√
	(b) Computerized System to Reduce/Eliminate Discretion	√
	(c) System of Penalties	Not clear
	(d) Technical Assistance to Create/Build up Capacities to Prevent and Control Customs Offences	Not clear
	(e) Appointment of Staff for Education and Training	√
	(f) Coordination and Control Mechanisms	Limited Effort

G. FEES AND CHARGES CONNECTED WITH IMPORTATION AND EXPORTATION	<b>1. General Disciplines on Fees and Charges Imposed on or in Connection with Importation and Exportation</b>	
	(a) Specific Parameters for Fees/Charges	√
	(b) Publication/Notification of Fees/Charges	√
	(c) Prohibition of Collection of Unpublished Fees and Charges	√
	(d) Periodic Review of Fees/Charges	√
	(e) Automated Payment	Limited
	<b>2. Reduction/Minimization of the number and Diversity of Fees/Charges</b>	Being converged
H. FORMALITIES CONNECTED WITH IMPORTATION AND EXPORTATION	<b>1. Disciplines on Formalities/ Procedures and Data /Documentation Requirements Connected with Importation and Exportation</b>	
	(a) Non-discrimination	√
	(b) Periodic Review of Formalities and Requirements	√
	(c) Reduction/Limitation of Formalities and Documentation Requirements	√
	(d) Use of International Standards	Yet to be implemented
	(e) Uniform Customs Code	√
	(f) Acceptance of Commercially Available Information and of Copies	In very limited cases
	(g) Automation	√
	(h) Single Window/One-time Submission	No policy decision
	(i) Elimination of Pre-Shipment Inspection	√
	(j) Phasing out Mandatory Use of Customs Brokers	No policy decision
	I. CONSULARIZATION	<b>1. Prohibition of Consular Transaction Requirement</b>
J. BORDER AGENCY COOPERATION	<b>1. Coordination of activities and requirements of all border agencies</b>	Yet to be done
K. RELEASE AND CLEARANCE OF GOODS	<b>1. Expedited/Simplified Release and Clearance of Goods</b>	
	(a) Pre-arrival Clearance	√
	(b) Expedited Procedures for Express Shipments	Option available in limited cases yet to be universalized
	(c) Risk Management /Analysis, Authorized Traders	Being universalized
	(d) Post-clearance Audit	√
	(e) Separating Release from Clearance Procedures	√

	<b>2. Establishment and Publication of Average Release and Clearance Times</b>	√
L. TARIFF CLASSIFICATION	<b>1. Objective Criteria for Tariff Classification</b>	Only being discussed. Would require lot of effort
M. MATTERS RELATED TO GOODS TRANSIT	<b>1. Strengthened Non-Discrimination</b>	√
	<b>2. Disciplines on Fees and Charges</b>	
	(a) Publication of Fees and Charges and Prohibition of Unpublished ones	√
	(b) Periodic Review of Fees and Charges	√
	(c) More effective Disciplines on Charges for Transit	√
	(d) Periodic Exchange between Neighbouring Authorities	√
	<b>3. Disciplines on Transit Formalities and Documentation Requirements</b>	
	(a) Periodic Review	√
	(b) Reduction/Simplification	√
	(c) Harmonization/ Standardization	X
	(d) Promotion of Regional Transit Arrangements	√
	(e) Simplified and Preferential Clearance for Certain Goods	X
	(f) Limitation of Inspections and Controls	X
	(g) Sealing	X
	(h) Cooperation and Coordination on Document Requirements	√
	(i) Monitoring	√
	(j) Bonded Transport Regime/Guarantees	X
<b>4. Improved Coordination and Cooperation</b>		
(a) Amongst Authorities	√	
(b) Between Authorities and the Private Sector	√	

**Source:** Based on TN/TF/W/43/Rev.4

**Note:** √ represents TF measures introduced and absence of measures are indicated by X.

## ***VI.2 Areas for Capacity Building***

It is quite clear from our earlier experience in other areas that the capacity building would not succeed without sustained and high-level political will and commitment for streamlining of various processes and institutional mechanisms. This is also emphasized in the WGTF report. This may need far greater ownership and participation of senior customs personnel which may provide legitimacy and a boost to the ongoing efforts. There is a need for greater human and financial resources, and for enhanced cooperation and coherence between various agencies. The future work programme of the Government of India also acknowledges these requirements (Box 3).

As discussed above there are certain elements which need to be taken care of before TF related commitments are kept for implementation.

Competent and Trained Manpower

In the context of the on-going automation programme along with risk management and post audit, it is essential for customs to introduce training programmes for different sets of officials depending upon their background and earlier assignments handled. As the HP example shows, apart from public sector needs for trained manpower, the private sector also requires an oriented staff so that any knowledge gap with CHAs may be bridged. At some point, customs may also be encouraged for public-private partnership as is evident in the ICEGATE programme.

Integrated, Software Programme

On the pattern of the automation programme launched at customs, other border agencies would also need similar levels of IT enabled services so that they may also follow a similar consumer satisfaction trajectory.

Infrastructure at Transit Points

This is one area which is highlighted both in the survey of government officials and private sector as a key concern. At several LCSs, there is just no minimum infrastructure available, so where is the question of automation. Therefore, it requires major capacity building support and possibly some technical assistance to neighboring countries. The ground staff at transit points and other custom points need to be equipped to deal with modern concepts of TF. The upcoming opportunity from private port development and related infrastructural additions also throw up associated challenges which need to be addressed in terms of capacity building.

