

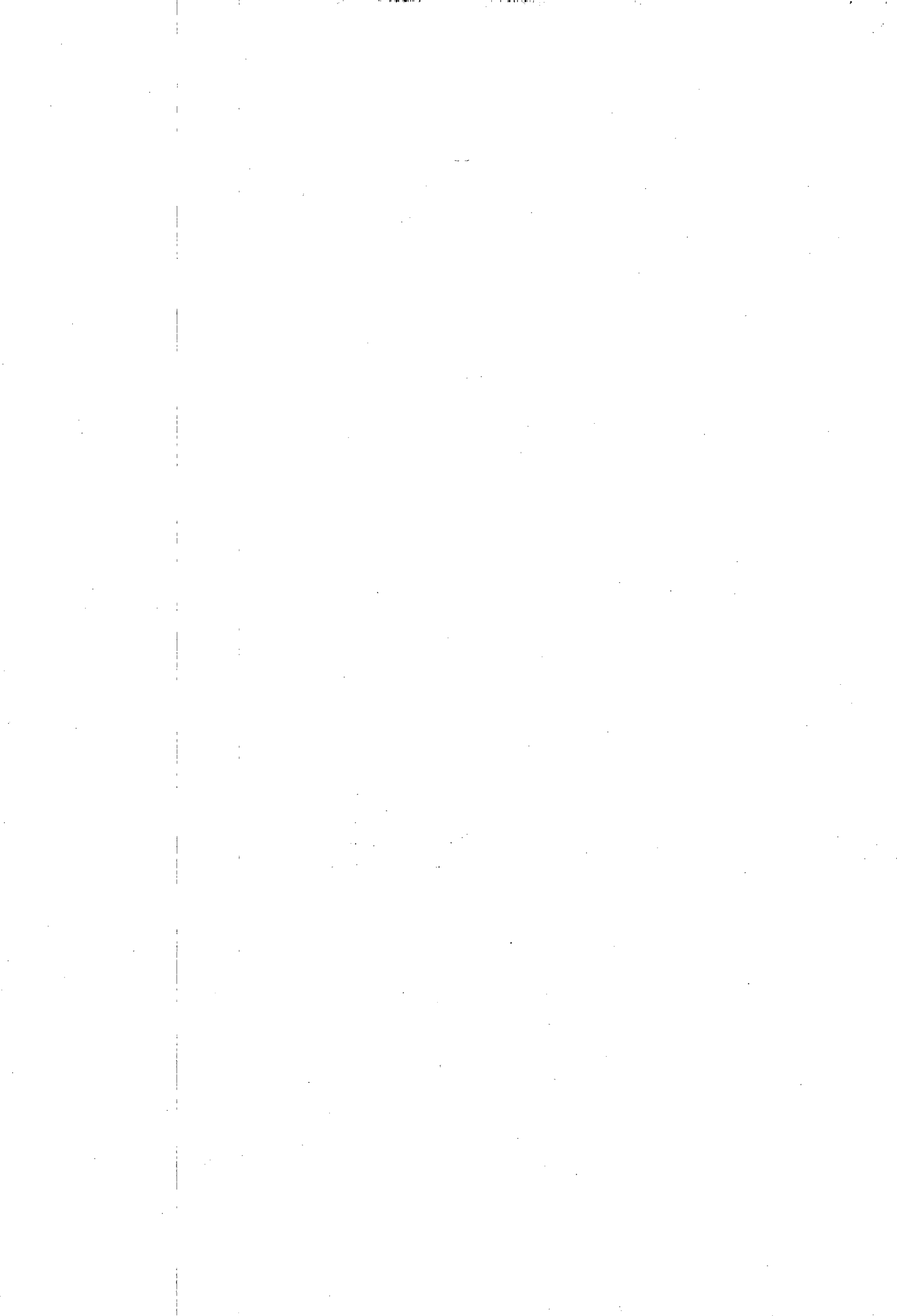
**Report of the  
Comptroller and Auditor General  
of India**

**for the year ended March 2014**

**Performance of  
Import and Export Trade Facilitation through Customs Ports**

**Union Government  
Department of Revenue  
Indirect taxes – Customs  
No. 13. of 2015**

Laid on the table of Lok Sabha/Rajya Sabha 05 मई 2015



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## Preface

This Report for the year ended March 2014 has been prepared for submission to the President of India under Article 151 of the Constitution of India.

The Report contains significant results of the performance audit of Import and Export Trade Facilitation through Customs Ports.

The instances mentioned in this Report are those which came to notice in the course of test audit during the period 2014-15.

The audit has been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India.

Audit wishes to acknowledge the cooperation received from Ministry of Commerce and Industry (DGFT) and Department of Revenue (CBEC) and its field formations at each stage of the audit process.



### Abbreviation

AA	Advance Authorisation
ACC	Air Cargo Complex
ACP	Accredited Client Programme
ADC	Assistant Drug Controller
AEO	Authorized Economic Operator
APEC	Asia Pacific Economic Cooperation
APEDA	Agriculture & Processed Food Products Export Development Authority
ASEAN	Association of South East Asian Nations
ASSOCHAM	the Associated Chambers of Commerce and Industry
BE	Bill of entry
CBEC	Central Board of Excise and Customs
CCR	Compulsory compliance Requirements
CDSCO	Central Drugs Standard Control Organisation
CFS	Container Freight Station
CMFC	Container Movement Facilitation Centre
CST	Central Sales Tax
DEPB	Duty Entitlement Pass Book
DG (System)	Director General (System and Data Management)
DGFT	Director General of Foreign Trade
DoC	Department of Commerce
DoR	Department of Revenue
e-BRC	Electronic Bank Realisation Certificate
e- PAO	Electronic Pay and Accounts Office
EDD	Extra Duty Deposit
EDI	Electronic Data Interchange
EODC	Export Obligation Discharge Certificate
EPCG	Export Promotion Capital Goods
FICS	Food Import Clearance System
FIEO	Federation of Indian Export Organisation
fob	Free on Board
FSSAI	Food Safety and Standards Authority of India
FTDR Act	Foreign Trade Development & Regulation Act
FTA	Free Trade Agreement
FTP	Foreign Trade Policy
GDP	Gross Domestic Product
HCCAR	Handling of Cargo in Customs Areas Regulation
ICD	Inland Container Depot
ICEGATE	Indian Customs Electronic Commerce Gateway
ICES	Indian Customs Electronic Data Interchange System
IEC	Importer Exporter Code
IGM	Import General Manifest
IT	Information Technology
JNPT	Jawaharlal Nehru Port Trust

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LCL	Less Container Load
MLO	Main Line Operators
MOC	Ministry of Commerce
OECD	Organisation for Economic Co-operation and Development
OOC	Out of charge
OSPCA	On site Post Clearance Audit
PCA	Post Compliance Audit
PCS	Port Community System
PIIE	Peterson Institute for International Economics
PTFC	Permanent Trade Facilitation Committee
RBI	Reserve Bank of India
RES	Remote EDI System
RFD	Result Framework Document
RMS	Risk Management System
SAD	Special Additional Duty
SB	Shipping Bill
SDF	<i>Statutory Declaration Form</i>
SEZ	Special Economic Zones
TFI	Trade Facilitation Indicator
TRA	Telegraphic Release Advice
WAN	Wide Area Network
WCO	World Customs Organisation
WTO	World Trade Organisation
VAT	Value Added Tax

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## EXECUTIVE SUMMARY

### Introduction

The Indian economy is one of the fastest growing economies among the emerging markets today. One important cause is the rapid growth in international trade. In order to sustain the current pace of export growth in a highly competitive global market, there is a need to reduce the associated costs.

Trade Facilitation is aimed at ensuring the movement and clearance of goods across borders at the minimum cost. It is a term used to denote all steps for simplification of procedures and reduction of costs in the course of international trade. Reduction in idle time in any segment of the trading process would reduce transaction costs and would facilitate trade in general and enhance the price competitiveness of Indian goods in international market. Delays increase not only the cost of compliance but also lead to impediments to efficient trading across borders like congestion at the ports.

As a measure of trade promotion, trade facilitation has come to occupy a significant place in the multilateral discussions on trade in the recent past due to the importance given by the international community in liberalizing trade.

Over the years, the Department of Revenue (DoR) had initiated various trade facilitation measures like simplification of rules and procedures, IT initiatives, e-governance, Accredited Client Programme (ACP), 24x7 clearance facility, Authorised Economic Operator (AEO) Programme etc.

The objective of this performance audit was to assess the adequacy of regulatory framework, policy implementation, operational issues and internal controls.

Our audit was conducted from June through September 2014 involving analysis of data for the period 2010-11 to 2012-14 from various stakeholders located throughout the country.

### Transaction cost of Trade Facilitation

There is a good scope to improve efficiency by streamlining procedures. India's performance needs improvement in the indicators of trade-infrastructure efficiency. In overall logistic performance index, although India's score has improved over time, it has room for improvement. Strategic Plan of Department of Commerce estimated the impact on the transaction cost to the tune of ₹ 42000 crore (US\$ 6-7 billion) due to poor facilitation.

DoC had regularly constituted committees (2005, 2009 and 2013) and task forces concomitant with the Foreign Trade Policies to address the issue of high transaction cost in India and suggest measures to reduce transaction cost and time impacting the country's Foreign Trade transactions.

A task force on 'Transaction Costs in Exports' was constituted in 2009 by MoC to look into various issues affecting the competitiveness of Indian exports and initiate a set of "executable" remedial measures towards reducing the costs associated with trading across borders. The committee had made 44 recommendations pertaining to seven ministries, out of which 32 recommendations were agreed upon. Out of the 32 recommendations, 21 recommendations were reported to have been implemented in the task force report published in 2011.

The Second Task force on 'Reduction in Transaction Costs in Exports' was constituted in 2013 to examine and identify such difficulties that the exporters face and make actionable recommendation to reduce or eliminate them. The committee made 46 recommendations pertaining to nine ministries and 7 separate recommendations relating to Land Border crossing and other miscellaneous issues.

Recommendations were yet to be implemented by the related departments fully.

#### **Governance, risk and compliance**

Specific cases of lapses in implementation of trade facilitation measures have been observed in the process of imports, exports, interpretation of extant provisions, internal control and infrastructure etc. both in EDI and manual environment.

Audit is of the view that an assurance framework needs to be developed internally for concurrent audit of various information systems in DoC/DoR. Additionally impact assessment of the trade policies and transaction analysis of simplified procedure needs to be initiated.

#### **Implementation of Trade Facilitation measures**

Dwell time is the measure of the time elapsed from the time the cargo arrives in the port to the time the goods leave the port premises after all permits and clearances have been obtained and is an important indicator of the extent to which trade facilitation measures are beneficial for the trade.

A time release study was conducted to identify inordinate delays in the various stages of import clearances for the BEs given out of charge (OOC) during the period 2010-11 to 2013-14. The study revealed that there was downtrend in dwell time and the decrease was from 13.94 days during 2010-

11 to 10.95 days during 2013-14. This could be further improved by implementing the trade facilitation measures initiated by CBEC more effectively. The study further revealed that almost 65 per cent of the total time taken in imports is attributed to the filing of the BEs and payment of duty while in exports filing of the EGM constituted nearly 90 per cent of the total time taken.

Delays were observed in allotment of berths by Port Authorities, in clearing the goods by the importers at Ports, in rectification of errors in Import General Manifests (IGM), in filing of BEs by the Importers, non mandatory filing of BEs through ICEGATE, manual registration of licences with the custom houses and in furnishing reply to the queries raised by the department, examination by other Agencies, payment of duty/refund and or drawback, in filing of Export General Manifests (EGM) and rectification of errors etc.

The department initiated few measures like ICEGATE facility for filing of BEs/SBs, facilitation through Risk Management System (RMS), facility of examination of Export goods at the factory premises, creation of Permanent Trade Facilitation Committee, 24x7 customs clearance procedure, ACP, AEO programme, OSPCA and Advance Ruling Mechanism.

Lack of infrastructure facilities like examination of Import goods by Customs, Port to Road Connectivity, Rail infrastructure to move containers to ICDs, Issues dogging check posts, lack of feeder network facility at International Container Trans-shipment Terminal, additional levy of stamp duty by governments, problems plaguing Container Freight Stations (CFSs), EDI Issues, re-export of Containers, lack of patronage for Indian trans-shipment ports and non co-ordination between stake holders for improving the infrastructure are also contributing adversely to the trade facilitations initiated by the department(s).

