

Agriculture Sector
Competition Policy in India: A Study

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Executive Summary

1. The World Bank Report on Agriculture and Achieving the MDGs noted that Current trade barriers and subsidies are high for Agriculture. There is growing agricultural trade among developing countries, but these countries also retain substantial trade barriers on agricultural products. The said report urged that the government agencies in developing countries need urgently to revisit the legal, regulatory, political, and institutional framework in the agriculture, research, extension and industrial sectors. **[Para- 1.5-1.7]**
2. The World Food Summit , 2008 encouraged the international community to continue its efforts in liberalising international trade in agriculture by reducing trade barriers and market distorting policies **[Para-1.9].**
3. The World Development Report, 2008 noted that regulation has to strike an appropriate balance, among different interest groups, avoiding both over regulation and under-regulation, especially if there are risks and uncertainties **[Para- 1.10]**
4. The establishment of informational competition policy in the form of multi-lateral rules on restrictive business practices is considered one of the approach to address the imbalance in trade relationship. **[Para-1.12]**
5. The (Indian) Union Budget speech 2011-12 contained three important policy formulations which had direct bearing on the elements of completion in Agriculture Sector: (i) The grant of interest subvention concession to those farmers who repay their crop loans on time. (ii) Contribution of Rs. 10,000/- crore to NABARD with a view to enable NABARD to refinance the short term crop loans of the co-operative credit institutions and RRBs at concessional rates, and (iii) The need for state governments to review and enforce a reformed Agricultural Produce Marketing Acts owing to the fact that the governments regulated *mandis* some times prevent retailers from integrating their enterprises with the farmers.**[Para 1.14]**
6. The agriculture sector is vital for the food and nutritional security of the (any) Nation. The Sector remains the principal source of livelihood for more then 58 per cent of the population (India) though its contribution to the National GDP has declined to 14. 2 per cent (in the year 2010-11) due to high growth experienced in industries and services sectors. Compared to other countries, India faces a greater challenge, since with only 2.3 per cent share in world's total land area; it has to ensure food security of its population

which is about 17.5 per cent of the world population opined the Government of India **[Para 1.1.8]**.

7. The subject 'agriculture' basically is a state subject under the Indian constitution, hence, respective state governments have also been vested with the power to enact laws on this subject. The list containing laws enacted by Union government and state governments on different aspects of agriculture are depicted in Annexure-I and II respectively **[Para 2.1]**.
8. The report on Facilitating Efficient Agricultural Markets in India; an Assessment of Competition and Regulating Reform Requirements, (August, 2011), came to the findings that agricultural supply chains in India are subject to numerous form of regulating interventions such as input subsidies, APMC (Agricultural Produce Market Committee) Markets and the activities of Food corporation of India. The said study noticed several policy impact such as: a) Scientific Impacts, b) Capacity impacts, c) Economic impacts, d) Social impacts, e) Environmental impacts. Recognising that policy reform is the domain of the Indian Government, the study made several policy options for the consideration of government of India based on the project analyses **[Para- 2.3.1- 2.3.2]**
9. The Committee of State Minister, In-Charge of agriculture marketing to promote reforms, appointed by Government of India, Ministry of Agriculture, April, 2011 has in its first report studied and analysed in brief three major aspect i.e :a) Present agricultural marketing system in India, b) Future challenges, c) The present agricultural marketing system: concerns and suggestions **[Para 2.4.1]**.
10. The concerns raised and suggestions made by the said committee include: i) Promotion of Markets in Private or Cooperative Sector, ii) Establishment of purchase centres and direct purchase from farmers, iii) Contract Farming, iv) Market Fee, v) Commission Agents vi) Establishment of Farmers' Markets (Direct Sale by Farmers), vii) Sale of Notified Agricultural Produce Outside the Market Yard by Farmers, viii) Declaration of some Markets as Special or Specific Commodity Markets, ix) Mandatory Utilization of Market Committee Fund/Development Fund for Marketing Development x) Reorientation of activities of APMCs and State Agriculture Marketing Boards (SAMBs) xi) Lack of Competition in Regulated Markets . **[Para- 2.4.1 (C)]**
11. The said Committee made several policy recommendations under the following major heads: (a) Reforms to Agriculture Markets, (b) Promotion of Investment in Marketing Infrastructure Development , (c) Rationalization of Market Fee/Commission Charges, (d) Contract Farming, (e) Barrier Free Markets, (f) Market Information