Customs Valuation

Apart from infrastructural constraints at the LCS and other entry points, there is a need to add further competence in customs valuation. As identified in the private sector survey, this is a key concern across the board and should be addressed expeditiously, especially in the context of initiatives related to risk management.

<p style="text-align: center;"><b>Box 3: Proposed Medium-Term Trade Facilitation Measures by Government</b></p> <ul style="list-style-type: none"><li>- Introducing Risk Management System to substantially reduce assessment and examination of goods.</li><li>- Introduction of Container-scanner. Increased remote filing through GATEWAY under digital signature.</li><li>- Encouraging e-payment facility.</li><li>- Launching of Accredited Client programme for assured facilitation i.e. self assessment combined with examination waiver, available to importers meeting specified criteria and with clean track record, demonstrated commitment and capacity for compliance.</li></ul>
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## VII. Conclusion

In the recent past, India has consolidated all the measures by initiatives launched at different points of time so as to strengthen the process of trade facilitation. This is part of a wider exercise to improve an external orientation of the Indian economy. The government has launched several policy measures to ensure speedy implementation of various recommendations of expert groups that were constituted to lay out a roadmap for trade facilitation in India. The WGTF has provided the most comprehensive redressal of various problems being faced by the trading community. As discussed earlier, the government has accepted almost all the recommendations of WGTF. These include periodic publication of data on dwell time, monitoring of TF measures, enhanced automation and eventual moving on to a single window clearance. The government has however, decided to achieve single window clearance in a phased manner. Initially, it would be only for exports and later would be expanded for imports. At this point, according to the Indian submission at WTO what seems feasible is a sectoral enquiry point with different agencies and once these agencies has come at the same level of automation eventually one may have a single point enquiry system.

The financial allocation for some of these measures has become part of a routine budget (expenditure) of CBEC, which makes it difficult to work out the precise cost of its implementation, for instance, the cost of publication or putting documents over internet. Similarly, institutional measures such as CESTAT, for appeal procedure, are already in place so separate cost estimation is almost impossible. However, for some of the key features of Articles V, VIII and X we made an effort to work out cost estimations. As is clear, India would have to make additional efforts to improve infrastructure including installation of relevant gadgets and equipment for faster cargo clearance. It is under this head that maximum cost would have to be incurred by the government. In the case of Articles X and VIII the minimum cost would be around at Re. 2016 million. This includes a major expenditure on equipment and infrastructure (82 per cent). Installation of the electronic cargo clearance unit is a major requirement at most of the leading ports in India. In case of Article V, 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 as desired at the border points. Most of the LCSs require better infrastructure. Some of the transit points lack even basic amenities for cargo clearance. According to conservative estimates only for equipments nearly Re. 159 million are required. There is also a concern about the lack of infrastructure at several land customs stations and non-compatibility of software programmes among various border agencies but no estimates could be worked out for them as it would depend on the current state of affairs at the LCSs.

At the domestic front, there are still some gray areas where policy attention is required such as clarity about internet publication of specific information setting forth the procedural sequence and other requirements for importing goods, harmonization of standards for goods and transits and such other measures, both under Article VIII and Article V.

In the context of the WTO related TF negotiations, these ground realities would hold important implications for any undertaking that India may accept. As part of the explicit recognition in the Doha Development Agenda and subsequently in the Annex D of the July package, a prime focus has to be on the technical cooperation and capacity building as core elements of the development dimension of the multilateral trading system. It is important that India works out a comprehensive strategy for a more focused, coordinated and well-resourced approach especially for Article V as there is huge technological and physical infrastructure gap with the land locked countries in the region. In meeting the WTO commitment of India for Article V, apart from bilateral efforts to improve trade facilitation, regional cooperation may also play a major role. In

South Asia, the existing regional transport system acts as a major constraint for transit movement, as there are problems related to motor vehicle regulations, road permits, lack of e-connectivity and even documentation format, etc. The present legal arrangement between India and Bangladesh does not allow entry of vehicles from either side. This becomes a greater problem for goods in transit as a truck coming from Nepal has to be unloaded at the Indian border with Bangladesh and reloaded after manually shifting the contents to the other truck across the border in Bangladesh. In this process, the value of commodities with a definite shelf life is lost. The regional dimension assumes additional importance as possible expansion in the intra-regional trade with the implementation of SAFTA may face serious impediments due to the absence of adequate TF measures in place. The technical assistance programmes may also take into account these regional requirements.

In the context of Articles VIII and X, given the broad status of various TF measures in India, even judging by the latest WTO document (TN/TF/W/43/Rev. 4), one may strongly recommend that India has already achieved a lot in trade facilitation. India is well placed to bridge the existing gaps with or without technical assistance. India should come forward and take-up some of the proposed elements of the three Articles under negotiations. This would require serious efforts to sequence various TF measures introduced so far vis-à-vis. the commitments emerging at the TF negotiations. At the WTO negotiations, the Indian negotiating team has shown extreme caution towards the different proposals and ideas. Though this may be necessary from the point of view of restraining other members from enhancing the scope of these Articles, in light of the considerable advancement at the domestic level, a greater optimism and pro-active formulation of proposals should be thought of.