#### **Conclusion**

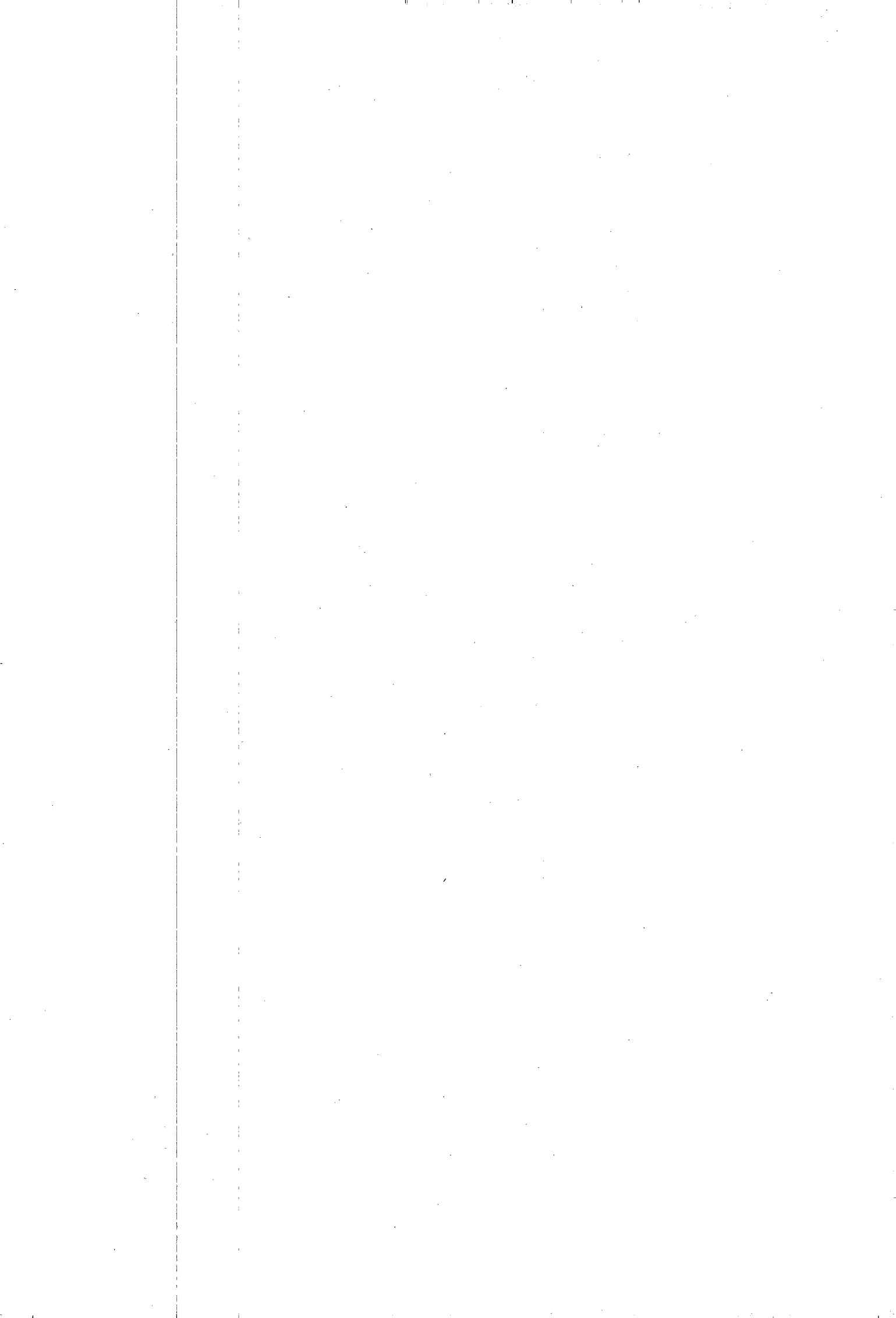
Trade facilitation gained currency with the agreement by the member countries including India at the Bali Ministerial conference of the World Trade Organization (WTO) members in December 2013. This necessitated India making binding commitments on facilitating customs and other border procedures which includes among others, publication and availability of information to members, providing for an Advance ruling mechanism, an appeal and/or review mechanism, regulating the fees and charges other than duties, faster release and clearance of goods, border agency cooperation between the members, minimizing the incidence and complexity of import, export and transit formalities and to decrease and simplify document requirements.

The focus of the PA was in identifying the bottlenecks in reduction of the transaction cost and port related facilitation involving clearance of the import/export cargo where it was seen that the procedural complexities and consequent delays in import clearance are of a much higher order than in the case of export clearances.

Incomplete facilitation process mapping, weak target setting, inadequate monitoring of the implementation of the recommendations of the Task Forces and committees on transaction cost have compromised the achievement of envisaged benefits.

### Recommendations

1. *The department may consider reaching out to importers to file error free BEs, to reduce time delay, allow online amendments to the minor errors in BE, adjustment of excess duty paid due to short landing.*
2. *Department may explore the possibility of permitting minor amendments to EGM online and allow frequent monitoring of uploading of EGMs by Service Centres at ICDs.*
3. *Department may examine and address the reasons for nonutilization of the facility of examination at the factory premises, by the exporters.*
4. *Department may consider improving interconnectivity with other agencies such as acceptance of certificate of analysis of food items by accredited laboratories, introduction of a system to furnish all RMS bill in advance to CFS for stacking the containers, integration of customs system with GSS system etc.*





Performance of  
Import and Export Trade Facilitation  
through Customs Ports





## Chapter 1: Introduction

The Indian economy is one of the fastest growing economies among the emerging markets today. One important cause is the rapid growth in international trade. However, in order to sustain the current pace of export growth in a highly competitive global market, there is a need to reduce the associated costs.

Trade Facilitation is aimed at ensuring the movement and clearance of goods across borders within the shortest time at the minimum cost. It is a term used to denote all steps for simplification of procedures and reduction of costs in the course of international trade. Reduction in idle time in any segment of the trading process would reduce transaction costs and would facilitate trade in general and enhance the price competitiveness of Indian goods in international market. Delays increase not only the cost of compliance but leads to impediments to efficient trading across borders like congestion at the ports.

As a measure of trade promotion, trade facilitation has come to occupy a significant place in the multilateral discussions on trade in the recent past due to the importance given by the international community in liberalizing trade.

### 1.1 Prelude

Elaborate assessment procedures relating to import and export, poor infrastructure, onerous documentary requirements and unreliable EDI environment contributed to the inefficiencies and complicate the compliance environment. Reducing transaction costs and costs of doing business is important not only for boosting exports and FDI but also for creating an appropriate framework for a vibrant domestic business.

India has been part of the public discourse on trade facilitation since December 1996 when WTO Ministerial Conference was held in Singapore. Over the years Government of India had taken initiatives to liberalize trade by simplifying and rationalizing the procedural complexities. Several steps taken during the last decades to facilitate trade are (i) simplification of rules and procedures, (ii) IT initiatives, like the Indian Customs Electronic Data Interchange System (ICES), launching of an electronic commerce portal (Indian Customs and Excise Gateway (ICEGATE), Risk Management System (RMS), GrapeNet, an internet based electronic software systems developed by APEDA<sup>1</sup>, SEZ online, DGFT (EDI), electronic bank realisation certificate (e-BRC) and port community system (PCS). A summarised statement of these facilitation measures are enclosed as Appendix 1.

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<sup>1</sup> Agriculture & Processed Food Products Export Development Authority

India's performance in terms of 'Trading Across Borders'<sup>2</sup> is not encouraging and it ranks a distant 126 out of 189 countries, according to the World Bank Report for 2015. The number of documents required to import and export, the time taken and cost to import and export has more or less remained the same in the past 4 years in spite of the IT initiatives and various facilitation measures introduced by the government (Appendix 2). This report has been relied upon by DoC's 2<sup>nd</sup> Task Force Committee on transaction cost for impact assessment of implementation of earlier transaction cost studies by DoC.

### **1.2 Trade facilitation agreement –World Trade Organization**

Further, trade facilitation gained currency with the agreement by the member countries including India at the Bali Ministerial conference of the World Trade Organization (WTO) members in December 2013 in culmination of the discussion initiated in WTO Singapore Ministerial Conference in December 1996. This necessitates India making binding commitments (Appendix 3) on facilitating customs and other border procedures which includes among others, publication and availability of information to members, providing for an Advance ruling mechanism, an appeal and/or review mechanism, regulating the fees and charges other than duties, faster release and clearance of goods, border agency cooperation between the members, minimizing the incidence and complexity of import, export and transit formalities and to decrease and simplify document requirements.

Though India is already in the process of implementing several of these measures, a review of the existing facilitation measures is necessary to straighten out the short comings, for India to meet its obligations on trade facilitation. Effectively implementing these provisions and disciplines within an internationally agreed time frame may be much more challenging.

The issues involved had direct bearing on the competitiveness of the Indian producers, exporters and importers which impacted their product costing. Exports and other subsequent obligation/net foreign exchange earnings had casual linkages corresponding to the duties forgone while availing the custom duty remission/exemption schemes of Government of India. Import facilitation affected market access and domestic competition whereas Export facilitation affected productivity, tax revenue, growth etc.

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<sup>2</sup> Doing Business, World Bank 2015

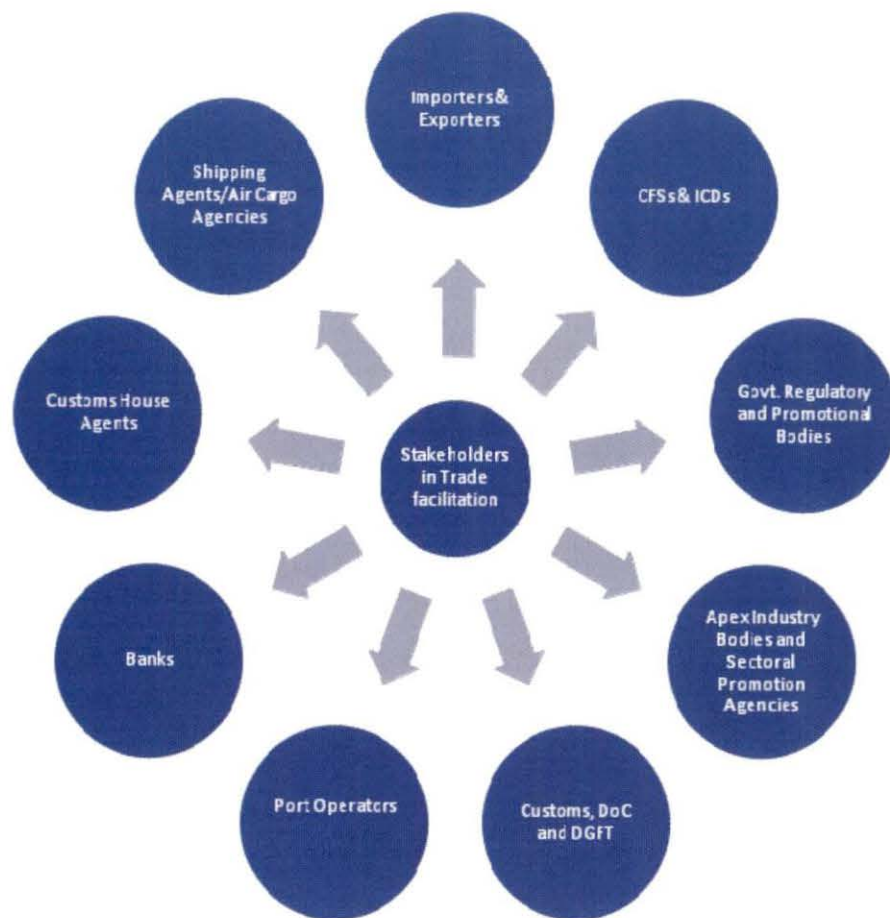
DoC may prepare a detailed timeline for implementation of the commitments obligated in the WTO agreement for optimal Trade gains and related economic growth.

DoR in their reply (January 2015) stated that DoC will respond for timelines for implementing WTO Trade facilitation.

Reply is awaited from DoC.

### 1.3 Framework of Trade Facilitation

Main stakeholders in the trade facilitation process are:



The framework for trade facilitation involves reduction in transaction cost and time through.

- I. Integration of related stakeholders, regulators and infrastructure providers.
- II. Online clearance of Exports and Imports.
- III. Accreditation of Entities.
- IV. Harmonization of Tariff information.

V. Risk based internal controls and audit.

**1.4 Audit scope, methodology and criteria**

This PA covered the various measures initiated by the Department of Commerce and Department of Revenue to streamline the customs procedures in reducing the latencies and costs associated with trading across borders and in implementing the various trade facilitation measures. As the legal and procedural complexities and consequent time involved in import clearance are of a much higher order than in the case of export clearance, the main focus and thrust of the PA was on the implementation of the certain trade facilitation measures.

Entry meeting with DoR, CBEC, DoC and DGFT was conducted on 4 June 2014. The audit objectives and methodology of audit was discussed during the entry meeting. Performance audit was carried out from June 2014 to September 2014 involving data for the period 2010-11 to 2013-14 from DoR, DoC and stake holders. A questionnaire was issued to DoC on Trade Facilitation before the closure of the audit. DoC did not give any response on the issues pertaining to coordination of the transaction cost matters, obligations committed on trade facilitation etc. The draft report of the audit findings and recommendations were issued to DoR/DoC on 12 December 2014. Initial replies were received from DoC/DoR on 13 January 2015 and 15 January 2015 respectively. Exit conference was held on 16 January 2015. The draft PA report was again sent to DoC/DoR for final comments on 21 January 2015. Further replies were received on 30 January 2015 and 10 February 2015 from DGFT and DoR respectively.

