EXECUTIVE SUMMARY OF RECOMMENDATIONS
IN THE CONSULTATION PAPER ON INDIRECT TAXES

1. MACRO-PERSPECTIVE AND APPROACH TO REFORMS

Our economy is at a critical juncture in its efforts to accelerate growth and employment in order to rapidly reduce poverty. Towards this, one of the key components of the strategy will have to be to exploit the opportunities afforded by more rapid globalization. While our economy has succeeded in maintaining one of the highest GDP growth rates in the world in the last decade with very low inflation, there are several areas where immediate improvements are required to sustain the growth momentum. The two principal concerns are the deteriorating public finances, with the consolidated public sector deficit estimated to be over 11 percent of GDP, and relatively weak performance of exports and FDI, the two pillars of trade and financial sector integration.

The most direct way to raise tax to GDP ratio is to remove most of the plethora of exemptions granted on import and excise taxes for a variety of reasons, mostly for non economic considerations; widen the net by expanding the service tax base; and to improve taxpayers compliance. To boost exports and FDI, the government must sharply reduce the transaction costs associated with trade and doing business with India. Apart from maintaining a realistic market-driven exchange rate, and liberalization of imports, this will involve changes in policies and procedures involving improvements in trade logistics to allow exporters to compete in today's time-dependent markets. This will require a change in mindset away from controls rigidly administered, towards a more liberal policy environment in line with international standards. Trade facilitation revolves around the reduction of all the transaction costs associated with the enforcement of legislation, regulation, and administration of trade policies.

With the proposed reforms, it is estimated that the reduction in the transaction costs could be as much as 50%, the potential gains to the economy would be Rs. 4000-5000 crores per annum i.e. this large benefit would accrue to the economy every year. In a dynamic sense, in terms of exports foregone on account of high transaction costs, the reduction in costs will be several times higher. Reducing transaction costs and costs of

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doing business is important not only for boosting exports and FDI but even for creating an appropriate framework for vibrant domestic business.

2. REVENUE AUGMENTATION, TAX LEVIES AND RATES

2.1 Tax to GDP Ratio

It is but evident that there is an urgent need to arrest the trend of falling indirect tax to GDP ratio if an impact is to be made on the fiscal deficit. Broadly, this calls for action in two areas of tax policy. First is the tax structure and second is tax implementation. Widening the tax base by reviewing and removing to the extent possible the duty exemptions; reducing the types of tax levies and the number of duty rates; expanding coverage of Service Tax and integration of Central Excise (goods) and Service Tax legislation; and implementing VAT are some of the measures.

2.2 Customs Tariff and Exemptions

As a policy, multiplicity of levies must be reduced. Accordingly, it is recommended that there should be only three types of duties, viz. Basic Customs Duty, Additional Duty of Customs (or Countervailing duty) and Anti-dumping/Safeguard duties. All other duties should be removed. However, removal of SAD should be linked to implementation of State level VAT.

[Chapter 2 : Paragraph 2.1.2]

The following road map for the future is recommended in respect of customs duties so that there is no uncertainty in the minds of the investors and industry.

(i) O% - for items like life-saving drugs, Government imports for defense, security and atomic energy, imports for Reserve Bank of India.

(ii) 10% - for raw materials, inputs and intermediate goods.

(iii) 20% - for final goods.

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(iv) Higher duty rate upto 150% for specified agriculture produce and demerit goods.

Having regard to our commitment to reform, it is recommended that for no item should the present duty rate be increased, unless the item is charged to nil duty, in which case a minimum duty of 5% can be imposed.

[Chapter 2 : Paragraph 2.2.5]

The recommended rates, as above, are to be achieved by 2004-05. As a general policy, the downward revision of duty rates should be in stages of (–) 5% each year. However, it is quite possible that Government chooses to move to the identified rate at a faster pace.

[Chapter 2 : Paragraph 2.2.6]

It is recommended that the grant or continuance of exemptions must be judged against the following criterion :

(i) As a policy, all exemptions must be removed except in case of :

(a) Life-saving goods.

(b) Goods of security and strategic interest.

(c) Goods for relief and charitable purposes.

(d) International obligations.

(ii) As a general policy, when exemptions are removed but the relief is justified, the targeted beneficiary may be assisted by upfront transparent budgetary support. Such method would ensure public debate and there would be no misuse of the exemption.

(iii) In case an exemption is justified, it should not be end-use based conditional exemption. However, in the event the end-use condition cannot be avoided,

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the confirmation of end-use should be done on the basis of selective post-clearance checks by using Risk Assessment techniques. It should not be based upon the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 1996 as the implication in terms of registration with central excise, execution of bond etc. increases contact points and the cost of compliance.

(iv) As a general policy, there should be no exemption from Countervailing duty (CVD), which is at par with the duty paid by the domestic manufacturers of similar goods, including in cases where the exemption from basic customs duty is merited. An exemption from CVD places domestic industry (including potential industry) at disadvantage and serves to deter domestic investment in these areas, which is not desirable.

(v) Best international practices should be one criteria for determining the requirement of otherwise of an exemption.

[Chapter 2 : Paragraph 2.4.7]

As a policy there should be a move away from specific rates towards ad-valorem rates.

[Chapter 2 : Paragraph 2.5.1]

In the light of the above recommendations, the suggested customs duty structure on imports is given in Annexure 'A'.

2.3 Central Excise Tariff and Exemptions

It is recommended that as a policy, we should review all levies and have only one levy, i.e. the Cenvat.

[Chapter 2 : Paragraph 3.1.3]

It is recommended that till such time as there are multiple levies, there should be a schedule indicating the total tax payable on a particular product and the system should internally segregate the same into the respective levies.