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**India: Self Assessment Checklist for WTO Trade Facilitation Negotiations**  
(Short Version Developed by WTO based on WCO Check List)

S. N.	Question	Response [Yes=1; No=0]	Comments
<i>Questions/Issues related mainly to Article X (publication and administration of trade regulations)</i>			
<b>PUBLICATION/AVAILABILITY OF INFORMATION</b>			
1	Is any of the following published?		
	laws	1	
	regulations	1	
	documentary requirements	1	
	standard operating practices	1	
	standard processing times	0	No decision to publish it so far.
	specific customs procedures	1	
	tariff classification	1	
	valuation	0	Provided by local customs office
	exemptions, prohibitions, restrictions	1	
	duty & tax rates	1	
	fees and charges	1	
	administrative arrangements & requirements	1	
	management plans	1	
	rulings	1	
	judicial decisions	0	published by private publishers
	agreements with other countries	1	
2	Is relevant Customs and trade related information made available via the internet?	1	
3	Is relevant Customs and trade related information made available in:		
	Customs offices	1	
	embassies	1	through website
	consulates	1	through website
	trade missions/offices	1	through website
	government buildings/offices	1	
	public buildings/offices	1	
	other?		Private publishing houses bring out various customs manuals
4	Is relevant information made available in English, French or Spanish?	1	only in English
5	Does Customs charge for information provided?	0	
6	When charges are made, are costs limited to only the service provided?	0	Since no charges are imposed hence not applicable

7	Is information relevant to any proposed changes or new requirements made available sufficiently in advance for interested parties to take account of them?	1	Certain legal provisions are not out for comments
8	Does Customs publish all proposed changes or new requirements in advance of the entry into force?	1	
9	Do stakeholders have the opportunity to contribute/develop/influence/question all proposed changes of new requirements in advance of the entry into force?	1	Not in all cases
10	Does Customs invite comments from the public and trade on all proposed changes or new requirements in advance of the entry into force?	1	Not in all cases
11	Has Customs established information services such as:		
	client/help desk	1	
	enquiry point	1	
	customer/trader contacts	1	
	call centre	1	
	other?		Help Centres have been established. Watch Dog Committees
<b>Rulings</b>			
12	Does a system of national legislation exist establishing appropriate provisions for binding rulings by Customs?	1	Tribunal (CEST) is in place
13	Does national legislation provide for Customs to furnish rulings within a specified period?	0	There are several cases pending for long
14	Are filing processes established with specific time limits?	1	
15	Do ruling procedures provide the opportunity for appeal with review and/or judicial process	1	
16	Does the administration provide binding rulings for:		
	valuation	1	
	classification	1	
	origin	1	
	other Customs purposes?	1	
<b>Appeals and Review</b>			
17	Are internal appeal and review mechanisms established?	1	
18	Are internal appeal and review mechanisms independent?	1	
19	Are provisions established for an initial appeal to Customs?	1	
20	Are provisions established for a further appeal to an authority independent of Customs?	1	
21	Are provisions established for a final right of appeal to a judicial authority?	1	There is a quasi judicial authority in place
22	Do appeal processes have specific time limits?	0	
23	Are goods released pending the outcome of an appeal?	0	It is being considered to release goods atleast in case of accredited traders.

24	Is a security or other form of guarantee required?	1	
<b>Management</b>			
25	Are systems in place to monitor and evaluate the performance of Customs against established standards and/or indicators?	1	
26	Are training programmes established for Customs clearance procedures	1	
27	Are all Customs staff given training on integrity matters?	1	
28	Has a Code of Conduct/Code of Ethics been developed and implemented by Customs?	1	There is a Citizen's Charter in place. However, India is not in favour of including it in WTO.
<b>Systems and Procedures</b>			
29	Is the customs process automated?	1	
30	Is electronic filing of entry documents provided for?	1	
31	Do customs and other agencies share information electronically?	1	It is happening only partially
32	Are pre-arrival release procedures used?	1	
33	Does the administration grant immediate release/clearance procedures to any category of goods?	1	
34	Does the administration specify a minimum value/minimum amount of duties and taxes below which no duties and taxes will be collected?	0	
35	Do you have separate expedited procedures for express consignment shipments?	0	
36	Can data be submitted prior to arrival of the goods?	1	
37	Can goods be released prior to completion of all clearance formalities?	0	
38	Do you have weight or value restrictions for express consignment shipments?	1	Weight restrictions
39	Does the administration use risk analysis to determine which goods should be examined?	0	It is under implementaiton phase
40	Do Customs control systems include audit based controls?	1	It is under implementaiton phase
41	Does the Customs administration authorize persons with an appropriate compliance record for simplified and special procedures	1	It is under implementaiton phase
42	For authorized persons	0	
	* can goods be released on the provision of minimum information with full clearance being finalized subsequently-can goods be cleared at the declarant's premises		
	* other		
<b>Questions/Issues related mainly to Article VIII (Fees and Formalities connected with importation/exportations)</b>			
43	Does the administration charge for the provision of information to the trade?	0	It is freely available
44	Do fees for customs processing reflect the cost of services rendered?	0	Does not arise
45	Are fees published?	1	