A questionnaire based feedback survey of the producer, importer and exporters was also got conducted through Federation of Indian Export Organisation (FIEO) and PHD chamber of Commerce during audit period to examine similar methodologies adopted by MoC&I and its Task Forces to work out transaction cost. The anomalies, deficiency in methodologies and the implementation of the transaction cost reports have been highlighted in the performance audit.

The PA examined the implementation of the trade facilitation measures communicated through Foreign Trade Policy, circulars, instructions, Public Notice and minutes of meetings etc by the DoC/DoR and by analyzing the data gathered for the period 2010-11 to 2013-14 from the various stake holders.

A time release study was also conducted during the course of this PA by analyzing the overall time taken at the various stages in Customs and ports in the clearance of import and export consignments.

### 1.5 Audit objectives

The Performance Audit has been conducted to gain an assurance that corresponding to the FTP (2009-14):

1. the various Import and Export trade facilitation measures implemented by the Board had yielded the intended results.
2. the various stakeholders viz., Port, Airport, Customs Dept, Department of Commerce (DoC), Bank and other organization work in a co-ordinated manner towards enhancing trade facilitation.
3. the mechanisms in place are effective in monitoring the implementation of the trade facilitation measures.
4. the Board's circulars/instructions have been effectively implemented and whether the targets set by the Board have been achieved.
5. there exists appropriate and effective mechanism for timely and effective redressal of grievances relating to facilitation.

### 1.6 Audit coverage

Records of trade facilitation measures at ten Sea Commissionerates, seven Air Commissionerates, seven Inland Container Depots (ICDs) were examined during the PA. This PA report benchmarked its observations on the systemic macro and transactional issues evidenced from the Foreign Trade Policies 2004-09/2009-14, Govt. of India (Allocation of Business) Rules; Strategic Plan; Outcome budget; Result Framework Document; facilitation report of MoC&I,; RBI report on transaction cost; report of Planning Commission, three reports on transaction cost prepared by DoC/DGFT in the last ten years; background notes on Trade Facilitation and obligations committed to WTO. Besides, the following stakeholders were also covered in this PA viz.:

1. Container Freight Stations (CFSs)
2. O/o the Commissioner of Food Safety and Standard Authority of India.
3. O/o the Quarantine Officer, Plant Quarantine and Certification Service
4. O/o the Quarantine Officer, Animal Quarantine and Certification Service
5. Assistant Drug Controller, O/o the Central Drug Standard Control Organisation
6. Office of the Traffic Manager, Port Trust
7. Office of the Senior Manager (Cargo), Airport Authority of India
8. Selected importers/exporters
9. Wild Life Office
10. Department of Commerce

## **Chapter 2: Transaction cost of Trade Facilitation**

### **2.1 Performance in trade facilitation indicators**

The trade facilitation performance can be measured with respect to trade facilitation indicators (TFI). Stakeholders' surveys were conducted by MoC&I, DGFT and by C&AG for this audit. They indicate room for improvement in trade facilitation procedures<sup>3</sup>, viz. appeal procedures; fees and charges; formalities in documentation; formalities in automation; formalities in procedures; as well as in governance and impartiality.

On similar lines, Business confidence index (BCI) reports of NCAER<sup>4</sup> were relied upon by Ministry of Commerce & Industry (MoC&I) for business facilitation and boosting of India's Manufacturing Exports. Other similar reports from RBI, Planning Commission and studies commissioned by MoC&I and World Development Indicators have been used for decision support in trade facilitation policy.

### **2.2 Gains through trade facilitation**

Due to poor facilitation the impact on the transaction cost has been estimated to the tune of ₹ 42,000 crore (US\$ 6-7 billion) according to the Strategic Plan of Department of Commerce (2020).

Another report by the Peterson Institute for International Economics (PIIE 2013) estimate that significant trade facilitation could increase global GDP by almost \$1 trillion (Appendix 4). This has been used in World Development Indicators which has been relied upon by second Task Force on Transaction Costs.

### **2.3 Transaction costs analysis**

Transaction cost in international trade comprised (i) non-neutralised Taxes and duties, (ii) differential cost of credit at International and Domestic Rate, (iii) differential cost of tariff at International and Domestic Rate and ground level transaction cost due to delays and charges in Customs, Ports, Issuance of license, Banks, Refunds etc.

Indirect costs to trade involved (a) additional costs incurred due to procedural delays, e.g. time for customs clearance and cargo handling. These costs are related to the market life of products, (b) lack of predictability in the application or interpretation of regulations and formalities and (c) Lost business opportunities.

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<sup>3</sup> Other international report on Trade Facilitation Indicators: The Potential Impact of Trade Facilitation on Developing Countries' Trade" (OECD Trade Policy Paper No 144, 2013) for 107 countries outside the OECD area.

<sup>4</sup> National Council of Applied Economic Research



FTP 2004-09 announced in August 2004 had two basic objectives to double the percentage share of India's trade in the next five years and to generate employment. Towards achieving these objectives the major measurable taken in FTP was to simplify procedural complexities and reduction of the transaction cost. In this backdrop DoC commissioned FIEO to estimate incidence of cost disability to exporters, and ASSOCHAM to survey the impact of taxes, infrastructure, FTP, procedures etc on exports. RBI also published a report based on the survey on impact of Trade Related Measures on Transaction Costs of Exports (May 2006).

DoC had regularly constituted committees (2005, 2009 and 2013) and task forces to address the issue of high transaction cost in India and suggest measures to reduce transaction cost and time, impacting the country's Foreign Trade transactions. These studies were concomitant with the FTPs.

#### 2.4 Reports on Transaction Cost

A survey was commissioned (March 2005) by DoC through ASSOCHAM<sup>5</sup> to study the impact of taxes and levies, infrastructure, foreign trade policy, inverted duty structure, sectoral policies and export related procedures on trade.

The survey found that the average aggregate impact felt by exporters was 13.24 per cent of the freight on board (fob) value of exports. A significant observation from the report was that the fiscals impacted exporters the most out of the three key components of export process, with incidence felt between 4.73-5.72 per cent i.e., around 5.22 per cent of the fob value of exports. Infrastructure came second impacting the exporters, on an average in the range of 3.80 - 4.80 per cent i.e., around 4.30 percent of the fob value of exports. Export procedures affected exporters to the tune of 3.72 per cent of the fob value of exports.

Audit observed that ten important exporting sectors were identified for analysis. The export/import data of the products were reported by analyzing their variance.

Another study relied upon by DoC of FIEO<sup>6</sup> calculated the incidence of cost disability to Indian exporters varying from 19 to 22 per cent on FOB value of exports. The report stated that there may be variations depending upon the product type, manufacturing processes, labour involvement, geographical location etc.

The first Task Force on Transaction Cost claimed that the implementation of 23 identified issues relating to four Ministries have mitigated the transaction cost to about ₹ 2,100 crore.

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<sup>5</sup> the Associated Chambers of Commerce and Industry

<sup>6</sup> Federation of Indian Exporting Organizations, cost disability incidence estimates, 2005.

*Report No. 13 of 2015 (Performance Audit)*

A task force on 'Transaction Costs in Exports' was constituted in 2009 by MoC because FTP (2009-14), Outcome Budget of DoC continued to highlight transaction cost as a major concern and the World Development Indicators were not very encouraging. The task force was to look into various issues affecting the competitiveness of Indian exports and initiate a set of "executable" remedial measures towards reducing latencies and costs associated with trading across borders. The report had two outcomes, first to identify the gamut of issues involved and the relevant cost associated with each issue and secondly, from the list of issues so identified, executes and delivers to the trade the maximum benefit possible. It was a survey based report and had not reflected on the performance of the 2005 report.

The committee had made 44 recommendations pertaining to seven ministries, out of which 32 recommendations were agreed upon. Out of the 32 recommendations, 21 recommendations were reported to have been implemented in the task force report published in 2011.

However it was noted in audit that all the recommendations are yet to be implemented by the related departments viz., upgradation of the plant quarantine laboratory and online facility for issuance of phyto-sanitary certificates by Agriculture Ministry, offline software for filing advance authorization and EPCG applications on DGFT server and online status holder application facility by Commerce Ministry, relaxation of the eligibility criteria for ACP clients and single factory stuffing permission by customs (Revenue Department).

The transaction cost was estimated at 8 to 10 per cent of the value of exports. This amounted to approximately ₹ 1,50,000 crore.

Strategic Plan, DoC (2020) envisaged strategic initiative of reducing transaction cost with suitable monitoring system put in place as a follow up of the recommendation of the 1<sup>st</sup> task force.

The 2<sup>nd</sup> Task force on 'Reduction in Transaction Costs in Exports' was constituted in 2013 to examine and identify such difficulties that the exporters face and make actionable recommendation to reduce or eliminate them. The report was published in July 2014. A major departure in the approach of the Second Task force compared to the earlier task force was not to attempt any monetization of the gain from mitigation of the issues highlighted in the Report. It was a feedback survey based report. The report had stated 46 recommendations pertaining to nine ministries and seven separate recommendations relating to Land Border crossing and certain other miscellaneous issues.



Audit observed that FTP 2009-14 was extended beyond its tenure. FTP 2014-18 may take into account the requirements of the trade facilitation measures adopted by DoC and provide a framework to align all trade related policies.

### Chapter 3: Governance, risk and compliance

Implementation of trade facilitation measures, inter-alia, provide for creation of adequate capacity to implement the Agreement (TFA). Article 1-5 of the section 1 of the Agreement principally address transparency issues, Articles 6-11 mainly concern fees, charges and formalities for import, export and transit, and Articles 12 & 13 address institutional arrangements. Section II of TFA which contains special and differential treatment provisions for developing country like India.

DoC in order to build an efficient trade facilitation mechanism proposed a strategic plan for DoC, notified Foreign Trade Policy and prepared a results framework to simplify trade procedures and reduce transaction costs.

Audit observed that task forces on transaction cost were constituted to:

- I. Meet all stakeholders needs
- II. Covering the trading process end to end
- III. Apply a single integrated System
- IV. Enable a holistic approach to governemance
- V. Have an assurance framework.

The Strategic plan envisaged a weighted strategic initiative to reduce transaction cost with a suitable monitoring system. The following were to be internally audited, monitored, evaluated and directed.

- I. Outcome of the export promotion Scheme.
- II. Impact of the various trade agreements,
- III. Performance of the ICT for various information system viz Customs, DGFT, SEZ etc.
- IV. Cost and impact of implementation of transaction cost reports.
- V. Internal audit of the procedures.

Audit analyzed the internal controls and observed that in order to achieve the objective of implementation of trade facilitating measures to improve trade environment for accelerating growth of exports twenty five percent weight was attributed to reduce transaction costs with the success indicator or outcome limited to constitution of the task force on transaction cost. No specific performance requirements from other departments were envisaged though, DGFT/DoR have been mentioned involvement of various agencies. No specific evaluations, monitoring or directional output was prescribed in fulfillment of the departmental objectives.

(a) Export promotion schemes were not audited by Directorate General of Export Promotion (DGEP), CBEC or Controller of Aid, Accounts and Audit, Department of Economic affairs. CCA, DoC also had not conducted any internal audit. Inspection

unit of DGFT had also not internally audited the same. However, DGFT has a post issue audit wing where licences/brand rates to the extent of 5 to 10 percent are audited.

(b) Impact of various trade agreements have not been internally audited or assessed since it was felt by DoC that exact impact of the trade agreements and their contribution would emerge after these RTAs run their course of full implementation.

(c) Internal audit of none of the information systems had been conducted by DoC or DoR viz. ICES 1.5, ICEGATE, SEZonline, DGFT (EDI), RMS, DGOV etc..

(d) DGFT (January 2015) was of the opinion that study of the World Bank in their Doing Business Report (Ease of doing business) served the purpose to analyze the cost and impact of the transaction cost studies. DGFT further added that the achievements depended on the acceptance/preparedness of multiple agencies/departments/ministries to implement recommendations of the task force.

DoR (January 2015) highlighted that delay in clearances of imported/exported goods are mainly on account of port congestion, lack of timely response from other regulatory agencies who are still working in the manual mode.

(e) Chief Controller of Accounts of DoC and Principal Chief Controller of Accounts of DoR and its field formations have been largely conducting establishment audit and do not provide a control based assurance in line with their risk assessment. E- lekha, e-PAO and COMPACT have been deployed as ICT solutions for maintaining revenue and expenditure accounts. Audit revealed that the PAO system suffered from several inadequacies in classification tax accounting and reconciliation between different information sets.

From the response of DGFT, DoR and their internal control evaluation, it was evident that inter-ministerial co-ordinations may have to be augmented to bring multiple agencies together to accept the related task and prepare to achieve them in time bound manner.

Specific cases of lapses in implementation of trade facilitation measures have been mentioned on the process of imports, exports, interpretation of extant provisions, internal control and infrastructure etc. both in EDI and manual environment.

Audit is of the view that an assurance framework needs to be developed internally for concurrent audit of various information systems in DoC/DoR. Additionally impact assessment of the trade policies and transaction analysis of simplified procedure needs to be initiated.