[Chapter 2 : Paragraph 3.1.5]

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It is recommended that the central excise duty rates should be as follows :

- **(i) 0% would be for life-saving drugs, security related items and the like.**
- **(ii) 8% would be for food products.**
- **(iii) 16% would be for all items.**
- **(iv) Separate rates for agriculture products.**
- **(v) Separate rates for tobacco and tobacco related products.**

[Chapter 2 : Paragraph 3.2.2]

It is recommended that the road map of duty rates should lead towards the identified duty rate (for the product) through a mechanism of (+) or (-) 4% each year, depending upon its current rate of duty.

[Chapter 2 : Paragraph 3.2.4]

2.4 Duty structure for Petroleum sector

The road map for duty structure on petroleum has to be kept distinct from that of other products and the following recommendation is made :

- **(i) A 5% Basic Customs duty differential between crude and its products.**
- **(ii) Year 0 (2003-04) : Basic Customs duty - on crude - 10%**
  - on other products - 15%.
- **(iii) Year 1 (2004-05) : Basic customs duty - on crude - 5%**
  - on other products - 10%.
- **(iv) Central Excise duty : 16%**

[Chapter 2 : Paragraph 3.3.3]

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2.5 Duty structure for Textile sector

It is recommended that as a general policy the textile sector should be subjected to the standard rates of duty. In view of the commitments already made, the 12% rate may, however, continue till February 2005. The deemed credit facility should be withdrawn forthwith.

[Chapter 2 : Paragraph 3.4.3]

2.6 Central Excise duty exemptions

The grant of exemptions on the central excise side needs careful consideration. Instead of exemptions we should move to a budgetary mechanism for giving the same relief.

[Chapter 2 : Paragraphs 3.5.3, 3.5.5]

The view regarding the Small Scale Sector duty exemption is that the present procedures do not encourage participation and confidence building. Accordingly, there is a need for confidence building measures, which may take some time. In this background, the following recommendations are made as regards the duty exemption :

(i) It should be extended to only small units with a turnover of Rs.50 lakhs - This would ensure the really small scale units being run mostly with family labour and having low capital investment get the desired support. It will exempt those units whose compliance cost will be significantly high relative to their tax obligations.

(ii) The exemption limit for the larger SSI units should be gradually brought down to Rs. 50 lakhs. The gradual downward revision of the limit would give industry time to adjust. The time frame is suggested, as follows :

Year 0 (2004-05) – From Rs. 100 lakhs to Rs. 75 lakhs.

Year 1 (2005-06) – From Rs. 75 lakhs to Rs. 50 lakhs.

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However, on reduction of the exemption limit, the unit would have the option of payment of duty at 4% (without Cenvat) on the value of clearance upto Rs. 1 crore. The other option available at present of paying duty at a certain percentage of the normal rate would continue.

It is important to note that the downward revision in exemption is proposed to be complemented by a transparent and hassle free tax collection mechanism, which must be in place from April 2004; the exemption should be based upon total turnover including the value of exempted goods but excluding the value of exports. Further, it should not subsidise consumption of luxury items by the affluent. Lastly, with effect 1st April 2003, a Declaration should be filed by the unit when value of its clearances touches Rs.50 lakhs.

[Chapter 2 : Paragraph 3.6.5]

The Small Scale Sector duty exemption should be extended to Matches making the duty structure ad-valorem accompanied by extension of the Cenvat scheme.

[Chapter 2 : Paragraph 3.7.4]

There is a need to review the policy of granting exemption based upon location.

[Chapter 2 : Paragraph 3.9.2]

In the light of the above recommendations, the suggested central excise duty structure is given in Annexure 'B'.

2.7 Relevant date for Notification

It should be provided that a notification comes into force from the day after the day of its issue.

[Chapter 2 : Paragraph 4.3]

2.8 Zero rating exports

From 1st April 2003 exports should be Zero rated.

[Chapter 2 : Paragraph 5.3]

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3. CUSTOMS PROCEDURES AND TRADE FACILITATION : BASIC REFORMS

The role of customs is both of a facilitator and a regulator. Whereas it must facilitate the honest importer and exporter it has also to ensure the laws of the country are applied strictly. Therefore, there has to be a very fine balancing. Taking into account all factors it is the view that the bottom line in regard to customs procedures is that these must be based upon trust, which presupposes absence of selectivity. Modern best practice calls for a systems approach that relies on self-compliance (through the maintenance of business records by tax payers), risk analysis and management (development of profiles of risky transactions), and supported by periodic post audits of records. This approach reduces delays for legitimate transactions while allowing full scrutiny of high-risk transactions. In this background, systemic changes are recommended.

3.1 Trust Based System (TBS) : Universal Green Channel

Customs clearance procedures should be based upon trust and be uniformly applied to all importers and exporters and all goods.

EDI network should be expanded to all ports/airports and should include all processes in the automation programme by 1st January 2004. In this direction, one major port and one airport should be made fully EDI operational by 1st April 2003.

The verification of declaration through pre-clearances examination, where necessary, should be based upon Risk Assessment techniques and Post Clearance Audit.

A system of self-assessment of Bill of Entry by the importer should be introduced.

Filing of a period Bill of Entry to be allowed.

Release of imported goods should be allowed on minimum documentation for certain importers of good track record of compliance.

Enhanced Systems Appraisal should be progressively extended and compliance would be ensured through Risk Management techniques.

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Release of goods should be allowed in offence cases provided the goods are not liable to absolute confiscation.

Issue of amendments to Bill of Entry should be allowed settled at the service centre itself.

On-line filing of electronic declarations on internet etc. should be encouraged.

The custodians (IAAI/Port Trust Authorities etc.) should encourage establishment of warehouses by shipping airlines/airlines/couriers/ freight forwarders and consolidators within the port/airport for reducing dwell time; it should be provided that a complete Import General Manifest (IGM) with house level details is filed with the Customs before the arrival of the vessel/ aircraft; the carrier/ steamer agents should file the IGM at Master level and the consol/ forwarding/ break-bulk agents should file the House level details; and the carrier/ steamer agents shall alone be responsible for correct and proper filing of complete IGM (including House level details) with the Customs.