	the amount?	1	
	time due?	1	
	entity assessing the fee?	1	
	how payment can be made?	1	
46	Are fee amounts published on the internet?	0	
<b>Questions/Issues related mainly to Article V (Freedom of Transit) General</b>			
47	Have international transit systems been implemented?	1	
48	Have regional transit systems been implemented?	0	
49	Is the Customs territory a landlocked country?	0	
50	Are transit corridors established within the Customs territory?	1	
51	Are transit routes prescribed?	1	
52	Are transit routes agreed in consultation with trade operators?	0	The consultations are at the bilateral government level only
53	Is abuse of the Customs transit system a concern in the Customs territory?	1	
54	Is a strict route stipulated for all high risk goods?	0	
55	Is Customs escort required for all high risk goods?	0	
56	Are time limits imposed for transit goods?	0	As there are no roads so connectivity is poor
57	Are current border posts and Customs offices suitably located for effective transit operations within the Customs territory?	1	
58	Are operating hours coordinated with other Customs administrations?	1	
59	Are controls and responsibilities at border posts coordinated with other border agencies?	1	It is largely at level of army and BSF
60	Are controls and responsibilities at border posts coordinated with other country's Customs administrations?	0	However, with automation this may improve the ground situation
<b>Documentation</b>			
61	Is a goods declaration required for all goods in transit?	1	
62	Is a standardized Customs transit declaration/document in use?	1	
63	Have documentary requirements for transit coordinated with other border agencies?	0	
64	Are documentary requirements for transit coordinated with other border agencies?	0	
65	Are simplified transit declarations in use?	1	So far, it is only with Bhutan
<b>Securities and Guarantees</b>			
66	Are goods in transit relieved of the payment of duties and taxes?	0	In some cases traders face octroi, imposed by local authorities at state level
67	Are any fees and charges levied in connection with Customs transit?	0	On holidays overtime is charged
68	Has an international guarantee system been implemented?	0	Mutual guarantees are provided by national governments

69	Are securities and/or guarantees required for all goods in transit?	1	Only in case of sensitive commodities as declared by Government of India. As of now there are 8 such commodities
70	Are cash deposits required for goods in transit?	0	
71	Are securities and/or guarantees discharged as soon as the obligations have been fulfilled?	1	
<b>Examination</b>			
72	Are examinations for goods in transit based on the application of risk assessment?	0	Currently, there is no scope for it in the bilateral treaties
<b>Authorized Trades</b>			
73	Are simplified procedures established for authorized consignors involved in the transit procedure?	0	It is same for all. However, government is working to implement it.
<b>Seals and Fastening</b>			
74	Are seals and identification marks affixed by foreign Customs accepted for Customs transit operations?	1	

This Questionnaire was developed by WTO based on the WCO Self Assessment Check List

**Survey Results from Private Sector: Perceived Level of Implementation (percentage)**

	Yes (%)	No (%)
Customs procedures and regulations are publicly available	85	15
Changes in regulations and procedures are made available	72	26
Laws, regulations and judicial decisions are applied in a uniform, impartial, and reasonable manner	45	51
Independent system to appeal trade and/or Customs authorities' decisions is available	58	40
Formal and effective private sector consultation mechanism exists, which allows traders to comment on proposed changes to regulations and procedures before they are issued and implemented	47	49
An effective advance ruling system is in place	45	45
Documentation requirements for import/export are excessive and time consuming	68	34
Fees and charges levied on export and import are reasonable	49	49
Penalties and fines for minor breaches of Customs regulation	55	40
Irregular and arbitrary payments are often required to expedite release of goods from Customs	57	40
Easy to submit required trade documentation to trade/Customs authorities for approval	57	43
Computerization and automation of Customs and trade procedures have noticeably reduced average time of clearance	72	25
The treatment of goods and vehicles in transit is non-discriminatory	55	28
Goods in transit are subject to unreasonable transit duties or transit charges	32	60
Regulation and procedures for goods in transit are clearly defined and widely available	49	40
Vehicles in transit are allowed to use the most convenient routes to their destination	60	25

**Survey Results from Private Sector: Identifying TF Needs and Priorities (percentage)**

	Low Priority	Medium Priority	High Priority	Highest Priority
<u>Timely and comprehensive publication and dissemination</u> of trade rules and regulations	2	6	30	60
Establishment (or improvement in the effectiveness) of enquiry points and/or <u>call centres for up-to-date information</u> on trade procedures	6	6	34	53
Establishment (or improvement in the effectiveness) of a <u>consultation mechanism</u> through which traders can provide inputs on proposed new or amended rules and regulations	6	23	30	38
Establishment (or improvement in the effectiveness) of an <u>appeal mechanism</u> outside of the authority of Customs or related agencies for traders to dispute Customs and other authorities' decisions	2	21	38	34
Establishment (or improvement in the effectiveness) of an <u>advance ruling system</u> , which allows the importer, in advance of trade, to obtain binding rules in certain specific areas (e.g., tariff classification, Customs valuation, origin)	2	17	40	38
Beginning and, if possible, <u>completing clearance of goods before they have arrived</u> physically in the Customs territory (based on advance submission of good declaration and other documents)	0	9	28	60
Separating release from clearance procedures, i.e., <u>allowing goods to be released before all clearance formalities have been completed</u> (this may be subject to providing a financial guarantee to customs and/or post-release audit)	8	15	40	34
<u>Reduction and simplification</u> of the documentation requirements for import and export procedures	2	6	23	68
<u>Harmonization and standardization</u> of documentation requirements based on international standards	2	13	26	55
Improvement of coordination between relevant agencies, particularly on document requirement, e.g., through the <u>establishment of a single window for one-time submission and collection of all trade documents</u>	2	8	25	64
<u>Computerization and automation of trade procedures</u> , e.g., online submission and approval of Customs declarations, cargo manifests, including electronic payment of fees and Customs duties	0	6	23	68
Improvement in <u>Customs inspection and control procedures</u> , e.g., systematic use of risk analysis to determine which good should be examined, clearer criteria for "green" and "red" channels and special channels for authorized traders and express shipments	0	4	36	58
<u>Elimination of bribery and other corrupt practices</u> of officials involved in the clearance and release of imported goods	0	0	8	91
<u>Implementation of international and regional transit systems</u> based on international standards and practices	2	23	38	34