System. These recommendations need to be addressed seriously and sincerely by all the stake holders involved therein so as to infuse the elements of competitor in the area of agricultural marketing in India. **[Para 2.4.10 (D)].**

12. The major problems faced in the process of Marketing agricultural Produce through APMC markets throughout the country generally include: i) Restriction to provide or allow alternative marketing channels, ii) Compulsory requirement of owning shops within APMC premises, iii) Requirement of minimum distance of private/cooperative markets from existing APMC market, iv) Compulsory payment of market fee even if sale transaction takes place outside the market yard, v) Restriction on trading in another Mandi, vi) Regulator and licence issuing authority one and the same, vii) Levy of Market fee at each stage. **[Para- 2.5]**
13. The procurement of Agricultural Commodities at MSP are being carried out by the following Government agencies with monopoly status: i) Food Corporation of India (FCI) for food stuffs, ii) Cotton Corporation of India (CCI) for cotton, iii) Jute Corporation of India for Jute, iv) Central State Warehousing Corporation (CSWCs) for oil seeds and pulses, v) National Agricultural Marketing Federation of India (NAFED), vi) National consumer Cooperative Federation (NCCF), vii) Tobacco Board **[Para- 2.6.3].**
14. An analysis of the state wise data of Agriculture Markets in India [Table 2.1] clearly reveal the following major inferences. (i) Not even a single state/UT is in any way nearer to the average areas to be served by each market (ie 5 sq. kms), (ii) The farmers have to travel on an average between 55 sq. kms to over 1200 sq. kms for the purpose of marketing their harvested agricultural produce.(iii) Due to non-availability of agricultural markets for their Agricultural produce within a reasonable distance, the farmers, perhaps, are forced to sell their produce to the private traders at throw away price. In such a situation, the private trader virtually becomes the dictator of the price of agricultural produce, often, far below the cost of cultivation **[Para- 2.7.3]**
15. There is a need to encourage the entry of private markets in marketing agriculture produce so as to avoid suicides by farmers. Such a move, will not only minimise the current problems faced by farmers towards marketing their agricultural produce but also shall definitely infuse competition among existing markets, private traders and proposed private markets. **[Para- 2.7.5]**

16. The interest concession and facilities made applicable only to Public Sector Banks, Regional Rural Banks and Cooperative Banks, perhaps, pave way for exploitation of farmers who are in need of financial assistance in many ways including parting the benefits with banks, government and other officials. Hence, such benefits need to be extended to farmers availing financial assistance from other sources as well **[Para- 2.8.1]**.
17. NABARD should provide financial assistance through refinance to NCDC under Rural Infrastructure Development Fund. The mandate of NCDC is to provide financial assistance to cooperative institutions with a view to undertake related activities of agriculture such as processing, marketing, storage etc. hence, the NCDC deserve concessional financial assistance and treatment from government, RBI and NABARD **[Para 2.8.3&4]**.
- 18 The National Food Security Bill(2011) introduced in the Lok Sabha has already created lot of debate and controversy. The additional demand owing to be created in the event of implementation of various entitlements provided therein shall warrant additional procurement and storage of food grains by FCI, CWC & SWCs and creation of warehousing facilities. The defective mechanism at present in force in relation to procurement, sale, storage and distribution of Essential Commodities through Public Distribution Scheme, also, *ipso facto*, shall become applicable once this scheme is implemented. Hence, the Government should also study the issues discussed in this paper in relation to procurement, sale, storage and distribution of Essential Commodities **[Para- 2.9.2]**
- 19 The study broadly reviewed various legal provisions important agriculture laws enacted by parliament that affect, limit restrict or destroy the elements of competition. The laws reviewed include: a) The Essential Commodities Act, 1995, b) The Food Corporations Act, 1964, c) Agriculture Produce (Grading and Marking) Act, 1937, d) The Dangerous Machines (Regulation) Act, 1983, e) The Protection of Plant Varieties and Farmers' Rights Act, 2001, f) Insecticides Act, 1968, g) National Cooperative development Corporation Act, 1962, h) The Seeds Act, 1966, i) Agriculture Produce Market Committee Acts, enacted by State Governments/UTS. The nature of impediments affecting, limiting restricting or destroying the elements of competition etc. are also indicated against sections **[Para 3.2 – 3.7]**.
20. As on 31st July, 2011 all the state governments and UTs except kerala, Manipur, Andaman & Nicobar Island, Dadra & Nagpur haveli, Daman Diu and Lakhyadeep have

enacted Agricultural Produce Market Committee Acts. These Acts contain several provisions which limit, restrict or distort the elements of competition. Due to the large number of legislations enacted by various state governments as mentioned above, it has become difficult to study and analyze all the said legislation for the purpose of identifying the nature of impediments affecting the elements of competition.**(Para- 3.8.1).**