A High–level Inter-Ministerial Committee may be set up under the Chairmanship of Chairman, CBEC to resolve inter-agency issues to ensure clearance of import and export goods with reference to international norms. Also a Permanent Trade Facilitation Committee should be constituted at each Port/airport/ICD/CFS comprising senior representatives of all agencies including Custom House Agents (CHAs) under the chairmanship of the Commissioner of Customs.

Customs should lay down a time limit in the law within which an import or an export document shall be processed.

Customs should rely increasingly upon Pre-shipment inspections such as in case of food stuff.

[Chapter 3 : Paragraph 2]

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3.2 Other measures for improved customs administration

Customs officers should be made available round the clock for clearance of export jewellery on holidays. Likewise some arrangement should be made to collect cess, where applicable, on holidays so that exports are not held up. This arrangement could be made at the International airports.

The Intelligence, Investigation and Audit Sections of the Custom House may be strengthened.

Merchant overtime fees to be removed for all activities done in Customs area.

Export valuation rules should be framed.

Customs should allow abandonment of warehoused goods.

Customs duty payment may be through cheques.

The scope of confiscation provisions in respect of export goods should be expanded to include non-dutiable goods as well as goods not covered under Drawback scheme.

It should be provided that Export Obligation Discharge Certificate issued by DGFT is accepted by customs without delay.

Customs officers may be empowered to enforce IPR by a suitable amendment to the Trade and Merchandise Marks Act and the Copyrights Act.

[Chapter 3 : Paragraph 3]

3.3 Custom House Agents (CHAs)

CHAs should be licensed through an All India entrance examination to be conducted by Directorate General of Inspection. C.B.E.C. once a year at Delhi and at its Zonal Units for licensing of CHAs.

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CHAs once licensed should be allowed to operate at any Custom House/Port/Inland Container Depot anywhere in the country.

Once a CHA licence is issued it should be valid for all time unless the CHA comes to adverse notice of Customs on account of misconduct, delay, etc. for which penal provisions, including suspension/revocation of Licence may be applicable.

Rates for CHA work should be determined by market forces, which will induce a healthy competition amongst CHAs resulting in competitive rates and better service and accountability towards the clients.

There should be a review of the technical qualifications of the CHAs to include knowledge of computer, Prevention of Corruption Act, etc.

[Chapter 3 : Paragraph 4.1]

4. CENTRAL EXCISE PROCEDURAL SIMPLIFICATION

Being the single largest contributor to the tax revenues of the Government, central excise revenues and administration have a critical role in the Indian economy. Naturally, any set back or slow down in central excise revenue mobilization adversely impacts economic planning. Therefore, it is important to devise a suitable tax administration which facilitates voluntary compliance by the tax payer and leads to the collection of revenue at minimum cost. The steps taken so far have not materially altered the general perception that the central excise administration is not tax payer friendly and the systems and procedures are even now far too complex. Therefore, much more need to be done. Importantly, to make a visible impact it is necessary to make fundamental changes without further loss of time. Accordingly, the recommendations are aimed at comprehensively changing the essence of central excise administration with the twin objective of tax payer facilitation and encouraging compliance for increased revenue.

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4.1 Manufacture

Through immediate suitable legislative changes, the levy of central excise should be progressively based upon value addition. Since concept of value addition would apply only to the processing stage (of manufactured goods) it would be ensured that the area of Sales Tax is not entered into and possibility of double taxation is avoided.

[Chapter 4 : Paragraph 2.1.5]

The provision relating to powers to notify act of manufacture should not be used routinely. Moreover, a suitable amendment is necessary so that it is applied prospectively.

[Chapter 4 : Paragraph 2.2.3]

It should be provided that wherever MRP based levy, is applied the act of repacking into retail containers or affixation of MRP on any goods covered under Section 4A is deemed to be amounting to manufacture.

[Chapter 4 : Paragraph 2.3.2]

4.2 Assessment

The officers should be made responsible for assessments of ER 1 returns and for this purpose clear cut instructions should be issued. Some monetary limit may be fixed for confirmation of assessment by each level of Central Excise officer upto Additional Commissioner.

[Chapter 4 : Paragraph 3.1.4]

4.3 Valuation

Guidelines on determination of cost of production should be issued at the earliest, and till such time all disputes be kept pending.

[Chapter 4 : Paragraph 3.3.3]

The present stipulation of valuing at 115% of cost of production when the goods are removed to sister units should be brought down to 105%. Moreover, there should be a moratorium on this figure, so that there is certainty in taxation.

[Chapter 4 : Paragraph 3.4.2]

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System of MRP based valuation must be expanded. However, in order to improve the usage of this mechanism of assessment, certain issues relating to the method of determining the abatement and secondly its nexus with the SWMA require resolution.

[Chapter 4 : Paragraph 3.5.2]

A 'Permanent Committee on MRP Abatement' should be formed under Member (Budget), C.B.E.C., which should include representatives of all Chambers of Trade and Industry Associations, to meet on annual basis (or more often, if required) to recommend the extent of abatement for the items brought under MRP. It should be formed immediately so that its recommendations can be taken note of for the Budget 2003-04.

[Chapter 4 : Paragraph 3.6.4]

Section 4A of the Central Excise Act may be amended to delete reference to the Standards of Weights and Measures Act, 1976. At the same time, the Central Government should internally refer to this Act, while specifying the items for valuation based on retail sale price. Further, the Notification may itself indicate the conditions under which it shall not apply to a particular item even though specified.

[Chapter 4 : Paragraph 3.7.3]

4.4 Cenvat

The Cenvat Credit Rules, 2002 should be amended to abolish the distinction between capital goods and inputs and allow credit on all inputs brought into the factory except for those figuring in a small negative list, such as office furniture, motor vehicles, MS, HSD, etc.