Asia-Pacific Research and Training  
Network on Trade



United Nations Economic and Social  
Commission for Asia and the Pacific



Research and Information System  
for Developing Countries (RIS)

## A SURVEY OF THE TRADE FACILITATION NEEDS AND PRIORITIES OF THE PRIVATE SECTOR IN INDIA

With growing international trade participation by India, key issues bothering the trade community as far as trade facilitation is concerned have surfaced. In this context, the RIS, FICCI and UN ESCAP in a joint effort to address the issues have laid a special focus is on various aspects on *Freedom of Transit, Fees and formalities related to importation and exportation, and Publication and administration of trade regulations*.

The objective of this survey is to identify the importance and relevance of selected trade facilitation measures that have already been proposed for inclusion in a future WTO agreement on trade facilitation.

**All responses will be treated as confidential** and will only be used in aggregate form.

**Who should complete the questionnaire?** This short questionnaire should be completed by a senior staff of the company who is familiar with and/or involved in the preparation of trade documents and the completion of import/export procedures and formalities. Should you have any questions regarding the survey, please contact Dr. Sachin Chaturvedi, Fellow, Research and Information System for Developing Countries (RIS).

This survey is being conducted by RIS, in close collaboration with the United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP; [www.unescap.org](http://www.unescap.org); you may contact Dr. Yann Duval, Trade and Investment Division, UNESCAP at [duvaly@un.org](mailto:duvaly@un.org) for more information).

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**Please return the completed questionnaire to:**

*Dr. Sachin Chaturvedi, Fellow*

Research and Information System (RIS)  
Zone IV B, 4<sup>th</sup> Floor, India Habitat Centre  
Lodi Road, New Delhi 110003, India  
Email: [sachin@ris.org.in](mailto:sachin@ris.org.in)

## I. Perceived Level of Implementation

Please indicate the extent to which you agree (or disagree) with each of the statements:

- 1.1 Whether the relevant trade and Customs procedures and regulations are publicly available and easily accessible?  
 Yes  No      Remarks (if any).....
- 1.2 Whether the information about changes in regulations and procedures are made available promptly and conveniently to the public?  
 Yes  No      Remarks (if any).....
- 1.3 Whether the laws, regulations and judicial decisions are applied in a uniform, impartial, and reasonable manner?  
 Yes  No      Remarks (if any).....
- 1.4 Whether an independent system to appeal trade and/or Customs authorities' decisions is available and operates effectively?  
 Yes  No      Remarks (if any).....
- 1.5 Whether a formal and effective private sector consultation mechanism exists, which allows traders to comment on proposed changes to regulations and procedures before they are issued and implemented?  
 Yes  No      Remarks (if any).....
- 1.6 Whether an effective advance ruling system is in place, which allows the importer, in advance of trade, to obtain binding rules in certain specific areas? (e.g., tariff classification, Customs valuation, origin)  
 Yes  No      Remarks (if any).....
- 1.7 Whether documentation requirements for import/export are excessive and time consuming?  
 Yes  No      Remarks (if any).....
- 1.8 Do you think fees and charges levied on export and import are reasonable? (i.e., are limited to the cost of services rendered by the authorities)  
 Yes  No      Remarks (if any).....
- 1.9 Do you think penalties and fines for minor breaches of Customs regulation (e.g., due to typing mistakes) are small and reasonable?  
 Yes  No      Remarks (if any).....
- 1.10 Whether irregular and arbitrary payments are often required to expedite release of goods from Customs?  
 Yes  No      Remarks (if any).....
- 1.11 Is it easy to submit required trade documentation to trade/Customs authorities for approval  
 Yes  No      Remarks (if any).....
- 1.12 Do you think computerization and automation of Customs and trade procedures have noticeably reduced average time of clearance?