## **Chapter 4: Implementation of Trade Facilitation Measures**

### **4.1 Key performance indicators**

There is a good scope to improve efficiency in fees and charges and streamlining procedures. India's performance needs improvements in trade-infrastructure efficiency. The improvement has to be in terms of cost to export a container, number of documents needed for exports/imports. The average cost to import in 2013 was US\$ 1259 per container and eleven documents were required for the same, whereas for export the cost was US\$ 1170 and nine documents are required (Appendix 5).

DoR in their reply (January 2015) stated that five documents are required to be filled for import and export. Additional documents are required depending upon claim of benefits for imports under the preferential agreements/FTA and for RBI.

Dwell time is the measure of the time elapsed from the time the cargo arrives in the port to the time the goods leave the port premises after all permits and clearances have been obtained. It is an important indicator of the impact of trade facilitation measures. World Customs Organisation (WCO) prescribes this as an important indicator and Indian Customs has also adopted the related norms.

A time release study was conducted to identify inordinate delays in the various stages of import clearances for BEs given out of charge (OOC) during the period 2010-11 to 2013-14. The report of the dwell time analysis compiled from the details furnished by the department revealed that there was a downtrend in dwell time and the decrease was from 13.94 days during 2010-11 to 10.95 days during 2013-14. The decline was attributed to various ICT measures adopted by CBEC/DGFT and rationalization of procedures.

Audit further revealed that almost 65 per cent of the total time taken in imports is attributed to the filing of BEs and payment of duty, while in exports filing of the EGM constituted nearly 90 per cent of the total time taken. The reasons for the high dwell time at all the stages have been analyzed during the course of this audit and action recommended wherever possible.

In overall logistic performance index, although India's score has improved over time, almost all indicators of logistic performance including customs efficiency, logistics quality and competence and trade and transport related infrastructure can be improved as detailed in Appendix 6.

DoR stated that the problems highlighted by audit in delay in clearance of imported/exported goods are mainly on account of port congestion, lack of timely

response from other regularity agencies, many of whom still work on manual mode etc. All regulatory agencies have to re-engineer their business processes which require legal, regulatory, procedural and technical changes.

DGFT (January 2015) stated that the achievements depends on the acceptance/preparedness of multiple agencies/departments/ministries.

#### 4.2 Delay in allotment of berths by Port Authorities resulted in cost and time overrun to the shippers

Ports are handling different types of cargos like Bulk cargo and containerized Cargo. The Port Authority decides and allots berth to vessels calling the port based on the type of cargo along with preferred berth and thereafter, the vessel reaches the berth from anchorage. Ports adopt priority based berth allotment for the specified ships to facilitate the trade and increase the business.

Audit observed that no standard benchmark or norms have been prescribed for ships waiting to get berth at ports and there are no standard norms or benchmarks prescribed for comparing the time taken during the various stages in the clearance of goods.

In three Commissionerates<sup>7</sup>, the average time taken for getting berth allotment in the Port ranged from less than one day in 24 per cent, up to two days in 30 per cent and more than two days in 46 per cent of the total vessels called during the period 2010-11 to 2013-14. Nearly 50 per cent of the vessels which called the port are allotted berth only after waiting period of more than 2 days.

In Chennai Commissionerate, the statistical details provided in the Administrative Report of Chennai Port Trust for 2012-13 revealed that the ships had to wait for an average period ranging from 8 hours to 65 hours for getting berth in the port.

Detention of ships in anchorage for a longer duration involves cost and time overrun to the shippers. The second task force recommended introduction of Systematic Traffic Management system for all Indian Ports in 2014. Action required by the Port community system was however not detailed.

Implementation of the Task Force recommendations was to be coordinated by DoC with the Shipping Ministry. However, no timeline, measurable deliverable or target was set by the coordinating ministry or the implementing ministry for implementation of the recommendations. DoC did not reply to audit observation.

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<sup>7</sup>Cochin, Kolkata and New Custom House, Mumbai

#### **4.3 Delay in clearing the goods by the importers at Ports**

No standard benchmark or norms have been prescribed for ships waiting to get berth at ports and time taken during the various stages in the clearance of goods.

Upon arrival of vessel in the allotted berth, the port operation starts based on the category of cargo. In respect of liquid bulk cargo, where the delivery is through pipe line, the dwell time for unloading is only the time taken from ship berth to Customs clearance order of such cargo. In case of containerised cargo, the cargo is unloaded by Steamer Agents or CFS Agents and moved to CFS within free retention period of three days. Beyond the free period, the Port authorities charge demurrage on the importers for non-clearance of the goods.

In JNPT, Mumbai and ACC, Chennai, nearly 40 per cent of the goods were cleared by the importers beyond the free period of three days during 2010-11 to 2013-14. Delay on the part of the importers in clearing the goods added up to the cost of goods as demurrage charges on the imports.

The demurrage charges could have been avoided by establishing more CFSs and warehousing space for keeping goods.

DoR in their reply (January 2015) stated that establishing more CFS where only reasonable warehouse rent is charged relate to custodians and not to Customs.

However, creation of more warehousing space at reasonable charges for importers/exporters is one of the trade facilitation measures.

DoC did not reply to audit.

#### **4.4 Delay in rectification of errors in import general manifests (IGM)**

As per section 30 of the Customs Act, 1962, IGM is required to be filed by the shipping agent giving the complete list of all cargo including the cargo meant for other ports. The Manifest can be filed in advance in anticipation of arrival of the ship so that preparatory work for the clearance of the cargo can be started well in advance. The IGMs are filed either from the service centre or ICEGATE. As the entire process for clearance of goods can be initiated only on the basis of entries in the manifest, filing of manifest on-time without errors is very critical for facilitating trade.

Scrutiny of the data in seven sea/air ports<sup>8</sup> revealed that almost all import manifests were filed in advance during the period 2010-11 to 2013-14. However, 22 per cent of the IGMs in these ports during the period 2010-11 to 2013-14 were found to

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<sup>8</sup> Chennai, Cochin, Mumbai JNPT, Mumbai NCH and Mangalore Sea Customs, Chennai and Bangalore Air Customs

contain errors which required amendments. In Chennai Sea and Mangalore Customs Commissionerate, the number of IGMs filed with errors which required corrections to be incorporated ranged almost 50 per cent. In Cochin Commissionerate the non-declaration of the destination port was found to be the major reason necessitating amendments in the IGM. Error-free manifests are essential for processing the BEs and facilitate faster clearance of cargo. Delay in rectifying the errors also contributed to the overall delay in the clearance of import cargo.

DoR. in their reply (January 2015), while accepting that error free manifest is essential for processing BE and faster clearance of cargo stated that allowing importers to amend the IGM online in case of minor amendments is not acceptable on account of fact that in terms of legal provisions under section 30 of the Customs Act, 1962 the responsibility to file IGM and making amendments lies with the Shipping line/Shipping agents and not the importers.

Audit suggested that permitting minor amendments in IGM by the shipping line/shipping agents online instead of going to the service centre may reduce the dwell time.

#### 4.5 Delay in filing of BEs by importers

As per section 46 of the Customs Act 1962, the importer of any goods shall make entry thereof by presenting the BE electronically except in cases where it is not feasible to make such entry electronically. As per second proviso to sub-section 3 of section 46 of the Act, the BE may be presented even before the delivery of such manifest but within 30 days of the expected arrival of the vessel/aircraft.

Importer being a very important stakeholder in the facilitation process, any delay in filing of BEs by the importers significantly increases the dwell time. Though a facility for prior filing of BEs is available for faster clearance of goods, it was observed that the same is not being optimally utilized by trade for various reasons. Scrutiny of the data of ten Customs Commissionerates<sup>9</sup> revealed that only 25 per cent of BEs are being filed within 24 hours whereas 50 per cent of the BEs are being filed only after three days of the filing of the manifest.

Audit identified that the factors like delay in obtaining the necessary documents from Steamer Agents, Suppliers etc., incorrect documentation, insufficient funds and errors in the filing of IGMs contributed to the delay.

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<sup>9</sup>Chennai, Cochin, Kolkata, Mumbai JNPT, Mumbai NCH, Mundra, Kandla Sea Customs, Chennai, Ahmedabad and Bangalore Air Customs

Moreover, in six Customs Commissionerates<sup>10</sup>, it was observed that BEs filed prior to the entry of the vessel were low at 14 per cent.

**Recommendation No. 1:** *The department may consider reaching out to importers to file error free BEs, to reduce time delay, allow online amendments to the minor errors in IGM, adjustment of excess duty paid due to short landing.*

While accepting the recommendation, DoR in their reply (January 2015) stated that issues relating to delay in filing of BEs by importers being taken up by respective Commissioners during the PTC meeting and trade is being suitably sensitized and regarding amendments through ICEGATE and to adjust the excess duty paid due to short landing of goods etc., development of such functionality depends on prioritization of other IT Modules and system constraints. Further in respect of calculation of interest and additional incentives for filing of BE in advance, department stated that Filing of Bill of Entry (BE) in advance itself results in saving timing and lowering transaction cost. Additional incentive, which may be given, will be examined.

Final outcome may be intimated to audit.

#### **4.6 Examination of Imported goods by Customs**

All imported goods are required to be examined for verification of correctness of description given in the BE by selecting a part of the consignment on random selection basis. After introduction of RMS, physical examination of imported goods will be done on a percentage basis based on the risk parameters identified by the system by segregating sensitive cargo from routine cargo.

In seven Commissionerates<sup>11</sup>, audit observed that the examination of goods exceeding 24 hours was in the range of 22 per cent. The examination of goods after payment of duty showed an increasing trend. In Chennai Sea and Air Commissionerates the percentage of examination of goods beyond 24 hours increased from 11.27 to 22.42 per cent and from 5.87 to 32.76 per cent respectively during the period 2010-11 to 2013-14 whereas in Mumbai NCH, though the examination of goods over 24 hours showed a decreasing trend from nearly 93 per cent in 2010-11 to 73 per cent in 2013-14, the percentage of delay in examination was still very high when compared to the average. Reasons attributed for this delay were shortage of customs officers in the rank of Examiners/Preventive officers and

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<sup>10</sup>Chennai, Kochi, Mumbai JNPT, Mumbai NCH Sea Customs, Chennai and Bangalore Air Customs

<sup>11</sup>Cochin, Cochin, JNPT, Mumbai, NCH, Mumbai Sea Customs, Chennai, Bangalore Air Customs and Bangalore ICD



non-availability of Mobile Gamma ray Container scanners at Chennai and Cochin (Sea) Port. In 29 CFSs operational in Chennai Sea customs, only 24 examiners/preventive officers were posted for Import and Export examination.

In Cochin Port, the reasons attributed for the delay were

- (i) Inadequate co-ordination among different stakeholders like Customs brokers, Steamer agents, CFS's, Port authorities etc.
- (ii) Containers from the Port area could be moved to the CFS for customs examination only after payment of all dues to the Steamer Agent/Shipping Agents and after obtaining the Delivery Orders unlike in other Ports where the movement to the CFS is done without insisting for Delivery Orders.
- (iii) As against the free period of 3 days allowed in other ports, in Cochin Customs the demurrage-free time for clearance of containers from the port area was fixed at seven days as a temporary measure consequent to shifting of Container operations to ICTT, Vallarpadam as per Trade Facility No.4/2010.

This led to laxity on the part of importers/CHAs to expedite the clearance process. Increase in free time does not facilitate fast movement of cargo which eventually increases the overall dwell time. Even after four years of setting up of the ICTT, no reduction in demurrage free time was made by the Port operator thereby contributing to the increase in dwell time.

It was pointed out by Mumbai Commissionerate Zone II, that the samples of the entire CFSs of Navasheva Port are stored/dumped in one CFS causing health hazard and storage problems.

It was observed that posting of a single Assistant Commissioner for a number of CFSs and testing of imported textile/textile articles for its composition and hazardous dyes as per the provisions of Customs circular dated 15 March 2004 contributed to delay in clearances of import cargo. Similar situation was noted in the export clearances side also.

DoR in their reply (January 2015) admitting the delay stated that after implementation of cadre restructuring with effect from 15.10.2014 in CBEC, the deployment of Customs officers is expected to augment considerably for better monitoring and supervision of customs clearance. Aside from lack of adequate number of customs staff, lack of proper coordination among different stakeholders such as Customs Brokers, Steamer agents, Port authorities and CFSs that are also attributable to delay in examination.

Regarding high end Container Scanning at ports, it is stated that installation of container scanners may be desirable for better enforcement; the same may not be substitute for routine customs examination under the Customs Act, 1962. Hence

CBEC is not in agreement with the observation of audit that providing high end container facilities in all Customs Houses will ensure faster examination of cargo.

Regarding testing of imported textile/textile articles for its composition and hazardous nature, DoR stated that, CBEC will re examine the circular dated 15.03.2004 in consultation with DGFT and ministry of Textile.

A clear position and the final outcome may be intimated to audit.