[Chapter 4 : Paragraph 4.1.4]

The Cenvat Credit Rules, 2002 should be amended to allow full credit of the duty paid on the capital goods immediately on receipt, as in the case of inputs.

[Chapter 4 : Paragraph 4.2.3]

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Suitable provision should allow Deputy/Assistant Commissioner to condone technical lapses/ infirmities while allowing Cenvat credit.

[Chapter 4 : Paragraph 4.3.2]

An explanation may be inserted in rule 16 to the effect that the amount paid on removal of returned goods can be taken as Cenvat credit in the hands of the recipients.

[Chapter 4 : Paragraph 4.4.2]

A specific provision may be introduced to charge duty on the dismantled capital goods when removed from the factory.

[Chapter 4 : Paragraph 4.5.2]

Cenvat credit should not be allowed on deemed credit basis.

[Chapter 4 : Paragraph 4.6.3]

Rule 12 of the Cenvat Credit Rules, 2002 should be amended to provide for recovery of Cenvat credit erroneously refunded.

[Chapter 4 : Paragraph 4.7.3]

Cenvat inputs maybe allowed to be stored outside the factory in an identified place of storage subject to procedural safeguards for due accountal of the inputs.

[Chapter 4 : Paragraph 4.8.2]

4.5 Exports

Facility of self sealing of export goods (by manufacturer) should be granted as a matter of right.

[Chapter 4 : Paragraph 5.1.3]

The work of grant of rebate should be centralized at the Custom House itself. In the alternative, an EDI link can be provided between the Customs House and the Maritime Commissioner.

[Chapter 4 : Paragraph 5.2.3]

In order to reduce contact points and speed up the disbursal of the rebate/refund the same should be directly credited to the tax payer's own bank account.

[Chapter 4 : Paragraph 5.3.2]

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4.6 Manner of payment of duty

Fortnightly payment of duty may be replaced by monthly payment.

[Chapter 4 : Paragraph 6.1.2]

The date of payment of central excise duty may be prescribed as the date of presentation of the cheque to the Bank subject to its realization.

[Chapter 4 : Paragraph 6.2.2]

In case of default in payment of duty :

(i) The provision of withdrawing the facility of payment of duty in installments in case of default should be withdrawn.

(ii) There should be automatic charge of interest and penalty in the event duty is not paid on time.

(iii) In the event it is decided to retain the provision of withdrawing the facility the assessee should be allowed to pay duty during this period through Cenvat credit.

[Chapter 4 : Paragraph 6.3.5]

4.7 Budget Day restrictions

The Budget Day restrictions are out of tune in present day world and should be removed.

[Chapter 4 : Paragraph 7.3]

4.8 Removal of goods for job-work

There should be a provision for allowing the movement of dutiable goods without payment of duty to job worker even in situations when the principal manufacturer is not working under Cenvat Scheme.

[Chapter 4 : Paragraph 8.2]

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4.9 Collection of information from tax payer

Fortnightly statement of revenue paid, which is presently being collected from tax payers, may be discontinued. Further, as a policy, no information should normally be asked for (from departmental officers or industry) unless it is being obtained in the prescribed returns from the tax payer.

[Chapter 4 : Paragraph 9.2]

4.10 Dispute resolution

Scope of Section 11A(2)(B), i.e. non-issue of SCN should be expanded to include cases of non-payment detected by Audit/ Department.

[Chapter 4 : Paragraph 10.3]

In respect of cases involving fraud, suppression etc. Section 11A should be amended to provide for the issue of a Show Cause Notice which automatically collapses if the tax payer voluntarily pays the duty and interest and 25% penalty within a period of 30 days of the issue of the notice. In such cases, the Notice should also mention in its preamble that there would be no prosecution proceedings. The provision regarding collapse of the Show Cause Notice should apply to 'other' cases but without the requirement of payment of 25% penalty.

[Chapter 4 : Paragraph 10.3]

4.11 Filing of Returns

Date of filing return may be shifted to the 15th of the close of the month/quarter, as the case may be, for all tax payers i.e. including those in the SSI sector. However, the large units would furnish on-line or otherwise, by the 6th of each month, the information of total duty paid.

As a first step towards on-line filing of returns, the monthly/quarterly submission of TR6 challans may be discontinued and steps should be taken to eventually allow on-line filing of returns. The details of TR 6 Challans will be mentioned in the returns.

[Chapter 4 : Paragraph 11.3]

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4.12 Voluntary filing of documents by tax payers

It is recommended that it must be made binding on the field officials to accept such documents and give an acknowledgement in writing, if needed, in order to safeguard tax payers interest.

[Chapter 4 : Paragraph 12.3]

4.13 Visits of CAG staff

It is recommended that Rule 22(3) of the Central Excise Rules, 2002 may be amended to exclude reference to audit party deputed by the Comptroller and Auditor General of India. The implication is that CAG audit would not visit the tax payers for conduct of audit.

[Chapter 4 : Paragraph 13.3]

4.14 Arrest

The arrest in central excise cases, if warranted, should be made with the sanction of a Magistrate. This would require suitable amendment to the Central Excise Act, 1944.

[Chapter 4 : Paragraph 14.3]

4.15 Tax Clinics for Small Scale Sector Manufacturers

It is recommended that by 1st April 2003 each Central Excise Commissionerate should establish one Tax Clinic for the Small Scale Sector, under the charge of a Superintendent and overall supervision of Deputy/Assistant Commissioner to guide the Small Scale manufacturers. This Cell should closely coordinate with the Small Scale Manufacturers Associations.