- Yes    No   Remarks (if any).....
- 1.13 Whether, the treatment of goods and vehicles in transit is non-discriminatory? (i.e., imported goods are not discriminated based on origin and/or destination)
- Yes    No   Remarks (if any).....
- 1.14 Whether goods in transit are subject to unreasonable transit duties or transit charges?
- Yes    No   Remarks (if any).....
- 1.15 Whether regulation and procedures for goods in transit are clearly defined and widely available
- Yes    No   Remarks (if any).....
- 1.16 Whether vehicles in transit are allowed to use the most convenient routes to their destination?
- Yes    No   Remarks (if any).....
- 1.17 Overall, in which of the following areas do you face the most problems (*please select the 4 most problematic areas and then rank them from 1 to 4 [1 = most problematic; 4= least problematic]*):
- |  |  |
|--|--|
| <input type="checkbox"/> Obtaining of import license           | <input type="checkbox"/> Tariff classification                 |
| <input type="checkbox"/> Submission of documents for clearance | <input type="checkbox"/> Identification of origin of the goods |
| <input type="checkbox"/> Payment of fees and penalties         | <input type="checkbox"/> Customs valuation                     |
| <input type="checkbox"/> Technical or sanitary requirements    | <input type="checkbox"/> Inspection and release of goods       |
| <input type="checkbox"/> Other (please specify): __            |  |
- 1.18 Have problems and inefficiencies related to trade and Customs regulations and procedures in India resulted in significant costs (or losses) to your business?   Yes   No
- If yes, please elaborate (what is the cost trade documentation and complying with trade/Customs regulations as a percentage of transaction value? Which trade/Customs regulations or procedures are the most costly for your business? How could they be improved?)*
- 1.19 Overall, would you say that most of the difficulties you face in exporting from (importing to) India stem from domestic trade procedures/regulations OR from procedures/regulations in the countries of your buyers (suppliers)?
- Mostly from domestic procedures/regulations    Mostly from foreign procedures/regulations

*Please elaborate as needed:*

## II. Identifying Trade Facilitation Needs and Priorities in India

Please indicate what level of priority should be accorded by the Government to each of the following measures to facilitate international trade and reduce your cost of doing business (*Please read through the entire list of measures once before deciding on the level of priority for each: 0 = lowest priority; 1 = low priority; 2 = medium priority; 3 = high priority; 4 = highest priority*).