#### **4.7 Delay in payment of duty by importers**

In terms of section 47 of the Customs Act, 1962, where any goods entered for home consumption have been assessed and the duty on which has been paid by the importer, the proper officer may make an order permitting clearance of goods for home consumption. After completion of assessment, appropriate instructions are issued online by the ICES application to the authorized bank for receipt of the amount of duty.

An E-payment facility was introduced in 2007 on a voluntary basis at customs locations for reducing the transaction costs of the importers and expediting the process of payment of duty and clearance of imported goods. Subsequently, Board vide circular No.24/2012 had made E-payment of duty mandatory with effect from 17 Sep 2012 for certain category of importers.

Statistical data provided by twelve Customs Commissionerates<sup>12</sup> indicated that on an average in 48 per cent of the bills, there was delay in payment of duty beyond 24 hours. In Mumbai JNPT and Kolkata Sea Customs, the average delay in payment of duty was found to be higher at about 65 per cent during the period 2010-11 to 2013-14.

The main reason for this delay was due to disagreement on the amount of duty computed by the department or lack of sufficient funds with the importer.

Audit further noticed that E-payments were rejected by the ICES system when the duty paid by the importer is less than the exact amount of duty payable due to a) incidence of interest, b) revision of duty in cases of advance/prior bill of entry, c) re-assessment of warehousing bill of entry into home consumption bill of entry etc., necessitating payment of the entire revised duty again instead of the differential amount of duty and to claim refund later. This not only resulted in blocking of funds and loss of interest to trade but also wastage of precious time in getting back the

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<sup>12</sup>Chennai, Cochin, Kolkata, Mumbai JNPT, Mumbai NCH, Mangalore, Kandla, Mundra Sea Customs, Chennai, Bangalore, Ahmedabad Air customs, Bangalore ICD

refund of duty. In Delhi Commissionerate, 203 cases of double duty payment involving an amount of ₹ 22.29 crore were noticed.

The Department may consider introducing business friendly measures to induce prompt payment by encouraging importers to have a Personal deposit account (as prevalent in Central Excise) with the Customs which can be adjusted towards duty and also provision for payment of the differential amount of duty through the ICES system.

DoR in their reply (January 2015), while supporting the suggestion of audit stated that CBEC has initiated measures to encourage importers to make prompt payment of customs duty by reducing number of days after which interest liability accrues. Regarding PDA for adjustment of duty DoR stated that it may be feasible in cases where importers are registered with the Department such as Central Excise and Service Tax. There is no such registration of importers with Customs. A person having a valid IEC number can import goods. The recommendation would be considered/examined in case of ACP importers/AEO importers.

Since IEC numbers are shared with Customs therefore no separate registration is required. Final outcome may be intimated to audit.

#### 4.8 Delay in furnishing reply to the queries raised by the department

In terms of section 17 of the Customs Act, 1962, the department has to satisfy itself with regard to the nature of contract, brokers note, Insurance Policy, Catalogue or other documents required for the purpose of carrying out the assessment. Queries are raised by the department in case of any dis-agreement with the importer regarding classification, valuation, notification etc. The importer is required to provide the requisite information and documents in order to facilitate finalization of the assessment on time.

In 30 per cent of the cases (BEs filed for clearance of goods) on which queries were raised in Five Commissionerates<sup>13</sup>, replies to the queries were furnished only after three days of those being raised and between one and three days in 33 per cent of the cases for the period 2010-11 to 2013-14. In four Commissionerates<sup>14</sup> the queries were raised in piece meal during assessment. Queries raised in piece meal also contributed to slowing down of the assessment procedure.

Audit suggested that the department may devise a system of periodical review and analysis of the queries raised, the areas where maximum number of queries are

<sup>13</sup> Chennai, Cochin, Mumbai JNPT, Mumbai NCH Sea Customs and Chennai Air Customs

<sup>14</sup> Cochin Sea, Chandigarh, Delhi, Ahmedabad

raised could be identified which could be disseminated for the benefit of trade so that they could take preventive action to avoid such queries. A system of real time SMS/Email alert facility when query is raised could also be considered thereby minimizing the response time of the importers and rising of queries by the department in one lot instead of in piece meal should be a norm.

DoR while accepting the audit observation, in their reply (January 2015) stated that suitable mechanism will be worked out by the Ministry in consultation with the field formations.

Final outcome may be intimated to audit.

#### **4.9 Manual registration of licences**

As per section 5 of the Foreign Trade (Development and Regulation) Act, 1992, the Director General of Foreign Trade (DGFT) announces the Foreign Trade Policy and procedures. To implement the Policies and Procedures, DGFT issues authorizations and licenses under various export promotion and rewards schemes for claiming exemption from duty or for payment of duty. The administration of these Schemes is done by means of exemption notifications issued by the Ministry of Finance.

These licenses or authorizations issued by DGFT have to be registered with the custom house to which they are issued before being put into operation. The entire system of the issue of physical licenses and their registration and issue of Telegraphic Release Advice (TRA) for utilization of licences through other ports involves additional costs to the importer by way of time and manpower.

Statistical data provided by the department indicated that in five Customs Commissionerate<sup>15</sup>, 67 per cent of authorizations/licences took more than 3 days for registration. The registration of licences beyond 3 days showed an increasing trend from 58 per cent during 2010-11 to 78 per cent during 2013-14 which is not a positive sign for the trade.

Even though the Advance Authorization, EPCG and DEPB licences are transmitted electronically from DGFT to Customs, these licences have to be manually registered with the custom house by executing a bond separately for each licence before they can be utilized which consumes time and affects facilitation.

Moreover, in Four Commissionerates<sup>16</sup>, almost all Telegraphic Release Advice (TRA) issued for utilization of licences through other ports involved more than 3 days which caused further delay in clearance of goods.

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<sup>15</sup>Chennai, Cochin, Mumbai NCH and Mumbai JNPT Sea Customs and Bangalore Air Customs

<sup>16</sup>Cochin, Mumbai NCH and Mumbai JNPT Sea Customs and Delhi TKD ICD

In order to avoid time lag, the department may opt for maintenance of running bond account by the importers so that the registration could be done parallel while transmission of licence takes place.

DoR replied (January 2015) that Ministry will examine in consultation with the relevant field formations the data relating to time of over 3 days being taken in registration in 2013-14 referred by audit, however, the separate execution of bond for each authorization is not mandatory. An IEC-wise facility of executing a common bond for a financial year usable for all licenses under AA/DFIA/EPCG schemes across all EDI ports has been provided vide circular dated 25 February 2011. At an EDI location, once the authorization/scrip is registered, imports can be made automatically without need for TRA from any other EDI ports notified for EP schemes. TRA is required only when a notified non-EDI port is involved in which cases the TRA is to physically move from one location to another. However, with number of ports under EDI increasing every year, the need for issuance of TRAs is fast diminishing.

It was observed that the department is insisting on execution of a separate bond for each licence during registration of licences.

#### 4.10 Increase in Provisional assessment cases

(a) In terms of section 18(1) of Customs Act, 1962 provisional assessment can be resorted to by an importer after making a request in writing to the proper officer. Where necessary documents/information has not been furnished and the proper officer deems it necessary to make further enquiry, he may direct that the duty leviable on such goods be assessed provisionally. The importer or exporter has to execute a bond for an amount equal to the difference between the duty that may be finally assessed and the duty provisionally assessed.

It is observed that provisionally assessed BEs were on an increasing trend over the years commencing from 2010-11 to 2013-14 in respect of seven Commissionerates<sup>17</sup>. It was in the range of 32 per cent in Mangalore Sea Port and 24 per cent in Bangalore Air Commissionerate during 2013-14.

In Delhi Commissionerates (New Customs House, ICD, Tughlakabad and ICD, Patparganj), the delay in giving out of charge for provisional assessment cases ranged from 3 days to 368 days. The department in its meeting held on 30 October 2013 also admitted that 832 cases of provisional assessment were pending for

<sup>17</sup>Chennai, Mumbai NCH, Mangalore Sea Customs, Chennai and Bangalore Air customs, ACC Ahmedabad, Mundra Sea, ICD, Bangalore, ICD Khodiyar and ICD, Gurgaon



finalisation as sample test results in respect of textiles and drugs were awaited. Audit observed that the importers are required to furnish bonds and bank guarantees and follow up the matter till the assessment is finalized. The department on the other hand has to keep monitoring the assessment till it is finalized which often takes longer duration as against the time limit of six months prescribed by the Board to finalise the provisional assessments.

(b) In case of goods involving related party transaction which is provisionally assessed under Rule 10 of Valuation Rules 2007, 1 per cent Extra Duty Deposit (EDD) on the assessable value of the goods is to be deposited with Customs Department.

At present, the Extra Duty Deposit (EDD) is required to be deposited through manual challans at the Bank Counters by the importers as there is no provision in ICES v1.5 for making online EDD payment. The department in the PTFC meeting held on 08 August 2013 at Chennai Sea Customs stated that the DG(Systems) have been addressed for including the EDD module in the ICES application.

The department may hasten the process of finalisation of provisional assessment by integrating ICES with the other stakeholders involved in the testing process. Further furnishing of bond and bank guarantee may be waived for importers/exporters with good track record. The Board may consider making amendments in the ICES v1.5 to provide for online payment of EDD.

DoR in their reply (January 2015) stated that 'integration of ICES with other stakeholders in the testing process' can only facilitate online transmission of reports. However, it cannot decrease the time involved for testing process, and thus would not hasten finalisation of provisional assessments, which depend on other factors as well. The Ministry has already started the project of the Single Window Clearance in this regard.

Requirement of bond and bank guarantee flows from the provisions under Customs (Provisional Duty Assessment) Regulations 2011. Furthermore, CBEC, under the 'Authorized Economic Operator' (AEO) Programme have extended the facility of furnishing reduced BG to AEO certified entities. Regarding online payment of EDD, DoR while accepting the audit suggestion stated that timeline etc. may depend upon prioritization of modules/systems constraints.

Final outcome may be intimated to audit.

#### **4.11 Examination by other agencies**

In addition to the examination carried out by customs authorities, the import cargo is also subject to inspection and certification by other government agencies, depending upon the type/nature of goods and the origin.

The Directorate of Plant Protection, Quarantine and Storage is responsible for inspection of imported agricultural commodities for preventing the introduction of exotic pests and diseases into India and inspection of agricultural commodities meant for export from India. Details furnished by four Commissionerates revealed that the number of applications received by the Plant Quarantine department for import and export clearances has been showing an increasing trend during the period 2010-11 to 2013-14. The First Task force on Transaction Cost in 2011 in its report had stated that an online facility for issuance of phyto-sanitary certificate has been implemented for expediting the clearance process. Audit however observed that no such facility has been made operational at Chennai.

Food Safety and Standards Authority of India (FSSAI) is another government regulatory agency responsible for the clearance of food imports and the Central Drugs Standard Control Organisation (CDSCO) is responsible for certification of imported drugs after ensuring quality control and the certificate is issued by the Assistant Drug Controller (ADC)

Details furnished by five Commissionerates indicate that in majority of the cases, the clearance certificate was issued between three and seven days. An Online Food Import Clearance System (FICS) has now been implemented to automate the clearance process. However, FICS is yet to be integrated with the ICES v 1.5 applications and the clearance certificates are still being furnished to the customs department manually.

From the details furnished by ADC, Chennai Air cargo, audit observed that the number of consignments referred for clearance has been increasing during the period 2010-11 to 2013-14. Further, in more than 80 per cent of the cases, the test results were issued only after ten days. Even though the goods are cleared based on a Letter of Guarantee from the importer, the goods can be put to commercial consumption only after issue of the final test reports.

The Plant Quarantine department, Chennai has identified the following problems which are causing delay in issuing the clearance certificate

- a. No separate place is earmarked for carrying out the fumigation treatment of the consignments in CFSs. Hence, it is required to be carried out at odd hours when movement of people is minimum.
- b. Shortage of Staff and lack of facility.
- c. Lack of sufficient number of laboratories and testing centres.
- d. Delay and deficiency in the submission of required documents by the importer /exporter.

The Assistant Drug Controller (ADC) office stated that absence of detailed literature from the manufacturers was an impediment in faster clearance of the consignments and lack of sufficient information on the drugs under examination.

Issue of clearance certificates from the Plant Quarantine, Port Health Officer (PHO), Drug Control Authorities were found to be major bottlenecks affecting faster clearance of import cargo.

DoR in their reply (January 2015) stated that FSSAI is to furnish the reply regarding implementation of online connectivity of the application with other agencies. DoR further stated that Single Window Project with other Regulatory agencies is under consideration of CBEC.

Final outcome may be intimated to audit.

#### **4.12 Delay in refund of duty**

Customs notification dated 14 September 2007 provides for exemption of 4 per cent Special Additional Duty (SAD) leviable in terms of section 3(5) of Customs Tariff Act 1975 in respect of goods imported for sales. The importer has to initially pay the 4 per cent duty and then claim refund later evidencing payment of local sales tax/CST/VAT.

It is however observed that the process of refund of SAD is still being carried out manually in all the commissionerates and there is no provision in the ICES system for refund of SAD. The manual process of refund of SAD is not only a time consuming process but also leaves ample scope for misuse of this scheme.