[Chapter 4 : Paragraph 15.2]

5. EXPORT PROMOTION

Export is of paramount importance and at any point of time we have had more than one scheme to facilitate and encourage exports. As a result, exports have gone up but the pace has

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not been satisfactory. Moreover, the critical test of a scheme is whether it has led to genuine exports or not. It is the view that a viable export strategy must rest upon two basic premises. Firstly, to be competitive in the international market, the export product must match, if not better, the competition in terms of pricing and quality. Secondly, the exporter must have an incentive to enter the highly uncertain export market.

5.1 Viable export strategy

Multiplicity of export promotion schemes through taxes should be done away with. The new export strategy should rest basically upon two schemes :

(i) SEZ and EOU schemes – This is for the units dedicated to exports – here tax relief should be available for all goods (capital goods, raw materials etc.).

(ii) Other schemes – Here, the relevant schemes may be two, one focusing on capital goods and other on raw materials, inputs etc. The relief from tax may be provided in two ways :

(a) Exemption from duties subject to post-clearance intelligence and audit-based verification checks.

(b) Refund of duties paid through Drawback route.

[Chapter 5 : Paragraph 2.2]

Drawback is WTO compliant and is therefore recommended as the preferred scheme.

[Chapter 5 : Paragraph 2.4]

5.2 EOU/EPZ schemes

The C.B.E.C. must immediately work upon consolidating the many notifications, on both customs and central excise side. This may be done by 1st June 2003.

[Chapter 5 : Paragraph 3.2.2]

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Sale in the domestic market should get progressively reduced for the EOU/EPZ units, as follows :

(i) Year 0 (2003-2004) – From 50 % to 30%

(ii) Year 1 (2004-2005) – From 30 % to 15%

(iii) Year 2 (2005-2006) – From 15 % to 10%

[Chapter 5 : Paragraph 3.3.3]

The duty for DTA removals may be at 75% of the customs duty or the excise duty, whichever is higher. In the event the unit is based on use of indigenous raw material, the duty rate may be kept at 50% of the customs duty.

[Chapter 5 : Paragraph 3.3.7]

5.3 Drawback Scheme

There should be an immediate software modification such that amount of drawback blocked should not at any one point of time exceed the amount under dispute.

[Chapter 5 : Paragraph 4.3.2]

The customs may accept Bank Realisation Certificates as a proof of realisation, which may be produced by the exporters themselves.

[Chapter 5 : Paragraph 4.4.2]

The Shipping Bill number should be standardized to include the details of the port/airport of export. There should also be electronic exchange of information between the RBI and the Custom House.

[Chapter 5 : Paragraph 4.5.3]

In the case of Composite items, the weight declared by the exporters should be accepted. Verification should be done only in case of doubt or there is intelligence to the contrary.

[Chapter 5 : Paragraph 4.6.2]

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In case of exports through Inland Container Depot/Container Freight Station (ICD/CFS), the Drawback should be released once the 'Let Export' order is given by the customs for export and the goods are out of control of the exporter for transport to the gateway port/airport.

[Chapter 5 : Paragraph 4.7]3

After issuance of Brand Rate (including Special Brand Rate) letter, a copy should be forwarded to Customs EDI system for data feeding. The amount of Drawback should automatically be credited in the exporter's bank account as in case of All Industry Rate claims.

[Chapter 5 : Paragraph 4.8.2]

At the option of the exporter, C.B.E.C. should adopt the Income Tax system of payment of refund for the disbursal of Drawback, i.e. the designated bank would be authorized to send a mail transfer of the Drawback amount direct to the tax payer's bank account, wherever located.

[Chapter 5 : Paragraph 4.9.3]

Customs should accept self- declaration from the Merchant Exporters that their supporting manufacturers are not registered with Central Excise and they do not avail Cenvat benefit. Similar self-declaration should be accepted from manufacturer-exporters. Such claims may be subjected to post disbursal verification on basis of intelligence and risk assessment techniques. It is also recommended that the Drawback rates should be determined net of the Cenvat credit which would obviate the necessity of any verification regarding Cenvat availment.

[Chapter 5 : Paragraphs 4.10.3, 4.10.4]

Deputy/Assistant Commissioner (Exports) may sanction Drawback instead of Deputy/Assistant Commissioner (Drawback), as at present.

[Chapter 5 : Paragraph 4.11.2]

The Government may declare Drawback rates for all the items for which Standard Input-Output Norms (SION) are prescribed.

[Chapter 5 : Paragraph 4.12.2]

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C.B.E.C. should review the Drawback schedule and attempt to create broad categories so that complexities are reduced.

[Chapter 5 : Paragraph 4.13.2]

The Drawback Rules should be modified to provide for an appeal to CEGAT in case an exporter is dissatisfied with the Brand Rate or Special Brand Rate of Drawback fixed for him.

[Chapter 5 : Paragraph 4.14.2]

In case, the sanction of Drawback is delayed beyond a period of one week of the receipt of complete documents, the department should be liable to pay interest on the amount of Drawback.

[Chapter 5 : Paragraph 4.15.2]

5.4 Duty Entitlement Pass Book (DEPB) scheme

In view of its many implementation problems, DEPB must be removed from 1st April 2003 as an efficient system of Drawback would be in place by then.

[Chapter 5 : Paragraph 5.1]

5.5 Coordination between DGFT and Customs

To resolve the issue of absence of coordination between the DGFT and Customs, the following steps may be taken :

(i) Duty exemptions, which are in general a critical component of the export promotion schemes, should be notified along with the Policy announcement.

(ii) Both Customs and DGFT should make use of EDI technology for exchange of information, which would cut the delays.