- |      |   |                        |  |   |   |   |   |   |   |                         |
|------|---|------------------------|--|---|---|---|---|---|---|-------------------------|
| 2.1  | <u>Timely and comprehensive publication and dissemination</u> of trade rules and regulations (e.g., through the Internet)   | <i>Lowest Priority</i> | <table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="width: 20px; height: 20px; text-align: center;">0</td> <td style="width: 20px; height: 20px; text-align: center;">1</td> <td style="width: 20px; height: 20px; text-align: center;">2</td> <td style="width: 20px; height: 20px; text-align: center;">3</td> <td style="width: 20px; height: 20px; text-align: center;">4</td> <td style="width: 20px; height: 20px; text-align: center;">5</td> </tr> </table> | 0 | 1 | 2 | 3 | 4 | 5 | <i>Highest Priority</i> |
| 0    | 1   | 2                      | 3  | 4 | 5 |   |   |   |   |                         |
| 2.2  | Establishment (or improvement in the effectiveness) of enquiry points and/or <u>call centres for up-to-date information</u> on trade procedures   | <i>Lowest Priority</i> | <table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="width: 20px; height: 20px; text-align: center;">0</td> <td style="width: 20px; height: 20px; text-align: center;">1</td> <td style="width: 20px; height: 20px; text-align: center;">2</td> <td style="width: 20px; height: 20px; text-align: center;">3</td> <td style="width: 20px; height: 20px; text-align: center;">4</td> <td style="width: 20px; height: 20px; text-align: center;">5</td> </tr> </table> | 0 | 1 | 2 | 3 | 4 | 5 | <i>Highest Priority</i> |
| 0    | 1   | 2                      | 3  | 4 | 5 |   |   |   |   |                         |
| 2.3  | Establishment (or improvement in the effectiveness) of a <u>consultation mechanism</u> through which traders can provide inputs on proposed new or amended rules and regulations  | <i>Lowest Priority</i> | <table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="width: 20px; height: 20px; text-align: center;">0</td> <td style="width: 20px; height: 20px; text-align: center;">1</td> <td style="width: 20px; height: 20px; text-align: center;">2</td> <td style="width: 20px; height: 20px; text-align: center;">3</td> <td style="width: 20px; height: 20px; text-align: center;">4</td> <td style="width: 20px; height: 20px; text-align: center;">5</td> </tr> </table> | 0 | 1 | 2 | 3 | 4 | 5 | <i>Highest Priority</i> |
| 0    | 1   | 2                      | 3  | 4 | 5 |   |   |   |   |                         |
| 2.4  | Establishment (or improvement in the effectiveness) of an <u>appeal mechanism</u> outside of the authority of Customs or related agencies for traders to dispute Customs and other authorities' decisions   | <i>Lowest Priority</i> | <table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="width: 20px; height: 20px; text-align: center;">0</td> <td style="width: 20px; height: 20px; text-align: center;">1</td> <td style="width: 20px; height: 20px; text-align: center;">2</td> <td style="width: 20px; height: 20px; text-align: center;">3</td> <td style="width: 20px; height: 20px; text-align: center;">4</td> <td style="width: 20px; height: 20px; text-align: center;">5</td> </tr> </table> | 0 | 1 | 2 | 3 | 4 | 5 | <i>Highest Priority</i> |
| 0    | 1   | 2                      | 3  | 4 | 5 |   |   |   |   |                         |
| 2.5  | Establishment (or improvement in the effectiveness) of an <u>advance ruling system</u> , which allows the importer, in advance of trade, to obtain binding rules in certain specific areas (e.g., tariff classification, Customs valuation, origin) | <i>Lowest Priority</i> | <table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="width: 20px; height: 20px; text-align: center;">0</td> <td style="width: 20px; height: 20px; text-align: center;">1</td> <td style="width: 20px; height: 20px; text-align: center;">2</td> <td style="width: 20px; height: 20px; text-align: center;">3</td> <td style="width: 20px; height: 20px; text-align: center;">4</td> <td style="width: 20px; height: 20px; text-align: center;">5</td> </tr> </table> | 0 | 1 | 2 | 3 | 4 | 5 | <i>Highest Priority</i> |
| 0    | 1   | 2                      | 3  | 4 | 5 |   |   |   |   |                         |
| 2.6  | Beginning and, if possible, <u>completing clearance of goods before they have arrived</u> physically in the Customs territory (based on advance submission of good declaration and other documents)   | <i>Lowest Priority</i> | <table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="width: 20px; height: 20px; text-align: center;">0</td> <td style="width: 20px; height: 20px; text-align: center;">1</td> <td style="width: 20px; height: 20px; text-align: center;">2</td> <td style="width: 20px; height: 20px; text-align: center;">3</td> <td style="width: 20px; height: 20px; text-align: center;">4</td> <td style="width: 20px; height: 20px; text-align: center;">5</td> </tr> </table> | 0 | 1 | 2 | 3 | 4 | 5 | <i>Highest Priority</i> |
| 0    | 1   | 2                      | 3  | 4 | 5 |   |   |   |   |                         |
| 2.7  | Separating release from clearance procedures, i.e., <u>allowing goods to be released before all clearance formalities have been completed</u> (this may be subject to providing a financial guarantee to Customs and/or post-release audit)         | <i>Lowest Priority</i> | <table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="width: 20px; height: 20px; text-align: center;">0</td> <td style="width: 20px; height: 20px; text-align: center;">1</td> <td style="width: 20px; height: 20px; text-align: center;">2</td> <td style="width: 20px; height: 20px; text-align: center;">3</td> <td style="width: 20px; height: 20px; text-align: center;">4</td> <td style="width: 20px; height: 20px; text-align: center;">5</td> </tr> </table> | 0 | 1 | 2 | 3 | 4 | 5 | <i>Highest Priority</i> |
| 0    | 1   | 2                      | 3  | 4 | 5 |   |   |   |   |                         |
| 2.8  | <u>Reduction and simplification</u> of the documentation requirements for import and export procedures  | <i>Lowest Priority</i> | <table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="width: 20px; height: 20px; text-align: center;">0</td> <td style="width: 20px; height: 20px; text-align: center;">1</td> <td style="width: 20px; height: 20px; text-align: center;">2</td> <td style="width: 20px; height: 20px; text-align: center;">3</td> <td style="width: 20px; height: 20px; text-align: center;">4</td> <td style="width: 20px; height: 20px; text-align: center;">5</td> </tr> </table> | 0 | 1 | 2 | 3 | 4 | 5 | <i>Highest Priority</i> |
| 0    | 1   | 2                      | 3  | 4 | 5 |   |   |   |   |                         |
| 2.9  | <u>Harmonization and standardization</u> of documentation requirements based on international standards   | <i>Lowest Priority</i> | <table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="width: 20px; height: 20px; text-align: center;">0</td> <td style="width: 20px; height: 20px; text-align: center;">1</td> <td style="width: 20px; height: 20px; text-align: center;">2</td> <td style="width: 20px; height: 20px; text-align: center;">3</td> <td style="width: 20px; height: 20px; text-align: center;">4</td> <td style="width: 20px; height: 20px; text-align: center;">5</td> </tr> </table> | 0 | 1 | 2 | 3 | 4 | 5 | <i>Highest Priority</i> |
| 0    | 1   | 2                      | 3  | 4 | 5 |   |   |   |   |                         |
| 2.10 | Improvement of coordination between relevant agencies, particularly on document requirement, e.g., through the <u>establishment of a single window for one-time submission</u> and collection of all trade documents                                | <i>Lowest Priority</i> | <table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="width: 20px; height: 20px; text-align: center;">0</td> <td style="width: 20px; height: 20px; text-align: center;">1</td> <td style="width: 20px; height: 20px; text-align: center;">2</td> <td style="width: 20px; height: 20px; text-align: center;">3</td> <td style="width: 20px; height: 20px; text-align: center;">4</td> <td style="width: 20px; height: 20px; text-align: center;">5</td> </tr> </table> | 0 | 1 | 2 | 3 | 4 | 5 | <i>Highest Priority</i> |
| 0    | 1   | 2                      | 3  | 4 | 5 |   |   |   |   |                         |
| 2.11 | <u>Computerization and automation of trade procedures</u> , e.g., online submission and approval of Customs declarations, cargo manifests, including electronic payment of fees and Customs duties.   | <i>Lowest Priority</i> | <table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="width: 20px; height: 20px; text-align: center;">0</td> <td style="width: 20px; height: 20px; text-align: center;">1</td> <td style="width: 20px; height: 20px; text-align: center;">2</td> <td style="width: 20px; height: 20px; text-align: center;">3</td> <td style="width: 20px; height: 20px; text-align: center;">4</td> <td style="width: 20px; height: 20px; text-align: center;">5</td> </tr> </table> | 0 | 1 | 2 | 3 | 4 | 5 | <i>Highest Priority</i> |
| 0    | 1   | 2                      | 3  | 4 | 5 |   |   |   |   |                         |