Audit further observed that claiming refund of double duty payment on account of reassessment of warehousing BEs into home consumption BEs necessitated protracted correspondence with E-PAO, New Custom House, New Delhi resulting in considerable delay in sanctioning of refund.

DoR in their reply (January 2015) stated that the refund module was being developed.

Final outcome may be intimated to audit.

#### **4.13 Introduction of a Single window clearance system**

Importers of restricted items or items which are subject to certain compliance have to approach various other Ministries/Departments/Agencies for clearance of goods such as Drug controller (for drugs and cosmetics), Ministry of Environment (for used IT goods), Ministry of Textiles (dyed clothes/garments), DGFT (for licences), Central Bureau of Narcotics, Plant Quarantine & Certification Services etc.



Similarly, clearance of imported goods/goods to be exported attracts various charges levied by Customs, Custodian and shipping lines/airlines. For payment of these charges, the importer/exporter has to move to different agencies resulting in wastage of time.

Ideally, a 'Single Window System' could eliminate the need for the importer/exporter to go to all the agencies individually to obtain the necessary clearances. The implementation of a single window system enables international (cross-border) traders to submit regulatory documents at a single location and/or single entity.

As an initiative towards the implementation of Single Window System, a single window interface may be initially devised for the importer/exporter to get their goods cleared with the customs department as the nodal agency. Further, The existing e-commerce portal of the customs department Indian Customs Electronic Gateway (ICEGATE) may be changed to have electronic connectivity with all other regulatory agencies.

DoR in their reply (January 2015) stated that Single Window Project with other Regulatory agencies is being formulated. This is one of the Budget announcements made by the Finance Minister for the Budget 2014.

The timeline for implementation of the Single Window Scheme may be intimated to audit.

#### 4.14 Delay in filing of Export General Manifests (EGM) and rectification of errors

As per section 41 of the Customs Act, the Export General Manifest (EGM) is required to be filed by the person in charge of the vessel carrying export goods within seven days from the date of departure of the vessel. The EGMs are filed either from the service centre or through the customs gateway ie., ICEGATE. Filing of EGM assumes significance for the reason that the drawback claim cannot be processed without EGM details and it should match with the details furnished in the SBs.

In Cochin sea port it was observed that there was delay in filing of EGMs after exports which ranges from 7 days to 14 days during 2013-14.

From the data furnished by Chennai Sea Customs, it is observed that more than 50 per cent of the export manifests are being filed with errors during the period 2011-12 to 2013-14.

Filing of error free EGM is necessary for payment of drawback to the exporters by shipping agents/exporters. Audit observed that in four Commissionerates<sup>18</sup>, the delay in rectification of errors over three hours was in the range of 92 per cent. Though the system conveys the mis-match to the exporter/shipping agent through messaging system for rectification of errors, there is delay in rectifying the errors. Due to the errors in the EGM, drawback claim relating to SBs could not be processed. It was observed from Chennai Sea customs 1,67,235 SBs and in ICD, Garhiharsaru, Gurgaon, 8,41,943 SBs are pending for drawback processing as on 31 March 2014 for rectification of EGM error. The delay in rectifying the error is a major contributing factor for the delayed payment of drawback.

In terms of paragraph 25 of PN dated 02.02.2010, issued by the Commissioner of Customs, Pune and the Custodian of ICD should transmit the train summary of the containers moved out of ICD to gateway port to the concerned Service centre for uploading into the ICES.

Audit observed that in one ICD under Pune, Commissionerate, the Service centre uploaded the EGMs after a delay ranging between one to six months, though they are responsible to upload EGMs in time.

DoR, in their reply (January 2015) stated that in terms of legal provisions under section 41 of the Customs Act, 1962 the responsibility to file EGM and making amendments lies with the Shipping line/Shipping agents and not of the exporters. Regarding rectifying EGM error, DoR stated that the Chief Commissioners have been directed to monitor levels of pendency of EGM errors to ensure that export facilitation does not lag on this count.

Regarding frequent monitoring of uploading of EGMs by Service Centres at ICDs, DoR stated that the issue will be examined.

DoR may furnish the copy of the Drawback Pendency Report as of 1 January 2015 for audit verification.

***Recommendation No. 2: Department may explore the possibility of permitting minor amendments to EGM online and allow frequent monitoring of uploading of EGMs by Service Centres at ICDs.***

#### **4.15 Payment of Drawback**

In terms of section 75 of the Customs Act, 1962, goods which have entered for export and an order permitting the clearance and loading thereof for exportation

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<sup>18</sup>Chennai, Cochin, Mumbai NCH sea customs, Bangalore Air Customs

has been made under section 51, a drawback should be allowed of duties of customs chargeable under this Act. The drawback claim is automatically processed through EDI system on first-come-first served basis upon filing of EGM. The status of SBs and sanction of drawback claim, including query raised or deficiencies noticed can be ascertained from the Service Center. After reply to queries /deficiencies are addressed through the Service Center, the drawback claim will be processed and amount transferred to the bank accounts of the exporters.

Statistical data in seven Customs Commissionerates<sup>19</sup> revealed that the payment of drawback took more than two days after filing of EGM. The delay in rectifying the error in the EGM is a major contributing factor for the delayed payment of drawback. It is the responsibility of the department to ensure that the drawback is paid to exporters as quickly as possible.

DoR, in their reply (January 2015) stated that CBEC's circular dated 24.6.2013 has introduced Risk Management System in exports envisaging enhancement in level of facilitation and to build appropriate control measures for proper and speedy disbursement of drawback. In the first phase, which is under implementation, RMS shall process data upto goods examination stage. Subsequently, in the second phase, RMS would also process data after EGM filing for selection of SBs for drawback scrutiny and post clearance audit. The drawback scheme provides the substantive facilitation of extending drawback even before the realization of the export proceeds with Revenue being responsible for reconciling receipt of proceeds and recovery actions in relevant cases. Not waiting for correct EGM filing, i.e. proof of export, involves granting un-entitled drawback in cases of non-export on account of various reasons like the shipping/airlines/carriers not lifting the goods or pilferage/theft etc which creates administrative costs of following up such cases for recovery of drawback and also generates disputes. These costs are perceived to outweigh the benefits of paying drawback even earlier. Hence, it is considered preferable to retain the present legal dispensation in vide Rule 13(5) of the Drawback Rules, 1995 which provides that the EDI SB is to be treated as claim for drawback only once the exporter has 'exported' the goods i.e. the EGM has been filed.

A system of sample selection based on certain risk parameters for conducting transaction audit or a system of Post Compliance Audit (PCA) may be introduced to reduce the time taken in processing the drawback claims and to process drawback

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<sup>19</sup>Chennai, Cochin, Kolkata, Hyderabad -Sea Customs, Chennai Air Customs

claims based on 'Let Export Order' as the exporter, has no control over the goods after LEO issued instead of filing of EGM.

#### **4.16 Lack of uniformity in customs operations**

A foreign vessel calling Chennai and then calling Cochin is not permitted to carry even empty containers from Chennai to Cochin even though cabotage has been relaxed for Cochin, while on the reverse leg containers from Cochin are accepted in Chennai. The reason furnished by the department was the lack of provision in the ICEGATE portal to handle such movements.

DoR in their reply (January 2015) stated that a module has been provided in ICES 1.5 for trans-shipment of import cargo from a Seaport to another Seaport on 7 February 2014.

Since the audit observation was raised after February 2014, therefore, DoR may like to review its status.

#### **4.17 Filing of import bills through ICEGATE**

BEs can be filed either through the ICEGATE portal or through the Service Centre situated in the respective Customs House. However, filing of BEs through the service centre entails additional costs on the importer.

Filing the BE using the ICEGATE portal is faster and cost effective. Many of the importers are using this facility for filing the bills. However, more importers need to be encouraged to utilize this facility.

Data provided by 14 Sea/Air Commissionerates/ICDs<sup>20</sup> (BEs) and 7 Sea/Air Commissionerates (SBs) revealed that the percentage of BEs being filed through the service centre has come down from the level of 45 per cent during 2010-11 to 16 per cent during 2013-14 and from 30 to 6 per cent in respect of SBs indicating greater acceptance of the ICEGATE portal by trade. This could still be brought down to minimal levels by the department. Filing of bills through ICEGATE could be made mandatory to avoid costs to the importers for using the Service Centre.

DoR in their reply (January 2015) stated that most of the regular importers/exporters and Customs Brokers file documents through RES<sup>21</sup>. Service Center is a second option for the users who do not have registered ID at ICEGATE like one time importers/exporters of personal or commercial cargo, unaccompanied baggage etc.

<sup>20</sup>Chennai, Kochi, Kolkata, JNPT, Mumbai, Kakinada, Mundra, NCH, Mumbai Sea Customs, Chennai, Bangalore, Ahmedabad, Hyderabad Air Customs, ICD, Tughlakabad, ICD, Bangalore and ICD, Khodiyar.

<sup>21</sup> Remote EDI System

#### 4.18 Filing of SBs through ICEGATE

As per section 50 of the Customs Act 1962, the exporter of any goods shall present SBs electronically except where it is not feasible to make such entry electronically in which cases the Commissioner of Customs may allow to present SBs in any other manner.

SBs filed through the service centre has declined over the period 2010-11 to 2013-14 indicating greater acceptance of the ICEGATE portal by trade. However, in Kolkata and Mangalore Ports, the number of SBs filed through Service Centre was 20 and 12 per cent respectively during 2013-14 which appears to be high when compared to other Ports. Department may ensure that all exporters and CHAs use the ICEGATE by making it more dependable, user-friendly and economical.

DoR in their reply (January 2015) stated that reasons for higher filing through service centre at specific locations (Mangalore and Kolkata ports) are being examined in consultation with jurisdictional Commissionerates.

Final outcome may be intimated to audit.

#### 4.19 Facilitation through RMS

RMS for imports was launched in 2005. It provides for clearance of low-risk consignments without assessment or physical checking. In order to further expedite the process of assessment, self-assessment under section 17 of the Customs Act was introduced in the Finance Act 2011.

Further to implement self-assessment effectively and to ensure its benefits to the trade, the Board, vide circular dated 2 September 2011 enhanced the facilitation level to 80, 70 and 60 percent respectively in Air cargo complexes, Ports and ICDs by rationalizing the risk rules and risk parameters.

Scrutiny of the data furnished by seven Customs Commissionerates<sup>22</sup> (Sea) revealed that the enhanced level of facilitation as per Board circular dated 2 September 2011 was not attained. The percentage of facilitated bills (RMS) increased from 25 per cent during 2010-11 to 45 per cent during 2012-13 but it was well below the benchmark of 70 per cent fixed by the Board. During 2013-14, the RMS facilitated bills declined to 35 per cent.

In four Air Commissionerates<sup>23</sup>, the data revealed that the facilitation of bills was only to the extent of 59 per cent during the period 2011-12 to 2013-14 as against

<sup>22</sup>Chennai, Cochin, Kolkata, Mumbai JNPT, Mumbai NCH, Mangalore, Mundra Sea customs

<sup>23</sup>Chennai, Kolkata, Ahmedabad, Delhi Air Customs

the level of 80 per cent fixed by the Board and in ICDs<sup>24</sup> the average percentage of bills facilitated was 40 per cent against the benchmark of 60 per cent.

Audit observed that the factors for this low level of facilitation are:

- Lack of periodical review of the risk parameters of RMS to remove the redundant interventions/parameters.
- Lack of patronage for ACP status.
- In view of the newer Compulsory Compliance Requirements (CCR) which has been made more comprehensive to include compliance of Special Valuation Branch (SVB), more number of bills are being selected for examination by the RMS.
- Introduction of a 3 per cent RMS intervention scheme<sup>25</sup> in April 2013 which mandatorily required at least additional 3 per cent of the bills to be selected for examination before out of charge was given also reduced the facilitation level

The deficiency in achieving the desired level of facilitation indicated that RMS has failed to attain an optimal balance between the facilitation and enforcement.

DoR in their reply (January 2015) stated that facilitations would vary with locations. The facilitation percentage of 80 per cent for ACCs, 70 per cent for Sea Ports and 60 per cent for the ICDs was identified by the Board vide circular dated 02.09.2011 is, therefore, indicative and achievement of the same depends upon the compliance level of the trade. For example, a robust RMS facilitates implementation of trade facilitation schemes like ACP/AEO etc., which has a much higher facilitation level of about 90-92 per cent. It is also reported that the risk parameters in RMS are regularly reviewed and steps are taken to remove the redundant interventions/parameters in line with the Board's Circular No.39/2011.

As regards, the ACP, the same has been implemented in accordance with Board's circular dated 24.11.2005, as amended vide circular dated 20.08.2010. ACP status has been duly accorded to all eligible applicants. Under these circumstances, it would be incorrect to say that there has been lack of patronage for ACP status.

Generally, addition of newer Compulsory Compliance Requirements (CCRs) do not affect the level of facilitation or interdiction as they are instructions to out of charge officers to ensure compliance of the importer/exporter to ensure compliance of the

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<sup>24</sup>Delhi TKD, ICD, Bangalore, ICD, Khodiyar

<sup>25</sup> This is a scheme introduced wherein additional bills are being marked for physical examination or assessment or both.

requirements of allied Acts and International conventions, except when they form the basis for targeting.