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(iii) **There should be an institutional arrangement to resolve the co-ordination problems between the DGFT and Customs. The recommended structure is as follows :**

(a) **'Export and Import Co-ordination Committee' co-chaired by Member (Customs), C.B.E.C. and DGFT and having as its members J.S. (Customs), C.B.E.C., Additional DGFT, Director (Customs), C.B.E.C., Joint DGFT, and members of Exporters', Importers' and CHA Associations. The Committee would meet once in a quarter to examine and resolve all co-ordination issues. It would also oversee the work of the Regional Export and Import Co-ordination Committees.**

(b) **'Regional Export and Import Co-ordination Committee' at each of the ports/airports/ICDs/CFS. This Committee would be chaired by Chief Commissioner of Customs. Senior most member of the DGFT at the port/airport/ICD/CFS would be a member. The Committee would also include all concerned departments and agencies such as custodians, banks, etc. and members of Exporters', Importers' and CHA Associations. The Committee would meet once in a quarter to resolve all co-ordination problems.**

[Chapter 5 : Paragraph 6.4]

(c) **These Committees should be notified in the EXIM Policy and by a C.B.E.C. Circular.**

[Chapter 5 : Paragraph 6.5]

6. AUTOMATION OF INDIRECT TAX ADMINISTRATION

It is clear that the success of an efficient tax administration rests upon making full use of the potential of automation and related technologies. The bottom line is that change shall, and indeed must, be automation driven. The major benefit of an automation programme is experienced in the area of trade facilitation. Automation leads to quicker clearances, standardization of procedures, reduced discretion, less interface and faster decision making, all of

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which greatly benefit the trade and industry. At the same time, compliance issues are not neglected and, in fact, there is far greater control, though unobtrusive, which is desirable. However, a successful automation programme rests upon committed administrative support backed by significant financial investment.

6.1 Automation driven tax administration

All Customs and Central Excise Commissionerates should fully automate their processes by January 2004. This requires a Commissionerate-wise work programme to identify the requirement of each station in terms of resources required.

EDI must be expanded to cover each Customs and Central Excise Commissionerate by January 2004 for on-line processing of returns and applications (for e.g. refund), risk analysis, profiling and management, message exchange with related agencies, etc. In this direction, one major port and one airport should be made fully EDI operational by 1st April 2003.

C.B.E.C. and its Directorates should be included in the automation programme. All processes should be automated by January 2004.

Facility of video conferencing between the C.B.E.C. and the Chief Commissioners should be created.

Research capabilities in TRU should be enhanced by intensive automation and development of new software tools, particularly in the context of emerging challenges once VAT is introduced and integration of Service Tax and Central Excise take place.

On-line filing of returns and documents should be encouraged. For this, Service Centers may be established with a computer link to the Customs and Central Excise Commissionerates for providing the facility. In order to improve the data accuracy and timely capture of data, entry of the particulars by the assessees through a web-based application at their own premise or at Service Center should be allowed.

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Telephone help-line system should be made available in all Custom Houses and Central Excise Commissionerates for providing information support to trade in respect of status of pending documents/claims and other information on procedures etc. In the long run this should become a centrally operated facility.

Implementation of the automation programme in a time bound manner requires four dedicated teams to oversee the timely implementation of this work, one for Customs, other for Central Excise, the third for Service Tax, and the last for automation of C.B.E.C. and its Directorates. These should be created in the Systems Directorate and lay down the road map for automation including resource requirement.

Sufficient resources must be made available at one go to the C.B.E.C. for the automation project. This step will obviate the necessity of taking sanctions and seeking release of funds each time. Importantly, the resources should include an element for an 'Upgradation Fund' for the timely upgradation of the hardware and software on regular basis.

To the extent possible, the automation work should be out-sourced as it is not within the core competence of the department. On the other hand, India is a leader in software and full use must be made of the local available expertise.

Senior officers of the Department must take an active interest in computerization by using computers and relying upon the information generated. They should also ensure its use by others. In short, there has to be better ownership at senior levels.

Systems wing of C.B.E.C. should be strengthened (in terms of both manpower and resources) to ensure immediate dissemination of information through an updated website.

Simplification, standardization and stability of law and procedures are essential prerequisites of a successful automation programme.

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Providing lead-time for software changes when laws are changed is essential for successful automation. For example, a notification must not come into force immediately from the date of its issue but from the next day. Similarly, new procedures should be implemented after a time gap of at least 30 days.

All procedures must be devised in consultations with the systems personnel who can advise on their adaptability to computerization.

Multiple levies create complexities in development of software and retrieval of data. Accordingly, there must be an attempt to reduce the number of levies. Similar is the case in respect of multiple rates of duties. By and large an item should be subject to one duty rate.

Levies and exemptions must be aligned to tariff headings. At present levies and exemptions are, at times, announced with reference to the description of the goods. Since the descriptions are not standardized, it creates difficulty in automation.

Automated processes should provide for bifurcation of total duty paid into individual heads. In other words, for each Tariff Heading read with the exemption notification, there should be one duty amount to be deposited by the importer. Once deposited, the system should do the further allocation of this amount under the respective duty heads. Presently this work is done by the tax payer.

[Chapter 6 : Paragraph 2.2]

7. IMPROVING INDIRECT TAX ADMINISTRATION

7.1 Indirect Tax Ombudsman

An Indirect Tax Ombudsman may be appointed at Delhi, Mumbai, Chennai and Kolkata by 1st April 2003.

[Chapter 7 : Paragraph 1.3]

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7.2 Directorate of Anti-dumping and Safeguards duties

An independent body, with separate Budget, consisting of respected professionals including revenue officials should be established to carry out investigations relating to Safeguard duties and Anti-dumping. In the alternative, this work may be assigned to the Tariff Commission.

[Chapter 7 : Paragraph 2.4]

7.3 Adjudication and Appeal

Without changing the present categorization of cases for purposes of adjudication by the different levels of officers, the adjudication should be done by a bench of two officers of the same level. In case of conflicting views, the Chief Commissioner/Commissioner as the case may be would be empowered to appoint a third officer so that a decision is passed by majority.

[Chapter 7 : Paragraph 3.1.3]

No pre-deposit of duty should be taken at the first stage of appeal, i.e. at the level of Commissioner (Appeals).