2.12 Improvement in Customs inspection and control procedures, e.g., systematic use of risk analysis to determine which good should be examined, clearer criteria for “green” and “red” channels and special channels for authorized traders and express shipments

*Lowest  
Priority*

0	1	2	3	4	5
---	---	---	---	---	---

*Highest  
Priority*

2.13 Elimination of bribery and other corrupt practices of officials involved in the clearance and release of imported goods

*Lowest  
Priority*

0	1	2	3	4	5
---	---	---	---	---	---

*Highest  
Priority*

2.14 Implementation of international and regional transit systems based on international standards and practices

*Lowest  
Priority*

0	1	2	3	4	5
---	---	---	---	---	---

*Highest  
Priority*

2.15 Other (*please specify*): \_\_\_\_\_

*Lowest  
Priority*

0	1	2	3	4	5
---	---	---	---	---	---

*Highest  
Priority*

2.16 Please use the space below to highlight any trade facilitation measure you think would be particularly effective in reducing your cost of doing business or in increasing/maintaining your country’s competitiveness:

### III. Problems Associated with Trade/Customs Regulations and Procedures in Foreign Countries

- 3.1 Have you faced problems in obtaining relevant information regarding trade documentation requirements and procedures applicable in other countries (e.g., your main export markets)? Yes No

*If yes, please elaborate:*

- 3.2 Have you incurred significant costs because of the trade/Customs regulations and procedures enforced by governments in your main export or import markets? Yes No

*If yes, please specify the nature of the problems (e.g., misclassification of goods, Customs overvaluation, determination of origin, sanitary and phytosanitary regulations, inspections, unreasonable fees, excessive delays at border-crossings, transit issues...):*

### IV. General Information

- 4.1 Your company is best described as (*Please tick one box only*)
- A freight forwarder (not importing and exporting on its own behalf)
  - An importer-exporter (importing and exporting on its own behalf)
  - A manufacturing/service company which frequently import and export goods/services
  - A manufacturing/service company occasionally carrying out import and export
  - Other (please specify): \_\_\_\_

- 4.2 Your company is (*Please tick one box only*)
- A domestic state-owned enterprise
  - A small and medium size enterprise
  - A (national) subsidiary of a Multinational headquartered in (*please specify*): \_\_\_\_
  - A joint-venture with a foreign company headquartered in (*please specify*): \_\_\_\_
  - Other (*please specify*): \_\_\_\_

- 4.3 How many employees do you have in India? \_\_\_\_\_ persons

- 4.4 What products, if any, do you import (e.g., food, clothes, oil, chemicals... *Please specify the two main product categories*)?

1. \_\_\_\_\_ 2. \_\_\_\_\_

- 4.5 From which two countries do you import most?

1. \_\_\_\_\_ 2. \_\_\_\_\_

- 4.6 What products, if any, do you export (e.g., food, clothes, electronics, software... *Please specify the two main product categories*)?

1. \_\_\_\_\_ 2. \_\_\_\_\_

- 4.7 To which two countries do you export most?

1. \_\_\_\_\_ 2. \_\_\_\_\_

## **Endnotes**

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<sup>1</sup> Electronic Data Interchange (EDI) is the computer-to-computer exchange of structured information, by agreed message standards, from one computer application to another by electronic means and with a minimum of human intervention.

<sup>2</sup> CBEC (2005).

<sup>3</sup> Circular No. 17/2005-Customs 11th March, 2005

<sup>4</sup> <http://www.cbec.gov.in>.

<sup>5</sup> See section II.3 for further details.

<sup>6</sup> WTO (2004).

<sup>7</sup> Circular No.52/2004-Customs 7th October, 2004.

<sup>8</sup> MoF (2004-05).

<sup>9</sup> [www.cbec.gov.in/cae/aar.htm](http://www.cbec.gov.in/cae/aar.htm)

<sup>10</sup> MoF (2004).

<sup>11</sup> MoF (2005).

<sup>12</sup> SCF (2005).

<sup>13</sup> SCF (2005).

<sup>14</sup> WTO (2005).

<sup>15</sup> *ibid*

<sup>16</sup> Subramaniam (2005).

<sup>17</sup> CBEC website.

<sup>18</sup> CBEC (2004).

<sup>19</sup> Roy (2004).

<sup>20</sup> CBEC (2004).

<sup>20</sup> Roy (2004).

<sup>21</sup> TN/TF/W/22.

<sup>22</sup> *The Hindu Business Line*, August 27, 2003.

<sup>23</sup> *Business Line*, October 11, 2005.

<sup>24</sup> Subramaniam, Kameshwari (2005).

<sup>25</sup> Business Standard, 25<sup>th</sup> August 2005.

<sup>26</sup> ESCAP (2003).

<sup>27</sup> *HT* (2005).

<sup>28</sup> Personal Communication with Customs Officials.

<sup>29</sup> Personal Communication with CHAs.

<sup>30</sup> Personal Communication with Customs.

<sup>31</sup> Subramaniam (2005).

<sup>32</sup> CBP Newsletter, Vol. 1 no. 1, March 2005.

<sup>33</sup> Communication with Calcutta Customs 2005.