Audit observed that the facilitation levels were still around levels before self assessment was introduced and the number of ACP clients as on 01 March 2013 was only 332 which had subsequently reduced to 271 as on 31 July 2014 indicating ineffective monitoring of the implementation of the Board's instructions vide circular dated 20.08.2010. The department may review the status of circular dated 20.08.2010 and 02.09.2011.

#### **4.20 Examination of Export goods at the factory premises**

After the receipt of goods in the dock, the Customs Officer on the basis of the check list and other declaration filed by the exporter in the Service Center may inspect/examine the shipment. The customs officers mark the SBs and also hand over the original documents to the Dock Appraiser who assigns a customs officer for examination. The system selects the packages to be examined and also directs whether the goods require a NOC/Certificate from the outside agency.

Audit observed that in eight Commissionerates<sup>26</sup>, during the period 2010-11 to 2013-14, examination of the cargo in 32 per cent of SBs filed took more than 24 hours.

Examination of goods pre-dominantly takes place at CFSs and involves unpacking of the goods resulting in delay and at times loss of goods. Despite an option for the exporters for getting the goods examined by Central Excise officers at their factory premises, as a facilitation measure, the quantum of SBs examined at the factory<sup>27</sup> was only 37 per cent which is low leading to unnecessary time lag.

DoR in their reply (January 2015) stated that reasons for not utilizing the facility of examination at the factory premises by exporters are not ascertainable. CBEC on its part has decided, *inter alia*, that a single factory stuffing permission is sufficient for all the customs locations. Also, a circular dated 22.07.2010 has been issued that any request for factory stuffing by exporter/manufacturer communicated through e-mail to Central Excise Authority should be considered for scheduling for factory stuffing by Central Excise authorities.

Audit is of the opinion that necessary coordination and monitoring may be required to implement the said facilitation procedure.

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<sup>26</sup> Chennai, Cochin, Kolkata, Mumbai JNPT Sea Customs, Chennai, Kolkata, Bangalore Air Customs, ICD, Bangalore.

<sup>27</sup> Chennai, NCH, Mumbai, JNPT, Mumbai Sea Customs, ACC, Bangalore, ICD, Bangalore



**Recommendation 3:** Department may examine and address the reasons for nonutilization of the facility of examination at the factory premises, by the exporters.

#### **4.21 Permanent Trade Facilitation Committee**

As per Board's circular dated 25 October 2013, Permanent Trade Facilitation Committees (PTFCs) established at each Custom House as a trade facilitation measure was to meet regularly with minimum of one meeting each per month on a pre-decided date aimed at encouraging stakeholder participation and expeditious resolution of local issues (without these being escalated to the Department/Board)

Audit observed from the data provided by ten Customs Commissionerates, that in five Customs Commissionerates<sup>28</sup> monthly meetings were held during the period 2010-11 to 2013-14, whereas in two Customs Commissionerates<sup>29</sup> the meeting was held only on a quarterly basis. In Custom House, Amritsar, the first PTFC meeting was held in May 2014.

In Chennai Air Commissionerate, the minutes of these meetings were not being uploaded in the websites for the benefit of trade.

#### **4.22 24x7 customs clearance procedure**

The Board through circular dated 7 August 2012 had implemented 24x7 clearance facilities from 1 September 2012 on a pilot basis at selective custom houses in respect of certain categories of imports and exports to facilitate importers and exporters.

Scrutiny of the details relating to eight<sup>30</sup> custom houses revealed that 24x7 facilities was not being optimally utilized by the importers during the period 2012-13 and 2013-14. The number of BEs/SBs presented for clearance during the Extended Working Hours (EWH) is very minimal when compared to the Normal Working Hours (NWH).

The reasons enunciated by the department are

- a. Absence of representatives from other agencies such as Food Safety Standards Authority of India (FSSAI), Assistant Drug Controller (ADC), Port Health Organisation (PHO), Plant Quarantine and Animal Quarantine department and more so from the Custom House Agents (CHAs) during the night shift.
- b. Shortage of staff in deploying for the Extended Working Hours.

<sup>28</sup> Chennai, Mumbai JNPT Sea Customs, Chennai Air, Delhi TKD, Delhi I&G NCH

<sup>29</sup> Delhi, Cochin Air Customs

<sup>30</sup> Chennai, Kolkata, Kandla Sea Customs, Chennai, Kolkata, Ahmedabad, Delhi, Bangalore Air Customs



- c. The facility of assessment and Examination by the trade is hardly used between 10 PM and 10 AM.
- d. The cost of additional staff deployed by the various stakeholders for clearance outweighs the cost saved on clearance during EWH.

DoR in their reply (January 2015) admitting that the facility of 24x7 customs clearance at identified location has been underutilized by the trade and the number of documents/volume of traffic handled hardly justifies deployment of contingent of officers posted at these locations on 24 x7 basis. The Government has laid emphasis on 24X7 customs operations to extend this facility at 18 sea ports and 17 air cargo complexes for identified imports and exports by 31.12.2014. Though from the commencement of 24x7 customs clearance at identified customs locations, wide publicity have been given by respective jurisdictional Commissioners of Customs and regular meetings held with stakeholders. It was decided that all agencies will comprehensively undertake internal stock taking of their manpower deployment at these places and also consider relocation/redeployment of staff by these agencies in the light of 24x7 customs clearance facility.

Status of implementation may be intimated to audit.

#### 4.23 Accredited Client Programme (ACP)

RMS introduced in 2005 incorporates the ACP which envisages assured facilitation to clients who meet specified criteria in terms of amount of duty paid, volume of imports and a clean compliance record. Accredited Clients are allowed clearance on the basis of self-assessment without examination of goods as a matter of course. The eligibility criteria for getting recognition under the ACP have been specified in the Board's circular dated 24.11.2005 amended by circular dated 20.08.2010.

Audit observed that although the ACP was launched in November 2005, the total number of ACP status holders which was 332 as on 1 March 2013 had reduced to 271 as on 31 July 2014 across the country.

Department may explore the reasons for withdraw from ACP scheme.

In order to stimulate greater response from trade to this scheme, a task force on transaction costs constituted by the MoC&I in 2009 had recommended that

- I. the eligibility criteria for the ACP status be relaxed by amending the ACP guidelines.
- II. the show cause notice issued for procedural irregularities like misclassification, incorrect exemption, valuation etc should not be a criteria for ineligibility under ACP.

It was however observed in audit that no such instructions have been issued by the Board and the criteria continue to be implemented while reviewing the ACP status.

On Site Post Clearance Audit (OSPCA) scheme was introduced by the Board vide notification dated 4 October 2011 as a trade facilitation measure. This facility was extended to ACP clients for expediting clearances while safeguarding the interest of revenue.

Audit observed that in Four Custom Commissionerates in Gujarat, a higher percentage of ACP bills were selected for assessment and examination which contributed to increased dwell time.

DoR in their reply (January 2015) stated that the guidelines on ACP have been reviewed to ensure participation of more number of importers under the scheme. Moreover, provisions have been made for re entry of importers under ACP scheme whose ACP status have been withdrawn on account of some investigations undertaken against them.

OSPCA is aimed at ensuring a balance between trade facilitation and enforcement through compliance verification. ACP importers are given assured facilitation with virtually no intervention by Customs. It is incumbent to verify correctness of declarations so as to ensure that revenue is safeguarded. OSPCA was introduced by the board as a facilitation measure replacing the existing Post Clearance Audit (PCA) scheme subject to certain specified conditions. In contrast, PCA which is applicable to all other importers provided for only a transaction based check and did not have any such stringent conditions attached to it. As all non-ACP clients are covered by PCA, the existing ACP clients have desisted from renewing their ACP status post introduction of OSPCA.

Audit observed that the OSPCA scheme, far from being a facilitation measure actually discouraged new importers from applying for ACP status and the existing ACP status holders from renewing their status due to the stringent norms and requirements provided for in the scheme. OSPCA scheme was one major reasons for the steep decrease in the number of ACP status holders.

#### **4.24 Authorized Economic Operator (AEO) programme**

The Indian Customs administration has developed an AEO Programme (August 2011) consistent with the "SAFE<sup>31</sup> Framework" developed by the WCO that encompasses various players in the international supply chain such as importers, exporters, warehouse owners, Customs House Agents, cargo forwarders and

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<sup>31</sup> Standards to Secure and Facilitate Global Trade

carriers. An entity with an AEO status is considered a 'secure' trader and a reliable trading partner. Any economic operator such as importer, exporter, logistics provider, Customs House Agent can apply for authorization.

AEO status will also ensure a low risk score that may be incorporated into Customs RMS and used to determine the frequency of Customs physical and documentary checks. The benefits may also include simplified Customs procedure, declarations, etc. besides faster Customs clearance of consignments of/for AEO status holders.

However, it is observed that till July 2014, only five applicants have been granted the AEO status across the country. The complex procedure involved in granting the AEO Status is hindering the trade from opting for the scheme.

DoR in their reply (January 2015) stated that AEO scheme is a voluntary scheme and with wide publicity and sensitization, the number of AEO authorised entity is expected to increase. The number of AEO entities at present is 14.

Audit highlighted the poor response to the AEO scheme which has only 14 entities till date.

#### **4.25 Advance Ruling Mechanism**

Advance Ruling Mechanism is an important trade facilitation measure which enables foreign investors to know in advance with certainty the customs duty liability on proposed imports and exports.

As per section 28 (I) of Chapter V of Customs Act 1962, the authority for advance ruling shall pronounce its ruling in writing within 90 days from the date of receipt of application.

In Delhi Commissionerate, as on 30 June 2014, 15 applications out of 48 applications filed during May 2012 to August 2014 for advance rulings were pending with Authority for Advance Rulings, beyond periods ranging from 3 months to 2 years. Any delay in disposal of cases of advance rulings affects the investor climate.

A questionnaire based survey of the importers revealed that there was insufficient enthusiasm on the part of importers in availing trade facilities like Advance Ruling, AEO, PTFC, LTU and OSPCA.

#### **4.26 Lack of patronage for Indian Trans-shipment ports**

Cochin Sea Commissionerate observed that exporters prefer shipping lines using Colombo or any other foreign port for trans-shipment since they get their drawback incentives as soon as the vessel leaves the Indian shore.

Audit observed that, if the trans-shipment is done at Cochin, the exporter from an Indian Port like Calcutta or any other Indian Port, need to wait till the transshipment is effected out of Cochin as the cargo has not left the Indian Shore till it is shipped out of Cochin.

Government may consider granting export incentives to exporters as soon the ship leaves the origin port rather than the Indian shore based on proper risk assessment and safeguards.

DoR accepted the audit observation and stated (February 2015) that drawback would be paid as soon as shipping bill is passed and goods are shipped at originating port.

**4.27 Delay in implementing Infrastructure Projects for free movement of cargo affecting facilitation**

**(1) Non-completion of elevated four lane link road from Chennai Port to Maduravoyal**

A scheme for providing a 19 KM Elevated Corridor from the Southern Gate of Chennai Port to Maduravoyal leading to the NH14 formulated in June 2007 was stopped midway affecting facilitation of container movements.

**(2) Non-completion of Chennai Ennore Port Road Connectivity Project (Formerly Ennore Manali Road Improvement Project (EMRIP))**

Non-completion of the project undertaken in January 2002 for strengthening of the connecting roads from the Port has severely affected the movement of container laden trucks from Chennai Port, which presently takes a minimum of 24 hours to reach a CFS just 10 Kms away. The project was commenced in the year 2002 at an estimated cost of ₹ 150 crore which has been revised to ₹ 600 crore.

**(3) Lack of Rail infrastructure to move containers to ICDs**

Delhi Customs Commissionerate reported that 14000 containers were waiting at various ports viz. JNPT, Mundra and Pipavah for transshipment to ICD Tughlakabad as on 15<sup>th</sup> July 2014 due to the following reasons (a) Congestion in line (b) Non-availability of racks (c) Limitations in loading of containers and (d) Availability of only a single line in the route from Pipavah port to ICD Tughlakabad.

**(4) Non co-ordination between stake holders for improving the infrastructure.**

In CWC Logistic Park, under Mumbai Commissionerate Zone II, it was observed that the approach road to the CFS is in very bad condition. In spite of various efforts taken by the CFS requesting the CIDCO to repair the damaged roads and remove the encroachments the repair work has not been done.

**(5) Issues dogging Walayar check post.**

Cochin Commissionerate observed that time delays, increase in transaction cost and fines for overweight cargo are affecting the free movement of containers at the Walayar check post.

**(6) Lack of Feeder network facility at International Container Transshipment Terminal (ICTT)**

ICTT, which is having connectivity to most ports in India is struggling to emerge as an efficient transshipment gateway port. The main reason is the lack of an efficient feeder connectivity system which is discouraging Mainline vessels from calling at the Cochin port.

Department may consider to upgrade the existing trans-shipment gateways for effectively competing at the global level.