[Chapter 7 : Paragraph 3.2.3]

It is recommended that in order to restore the confidence of the tax payers, Section 11A of the Central Excise Act, 1944 and Section 28 of the Customs Act, 1962 should be amended to restore the earlier position of issue of Show Cause Notice for demand of duty by an officer of the level competent to adjudicate the case.

[Chapter 7 : Paragraph 3.3.3]

The provision relating to disposal of cases by CEGAT should be modified to provide for the finalisation of the case (wherein stay is granted) within a period of six months, so far as it is possible to do so. The provision that the stay is automatically vacated when a case is not finalized in six months should be revoked.

[Chapter 7 : Paragraph 3.4.2]

Suitable measures may be taken to authorize Commissioners of Customs and Central Excise to appoint Special Fee Counsels upto a certain monetary limit. The

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Chief Commissioners may also be suitably authorized for appointment of Counsels beyond the monetary limit prescribed for Commissioners.

[Chapter 7 : Paragraph 3.5.2]

Departmental representatives should be appointed at the benches of the Settlement Commission. Subsequently, this practice can be replicated in case of Authority for Advance Rulings.

[Chapter 7 : Paragraph 3.6.2]

7.4 Audit related issues

C.B.E.C. should issue instructions that whenever an Audit objection runs counter to its instructions/circulars, no protective duty demand need be issued. This should, however, be complemented by evolving a mechanism to settle the objection with CAG at the earliest. Further, C.B.E.C. and CAG should identify posts within their organizations to be occupied by the officers of the other department on deputation.

[Chapter 7 : Paragraph 4.1.4]

Internal Audit should be participative and a fact finding mission with the objective of guiding the tax payer. The attempt should be to evolve a consensus on the issues. Audit should not be empowered to issue show cause notices for duty demand.

[Chapter 7 : Paragraph 4.2.2]

7.5 Trade Facilitation

In so far as introduction of new procedures is concerned, the following recommendations are made :

(i) An institutional mechanism, namely Standing Committee on Procedures chaired by Chairman CBEC and including trade and industry representatives, should be established to identify and resolve the problem areas in present procedures and evolve new procedures on a need basis.

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(ii) A new procedure should come into force after minimum 30 days of its announcement.

[Chapter 7 : Paragraph 5.1.3]

Revenue targets must be fixed realistically. On the customs side, as an export facilitation measure, the revenue target should be fixed by including Drawback disbursed and refund sanctioned. On the central excise side, the revenue target should take into account duty paid through both Personal Ledger Account (PLA) and Cenvat credit. Refunds sanctioned should also be taken into account. This will ensure against stoppage of payment through Cenvat during revenue drive and withholding of refunds.

[Chapter 7 : Paragraph 5.2.4]

Execution of bonds should be dispensed with. Instead, where necessary, a security in the form of a bank guarantee may be taken.

[Chapter 7 : Paragraph 5.3.3]

The 8-digit Common Commodity Classification Code should be implemented at the earliest and latest by 1st April 2003. This should be used by all other agencies (DGFT, DG, CIS, custodian, etc.) also.

[Chapter 7 : Paragraph 5.4.4]

A time bound programme should be initiated for the ISO Certification of all Custom Houses and Central Excise Commissionerates – to be started in 2003 and completed by 2005. This presupposes standardization of procedures.

[Chapter 7 : Paragraph 5.5.2]

Multi-banking should be encouraged by recognizing new banks including private sector banks to handle receipt of Government revenue; a pre-condition to the appointment of the banks should be establishment of an EDI link with the Custom House/Central Excise Commissionerate to facilitate reconciliation of revenue; banks should have the responsibility of issue/transfer of refund checks/amount direct to the tax payers bank account on the basis of a release advise form the Commissionerate; option of payment of duty through debit card and the like should

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be explored for implementation; and appointed banks should give the tax payer the option of internet banking for deposit of duty and transfer of funds.

[Chapter 7 : Paragraph 5.6.1]

The interest payable by the tax payer and the department may be made uniform and the law should itself clarify that the interest is simple and not compounded. Further, the rate of interest should be reviewed each year at the time of the Budget and brought in line with the prevailing market rate. Rate determined should not be changed during the year.

[Chapter 7 : Paragraph 5.7.2]

In order to reduce the transaction cost and avoidable interface between the industry and the Department, the provision of unjust enrichment may be amended to the effect that it would not apply when the refund arises in respect of provisional assessment , pre-deposit of duty and goods captively consumed.

[Chapter 7 : Paragraph 5.8.2]

The system of receipt and acknowledgement of dak and correspondence should be reviewed and it should be ensured that a receipt counter manned at all hours during office hours is positioned at an easily accessible place. In the case of small offices where there is a paucity of staff, a Mail box should be provided and acknowledgements issued next day. Every correspondence should be acknowledged and timely replies sent.

[Chapter 7 : Paragraph 5.9.2]

C.B.E.C should codify all circulars/ instructions in one cover, subject-wise by 1st. April 2003.

[Chapter 7 : Paragraph 5.10.2]

PAN should be used as the common identifier in all taxation matters. It is recommended that C.B.E.C should ensure by 1st April 2003 that all its tax payers are entered into its computer record on the basis of PAN.

[Chapter 7 : Paragraph 5.11.2]

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Central Excise officers should not be required to wear uniform. This would change the mind set on both side (Department and taxpayer) and contribute to freer communication; Videography should be done whenever statements are recorded and searches made; Presence of counsel should be encouraged while recording statements; Seizure of documents and records adversely affect the conduct of business. Accordingly, these should be mandatorily released upon the completion of adjudication.

[Chapter 7 : Paragraph 5.12.1]

7.6 C.B.E.C. Administration

Chairman, C.B.E.C. should be selected on criterion of merit cum seniority and once appointed (at whatever age before 60 years) should have a minimum tenure of 2 years.

