ICRIER-KAS-FICCI Seminar
India's Regulatory Framework and the Twelfth Five Year Plan
25th September, The Park Hotel, Kolkata

Rapporteur's Notes

The ICRIER-KAS-FICCI Seminar on India's Regulatory Framework and the Twelfth Five Year Plan focused on the shortcomings of India's regulatory environment and the need to tune up business regulations to drive economic growth. The inaugural session set the tone for the discussion that followed in the technical round. The background of the seminar was presented by Dr. Rajat Kathuria, Director, Indian Council for Research on International Economic Relations (ICRIER). Ms. Mareen Haring from Konrad Adenauer Stiftung (KAS) and Mr. Gaurav Swarup from FICCI also made introductory remarks. This was followed by a keynote address delivered by Mr. Arun Maira, Member Planning Commission and an inaugural address by Mr. Partha Chatterjee, Honourable Minister of Commerce and Industry, Industrial Reconstruction, Public Enterprises, Parliamentary Affairs and Information Technology, Government of West Bengal.

The keynote address by Mr. Arun Maira reflected on India's National Manufacturing Policy, highlighting the roadblock created by an inefficient regulatory regime. In his presentation he spoke about the multiplicity of policies and committees proposing new ideas to improve the regulatory framework in India, but that have failed in implementation. The rising role of the private sector in India, he mentioned, demands an efficient regulator. Mr. Maira mentioned three types of regulatory architecture – engineered systems, chaotic systems, and complex or self adapted systems. Complex self adapted system in India, like any other country is developed on four principles. Firstly, they are characterized by permeable boundaries, necessitating lateral co-ordination among different ministries/ departments along with a continuous process of consultation with the industry. Secondly, the system requires minimum critical rules. A large number of rules are bound to contradict each other at some level. Providing an example from Korea, he mentioned how the country reduced its rules by half after the Asian crisis. The third principle is related to flexible resource architecture. Heterogeneity in these systems implies that a one-size- fits- all approach cannot apply to countries like India with multiple states. The final principle is on developing a shared vision for regulations in India. The process of evolution should be determined by what the stakeholders want to collectively achieve, before policies are proposed or changes are introduced. He concluded by saying that the government must not fear changes; planning tools can help convert contention into collaboration and confusion into co-ordination.

Honourable Minister, Partha Chatterjee, in his inaugural address stated that regulatory reforms were indispensable for the creation and promotion of successful business environments. In this context, he highlighted initiatives taken by the West Bengal Government to overcome the complex and ambiguous nature of regulations governing businesses in the state. Some of these policies include the creation of a Single Window System for industrial start-ups, popularly referred to as *Shilpa Sathi*. The reduction in complexity was highlighted by the reduction in documentation requirements for starting new businesses. The State was also working on an Act to implement Single Window Clearance and eventually introduce web-enabled systems to stream line the process further. Other government to business services such as taxation, registration, payment of stamp duties, have been simplified. Additionally, the government has introduced e-tendering and e-procurement to minimize the delay in execution of government projects. The reforms are driven by the government's agenda to make their growth process efficient and inclusive.

The technical session brought together multiple perspectives on the issue of regulations, with specific focus on regulatory frameworks in India. All four presenters, Mr. Roland Lomme, World Bank, Dr. Navroz Dubash, Centre for Policy Research (CPR), Dr. Rajat Kathuria, ICRIER, and Dr. Unni, IIM Calcutta reiterated the need for regulations, highlighting its role in achieving a fair-level of industry competition, job creation, access to markets, and overall industry efficiency.