**(7) Additional levy of stamp duty by Maharashtra government**

It was observed that the Maharashtra government levies an additional stamp duty at the rate of 0.1 per cent on total value of assessable value plus customs duty which increases the transaction cost. Such type of stamp duty is not levied in any other states.

Reply from DoC/related ministry in all seven cases above was awaited (January 2015).

**4.28 Problems in CFSs (Container Freight Stations)**

CFS is a customs area located in the jurisdiction of a Commissioner of Customs exercising control over a specified Customs Port, Air Port LCS/ICD and it is an extension of a customs station set up with the main objective of decongesting the ports. In CFS, only a part of the Customs processes mainly the examination of goods is normally carried out by Customs besides stuffing/de-stuffing of containers and aggregation/segregation of cargo. CFS is custodian of import/export cargo as per section 45 of the Customs Act. Containers other than those belonged to SEZ and ACP client are transferred within 72 hours from Chennai Port to the CFSs located around the radius of 50 Kms from the port and from there, the goods are cleared for home consumption after assessment and payment of duty. Export cargos after registration in CFS, get examined and stuffed in the containers and transferred to Port for being loaded in the ships.

As per rule 6 of Handling of Cargo in Customs Areas Regulation (HCCAR), custodian is responsible for the safety and security of the goods under their custody. They are

also responsible for the disposal of uncleared, unclaimed or abandoned goods within the prescribed time limit.

Data furnished by five Commissionerates<sup>32</sup> revealed that the storage capacities of CFSs were occupied by unclaimed/uncleared cargos. Though circulars were regularly being issued by the Board (Circular dated 1 December 2005, 9 December 2005, 20 February 2006, and instruction dated 22 July 2010) for expediting the clearance of unclaimed/uncleared cargo to decongest CFS/Ports, it was observed that more than five years old cargos are still lying uncleared causing storage problems and affecting the revenue of the CFSs. Some of the cargos were detained by DRI, SIIB, CIU wing of customs as they had filed cases against the importers.

It was further observed that there was no provision in the IGM module to identify cargo pending beyond the admissible period of 30 days for the *suo-moto* action by customs and the department was dependent on the CFSs for knowing the status of uncleared/unclaimed cargo. The lack of provision severely hampered the department in ensuring the expeditious disposal of un-cleared cargo resulting in valuable space of CFS remained occupied and causing revenue loss to the department.

DoR in their reply (January 2015) stated that recommendation is agreeable in principle, however, consultation is required to check feasibility of both the systems and its integration with system of CFSs.

#### 4.29 EDI Issues

From the details furnished by DG (Systems), ICEGATE portal had broken down 18 times in 2012-13 and 14 times in 2013-14 and the duration of the break down sometimes extended to 4 hours. Detailed duration of such break downs have not been made available to audit. Frequent breakdown of the ICEGATE portal is a limiting factor for its utility to the stakeholders. Audit also noticed:

- Frequent breakdown of the ICES application and connectivity problem in ICES
- Lack of provision in ICES 1.5 for filing of Air EGMs through ICDs resulting in pendency in sanction of drawback claims.
- Non-implementation of the recommendation of the First Task force on Transaction cost to develop suitable tracking software for the redemption of Advance Authorisation and EPCG licences within the time period stipulated in FTP.

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<sup>32</sup>Chennai, JNPT, Mumbai, Kolkata Sea Customs, ACC, Bangalore, ICD, Bangalore

One of the objective of the Result Framework Document (RFD) for 2012-13 and 2013-14 about on-line issue of export obligation discharge certificate (EODC) for Advance Authorization and EPCG licences has not yet been implemented, entailing additional burden and cost to the exporter for manual submission of the detailed statement of exports. However, in the Second Task Force on Transaction cost it is reported that the DGFT had already completed the process of online issuance of EODC for Advance Authorizations.

Non-integration of the various stakeholders EDI applications viz., ICES, DGFT EDI System, SEZ on line and PCS was also observed by audit.

DoR in their reply (January 2015) stated that breakdown may occur due to certain planned technical activities for maintaining and upgrading application health like Disaster Recovery Drill (DR Drills), hardware/software up gradation, patch implementation. As far as connectivity is concerned, M/s BSNL is the WAN service provider for provisioning connectivity at various field formations of CBEC and the services provided by them are governed by Service Level Agreement through which penalty is levied for not meeting the agreed service levels. Communication has been sent by the Directorate of Systems to all Chief Commissioners and Commissioners informing them about the escalation matrix for logging tickets with the WAN service provider for connectivity related issues. Further, the Directorate (System) has also provisioned the alternate WAN connectivity through M/s Tata Communications Ltd. at 17 important ICES locations to enable them to connect to the CBEC Data Centre even if the WAN link of one Service provider fails, thereby ensuring redundant connectivity. Reports are available on the ICES 1.5 to monitor the EGM status for SBs exported from ICDs. These can be used by the officers to monitor pendency. Further, online EODC work is underway with DGFT to finalize the message format for online receipt of EODC from DGFT and message exchange development, testing and implementation with all the concerned agencies is on and is in different phases. With DGFT, we have an organic message exchange ecosystem and with SEZ online it is in the advance stage of implementation.

DGFT in their reply (January 2015) stated that technical preparedness for issuance of EODC has been completed and is awaiting release of new FTP for its implementation. Further DGFT stated that there was active message exchange for various services among the ICEGATE, DGFT and banks. ICEGATE has active message exchange with PCS and SEZs. The process in this regard is being monitored by 'e-trade' Mission Mode Project under DoC.

Audit requested DoR to provide the report of third party service providers employed by DG (System) on such breakdown since it is measured independently

through a SLA. Advance Authorisation (AA), Duty Free Import Authorisation (DFIA) and Export Promotion Capital Goods (EPCG) Scheme are not completely online because neither has any mechanism for online discharge of export obligation against these schemes been introduced (December 2014), nor was there any facility in the DGFT EDI System to automatically calculate allowable import quantities of duty free inputs based on standard input output norms under AA, DFIA and EPCG schemes. Reply from DoC is however awaited.

#### 4.30 Re-export of Containers

As per notification dated 16 March 1994 containers of durable nature imported in to India should be re-exported within six months from the date of their re-exportation or within such extended time as may be permitted by the department.

The Container Movement Facilitation Centre (CMFC) is responsible for the monitoring of re-export of containers. The present system in the CMFC to know the status of re-export is that they need to verify the entire Main Line Operators (MLO) wise list of containers for each vessel with the IGM number. As the entire process is done manually and each vessel carries a large number of containers belonging to a number of MLOs the entire exercise is very time consuming and cumbersome. It is pertinent to point out that in Chennai Sea Customs on a monthly average about 60 IGM numbers are registered and more than 40000 containers are imported. The situation is worse if the status of a particular container is to be ascertained from the system with the help of a IGM number and container number as it involves verifying every container out of the entire list of containers which runs in to hundreds of pages.

Lack of proper monitoring of the re-export of empty containers resulted in the accumulation of the containers causing undue strain on the scarce storage facilities available with the custodians.

*Recommendation No. 4: Department may consider improving interconnectivity with other agencies such as acceptance of certificate of analysis of food items by accredited laboratories, introduction of a system to furnish all RMS bill in advance to CFS for stacking the containers, integration of customs system with GSS etc.*

DoR in their reply (January 2015) stated that the suggestions will be examined.

Final outcome may be intimated to audit.

#### 5. Conclusion:

Trade facilitation gained currency with the agreement by the member countries including India at the Bali Ministerial conference of the World Trade Organization



(WTO) members in December 2013. This necessitated India making binding commitments on facilitating customs and other border procedures.

It was seen that the procedural complexities and consequent delays in import clearance are of a much higher order than in the case of export clearances.

Incomplete facilitation process mapping, weak target setting, inadequate monitoring of the implementation of the recommendations of the Task Forces and committees on transaction cost have compromised the achievement of envisaged benefits.

Audit observed that though there was a decrease in the dwell time during the period 2010-11 to 2013-14 for clearance of goods, this could be further improved by implementing the trade facilitation measures initiated by CBEC more effectively. 70 per cent of the dwell time was attributable to filing of BEs and payment process in case of imports and in exports filing of the EGM constituted 90 per cent of the total time. These stages caused delay which needed to be addressed to reduce the dwell time and the consequential reduction in transaction cost. Further, Audit also found that there were delays and bottlenecks in EDI projects like DGFT-EDI, ICEGATE, ICES, SEZ Online, PCS etc., and their interconnectivity is still work in progress.



(Dr. Nilotpal Goswami)

Principal Director (Customs)

New Delhi

Dated: 26 March 2015

Countersigned



(Shashi Kant Sharma)

Comptroller and Auditor General of India

New Delhi

Dated: 27 March 2015



## **Appendices**



## Appendix 1

### Summary of the facilitation measures

- ❖ **Simplification of rules and procedures:** The Foreign Trade Policy and Customs procedures have been made user-friendly by simplifying the procedures.
- ❖ **ICES**, launched in 1995, automated the workflow process related to clearance of import and export consignments and presently handles 98 per cent of India's international trade.
- ❖ **ICEGATE:** An electronic commerce portal implemented in 2002, offers a host of services to trade including electronic filing of the import and export documents and related electronic message between Customs and the trade.
- ❖ **RMS:** A Risk Management System (RMS) implemented in 2005, provides for the clearance of low-risk consignments without assessment or physical checking.
- ❖ **SEZ online:** An integrated solution developed for the speedy processing of various transactions that SEZ Developers, Co-Developers, Units, EOUs and Deemed Exporter have with SEZ administration.
- ❖ **DGFT (EDI):** An interface which allows trade to interact with DGFT in applying for licences, IEC code, status tracking etc.
- ❖ **GrapeNet:** A web based electronic software systems that allows shelf to farm monitoring of quality of grapes exported to the European Union.
- ❖ **Electronic Bank Realisation Certificate (e-BRC)** launched by DGFT(2012) creates an integrated platform for receipt and processing of bank realisation related information.
- ❖ **Port Community System (PCS)** integrates the electronic flow of trade related information and functions as the centralised hub for Indian Ports and other stakeholders.

**Appendix 2  
Trading Across Borders**

Indicator	2012	2013	2014	2015
Rank	NA	NA	122	126
Documents to export (Nos)	7	7	7	7
Time to export (days)	16	16	17.1	17.1
Cost to export(US\$ per container)	1045	1070	1332	1332
Documents to import (Nos)	10	10	10	10
Time to import (days)	20	20	21.1	21.1

**Appendix 3**

**Commitments made by India in Bali Ministerial conference of WTO.**

- I. Publication and availability of information to importers and exporters
- II. Establishing or maintaining one or more enquiry points to answer reasonable enquiries of governments, traders and other interested parties as well as to provide the required forms and documents.
- III. Providing reasonable opportunities and an appropriate time period to traders to comment on the proposed introduction or amendment of laws and regulations related to the movement, release and clearance of goods, including goods in transit.
- IV. Provision for Advance Rulings
- V. Provision for administrative and/or judicial appeal of administrative decisions by customs.
- VI. Informing the importers about detention of goods.
- VII. An adequate time period should be accorded between the publication of new or amended fees and charges and their entry into force except in urgent circumstances and the fees and charges should be reviewed periodically
- VIII. Release and clearance of goods
- IX. Border agency co-operation
- X. Formalities connected with importation and exportation and transit
- XI. Freedom of transit
- XII. Measures promoting compliance and co-operation.
- XIII. Establishing a national committee on trade facilitation to facilitate domestic co-ordination and implementation

### Appendix 4

#### Trade gains through trade facilitation

Country	"Top up" reforms in Trade facilitation			
	Trade Gains Billions of Dollars		GDP Gains	
	Export	import	Billions Dollars	% of GDP
United States	10.5	23.0	15.4	0.1
European Union	16.3	17.2	15.4	0.1
Japan	7.5	5.1	5.8	0.1
Brazil	2.2	4.67	3.2	0.2
China	19.9	32.0	23.9	0.7
India	2.6	9.1	5.4	0.5
Developed countries	39.5	54.5	43.2	0.1
Developing countries	47.3	84.0	60.4	0.6
Sample countries total	86.8	138.5	103.6	0.2

Source : PIIE 2013

### Appendix 5

#### Cost to import and export

Country	Cost to export in 2013 (\$/container)	Cost to import in 2013 (\$/container)	Documents to export (Nos)	Documents to import (Nos)
India	1170	1250	9	11
Bangladesh	1075	1470	6	8
China	620	615	8	5
Sri Lanka	595	775	5	7
Pakistan	660	725	8	8

Source: World Development Indicators, 2013

### Appendix 6

#### Logistic performance index

	India	China
Customs	2.77	3.25
International Shipment	2.98	3.46
Logistic quality and competence	3.14	3.47
Tracking and tracing	3.09	3.52
Timeliness	3.58	3.80
Trade and transport-related infrastructure	2.87	3.61
Logistic performance index: Efficiency of customs clearance process	2.77	3.25

Grading 1 to 5 (low to high)

Source: World Development Indicators, 2013