[Chapter 7 : Paragraph 6.1.3]

In the interest of efficient tax administration and tax payers' facilitation, C.B.E.C. and the Chief Commissioner should be given financial autonomy, and financial powers of the Commissioners may be enhanced.

[Chapter 7 : Paragraph 6.2.2]

C.B.E.C. should evolve a time bound strategy to improve the office accommodation as follows :

(i) A Task Force should be set up to standardize the requirement of a modern customer friendly office (model office) which should furnish its report by 31st December 2002. The report should include financial estimates.

(ii) Based on the report of the Task Force, the C.B.E.C should ask the Chief Commissioners to identify the shortcomings in each of their offices in their jurisdiction by 1st April 2003 and send a consolidated proposal to C.B.E.C.

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(iii) **By 1st August 2003, a model Commissionerate (Customs and Central Excise), Central Excise Division and Central Excise Range office should be set up in each of the Chief Commissioner zones.**

(iv) **C.B.E.C. should seek financial sanctions and replicate the model offices by upgrading the existing offices and purchasing land, building, etc., where necessary. The entire exercise should be time bound, so that by 2005, modern offices are in place in each Commissionerate.**

(v) **Modernisation of C.B.E.C and its Directorates should be done by setting up a Task Force to identify the areas of improvement and thereafter taking time bound action.**

(vi) **Facility of video conferencing between the C.B.E.C. and the Chief Commissioners should be created.**

(vii) **Research capabilities in TRU should be enhanced, particularly in the context of emerging challenges once VAT is introduced and there is integration of Service Tax and Central Excise.**

[Chapter 7 : Paragraph 6.3.2]

7.7 Human Resource Development and Training

The infrastructure available for training at regional level should be upgraded; training should be accorded priority and sufficient infrastructure needs to be created to impart training especially in areas of use of information technology, managerial skills and attitude changes at the cutting edge level; each Chief Commissioner of a Zone should have an in-house training center equipped with latest training aids and adequate infrastructure to take care of the training requirements.

The C.B.E.C. should make full use of the technical assistance of multilateral agencies such as World Bank, Asian Development Bank and World Customs Organization, especially their reform and modernization projects and programmes,

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that support customs reform through training in diagnostic study and in customs needs analysis. These help domestic customs authorities implement the required changes that have been identified and evaluate their impact on trade facilitation and customs compliance.

A relevant UN body to be contacted for assistance is the Center for Facilitation of Procedures and Practices for Administration, Commerce, and Transportation (CEFACT-UN/ECE). Close link should also be maintained with UNCTAD which uses Automated System for Customs Data and Management (ASYCUDA) and Advance Cargo Information System(ACIS).

Group 'B' and 'C' officers who are at the cutting edge should be given training to change the mind-set for bringing about pro-client/customer orientation.

Entry level training to officers who are promoted from Group 'B' to Group 'A' should be mandatorily provided at NACEN, for a minimum period of 3 months covering both Customs & Central Excise. This is essential as officers promoted from Customs are often posted to Excise Commissionerates and vice versa.

Cadre training should be compulsory in respect of all Group 'A' officers and periodical refresher courses should be organized to impart training of managerial skills.

Senior Group 'A' officers of the rank of Commissioners and above should be deputed to attend Executive Development Programmes in premier management institutes in the country such as, IIM, IIFT, ASCI etc.

Group 'A' officers should be exposed to the tax administrations abroad and international best practices in training followed to enhance their skills.

[Chapter 7 : Paragraph 7.2]

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8. VALUE ADDED TAX AND SERVICE TAX

The entire matter of implementation of VAT is currently at a crucial stage and a number of initiatives are under examination by the Empowered Committee, which has made significant progress during last one year. Hence, at this juncture it would not be appropriate or desirable for this Task Force to take a final view on the modalities and implementation of VAT. Therefore, only certain preliminary observations are presently being made which are considered relevant for the successful introduction of the proposed scheme of VAT. Likewise, Service sector linkage of Service Tax with VAT is currently under discussion at various forums, including the Empowered Committee and a final view is yet to emerge. it is desirable to allow a consensus to emerge.

8.1 Value Added Tax

The State Governments should announce a time bound action plan for the implementation of VAT by 1st April 2003.

[Chapter 8 : Paragraph 1.2.2]

VAT should be one tax to replace all taxes on goods and services.

[Chapter 8 : Paragraph 1.3.2]

A constitutional guarantee should be in place for the implementation of State VAT.

[Chapter 8 : Paragraph 1.4.2]

An attempt should be made for uniformity of VAT legislations. Further, the States must also agree on uniform rates of taxation and uniform classification based upon HSN.

[Chapter 8 : Paragraph 1.5.2]

It is recommended that issue of compensation, if it arises, must be tackled through mutually acceptable mechanism of additional resource mobilization and not through Budgetary support.

[Chapter 8 : Paragraph 1.6.2]

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8.2 Service Tax

Implementation of Service Tax would be facilitated by having a comprehensive tax base. However, it would be in order to identify certain minimum number of services which are not subject to Service Tax. Examples of these services are public utilities, social services (health, education, etc.) and Sovereign services rendered by the State.

The scheme of tax credit should be extended to include all services. In other words, tax credit of services received should be available to a service provider even if the two are not in the same category. At the second stage, the Service Tax credit should be amalgamated into the Cenvat credit scheme on goods. Thus, there should be integration of the Cenvat credit and Service Tax credit schemes.

Service Tax should be implemented as the first electronic tax (E-tax) with self assessment and on-line web based connectivity between the department and the tax payers.

It is necessary to enact a specific legislation to administer Service Tax. Once this is done there would be increased legal clarity and better administration. Eventually, Service Tax legislation and Central Excise legislation must be integrated.

[Chapter 8 : Paragraph 2.2.1]

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