Chair for the technical session, Mr. Roland Lomme briefly discussed the indicators for governance and burden of government regulation. Mr. Lomme stated that assessment of business regulations was a challenging exercise on several grounds. The objectivity of these indicators must therefore be treated with caution when assessing the regulatory environment of a country. He also stated that regulations if not implemented well can result in perverse reactions. Regulatory frameworks must be mapped across the different levels of administration. Any overlaps or obsolescence must be identified. Capacity building must be matched to ensure enforcement of regulations. He also highlighted the gender gap index, and stated that India ranked 125th out of 135 countries on women in economic participation and 17 on women in economic empowerment. Regulations can be used as a tool to meet industry objectives and reduce transaction costs. In case of India, the transaction costs are very high. Some states in India have introduced regulatory reforms, others much learn from them. Emulating the best performers might help improve the overall regulatory environment in India

Dr. Navroz Dubash in his presentation spoke about the proliferation of independent regulatory authorities in India. These law-backed specialized agencies already exist in sectors such as telecom, electricity, banking and finance. Regulators are now being proposed in other industries which include education, health, real estate, etc. Though regulators are perceived as panacea to industrial issues, in case of India most regulators have not delivered. Dr. Dubash focused on infrastructure regulations in India. He explained how regulations as a global phenomenon are associated with the process of privatization and liberalization. He alluded to the work of Levi-Faur et al to highlight the rising number of regulatory agencies in different countries over the last four decades. In a recently published book on the Regulatory State of the South Dr. Dubash highlights that regulatory agencies are often transplanted without an understanding of the local context. With respect to India he highlighted three common myths which challenge the efficacy of regulators. The first is on regulators depoliticizing decision making, second is on selection of the right person to ensure independence, and finally on the legitimacy of a single technical answer. He concluded by stating that regulators cannot achieve good governance under all circumstances, and requires co-ordination with other stakeholders including judiciary, bureaucracy, etc.

Dr. Rajat Kathuria in his presentation also focused on regulations in the infrastructure sector. He highlighted the thrust for infrastructure investment and the projected investment requirement in India's 12th year plan. The infrastructure sector is characterized by extensive economies of scale and scope that limit competition. Other aspects of the sector include long investment gestations, applicability to a broad range of users, and sensitive pricing. These characteristics drive the need for regulation in infrastructure to ensure competition, affordable accessibility, and harness benefits of spill-overs into other sectors. Dr. Kathuria spoke about the need for sequencing in regulations. Regulators in most cases result from reform (e.g. telecom sector in India), and become absolutely necessary with privatization. Regulators must have competent staff, operate in a statutory framework that fosters competition, operate independently, (independent of the service operators and the government), and follow principles of integrity, transparency, and accountability in order to be effective. However in practice most regulators are an arm of the government and lack human resources. He concluded by stating that as a discipline regulation is best approached from multiple perspectives using instruments of economics, political economy, law and public policy. With respect to infrastructure regulations in India, the proposed multi-industry regulator, despite its attractiveness, is not in the short run, and should remain a long term vision for the government.

The final speaker Dr. Unni approached the topic of regulations by highlighting the achievements of three prominent regulations in India that deserve mention in the financial sector. The first among these was new Companies Act of 2013. The new Act resulted from a process of public consultations. The Act proposes several changes which address the need of corporate India today, but is not self contained. It increases the scope for multiple interpretations and leaves a free hand for bureaucracy to introduce additional rules. The second prominent regulation has been the establishment of SEBI, the capital markets regulator in India. Dr. Unni referred to the regulatory response of SEBI during the 2008 scam related to a leading IT company in India. SEBI introduced a new chapter in its regulations to address the concerns of employees and minority shareholders in the best manner possible. The third success story for India is the Competition Act of 2002 and the subsequent establishment of the Competition Commission of India. Dr. Unni highlighted the success stories for each of the regulators. He concluded on a positive note appreciating the improvements in regulatory responses in India, especially with respect to the financial sector.

The technical session ended with a quick question and answer round. The points from the presentation were reiterated during this session to highlight the need for decentralized regulations in India. The panellists acknowledged the mixed results in performance of regulators. As retired bureaucrats are often appointed in leadership positions of regulating agencies, the process in India suffers from political capture. The authority of regulators is also declining and consequently their desired efficacy. The need for regulatory reform in India cannot be overemphasized.