21. The excess control by govt. under sec. 3 of ESA, 1955 on storage and movement of goods through policy interventions pave way for corruption and bribery in large scale. The attempt to restrict the movement of food grains from surplus regions to deficit regions tend to enhance price variation across the region and affect the cost of marketing and branding. The Act also puts restrictions on interstate sale of agricultural commodities in many states. The ways, means and practice followed towards granting required entry permit to the state is a major source of harassment for dealers wishing to import goods into the consuming state. The collection of tax on the entry of commercial vehicle into the jurisdiction, of a state act as an impediment to inter-state trade and causes significant losses to the traders due to delays, payment of entry tax and possible bribes. Bribery and Corrupt practices in large scale is prevalent in the supply and distribution channel of Essential Commodities which is primarily due to lack of adequate legal machinery to deal with such offenders effectively, and meagre punishment in the form of lesser imprisonment period and fine **[Para 4.1.1- 4.1.5].**
22. The regulatory barriers inbuilt in the development of storage and processing, hampered the development of effective market institutions and lowered the capacity of agricultural producers to be internationally competitive. Various provisions of ECA, 1955 conferred enormous monopoly and discretionary power upon the Government and its authorities. The Central, State and Union Territories issue, at regular intervals, various control orders. The over production often results in excessive stock of commodities in open space godowns leading to rot and losses. The power conferred upon Government to ensure adequate supply and equitable distribution often resulted in increase in prices and mal distribution of Essential Commodities **[Para- 4.1.7-4.1.9].**
23. The Committee of State Minister in charge of Agriculture Marketing to promote reforms constituted by Government of India in April, 2011 has identified several short coming in the functioning of APMCs and these issues need to be addressed seriously and quickly by the concerned governments and its authorities. **[Para 4.2.2- 4.2.9]**

24. The National Policy for Farmers noted that the role of the Agriculture Produce Market Committees and State Agriculture Marketing Boards needs to be transformed from mere regulatory focus to promotion of grading, branding, packaging and development of markets for the local produce **[Para- 4.2.10]**
25. The Quality standard should be fixed for each and every product. There is an urgent need to promote grading and standardization for Agri- products **[Para- 4.3.1]**
26. Government has taken various steps to minimize pesticides residues. Certain pesticides were being used indiscriminately which had caused a lot of health problems to the habitants of that particular area. **[Para- 4.4.2]**
27. Substantial proportion of the grain, mainly wheat and rice, that is meant to be distributed to eligible families under the PDS ends up being sold in the open market by corrupt intermediaries including some dealers who manage PDS outlets **[Para – 4.5.2]**
28. Working Group on Warehousing Development and Regulation for the twelfth plan period (2012-17). Noted that an additional 35 million MTs warehousing capacity is required during 12th Five year plan period for storage of all major crops. The storage space available in the country is not sufficient to cater to the procured stocks. As a result, a substantial quantity of food grains is stored in cover and plinth (CAP) storage. The Grossly inadequate storage capacity available with FCI, CWC & SWCs on the one hand and substantial loss of storage and transit losses of food grains on the other, demand for the entry and involvement of private traders with a view to meet the additional 35 million MTs warehousing capacity during the 12th Plan period. The Private Traders engaged in warehousing have already approached the Competition Commission of India alleging formation of cartel by FCI, CWC and SWCs. Though the Competition Commission of India rejected the said contention but the discriminatory approach adopted by SWCs and CWCs towards hiring warehousing facility available with private traders primarily with a view to indulge in corrupt practices have come to lime light.**(Para- 4.5.4- 4.5.6)**
29. The compulsory licensing of rights and the prevention of the import of varieties incorporating the Genitic Use Restriction Technology, make it obligatory for farmers to depend on companies for seeds, At the same time the right to sell seed by the farmer is restricted i.e. the farmer cannot sell seed in a packaged form labelled with the registered name **[Para- 4.6.2].**
30. The farmers are exempt from registering their seed varieties. The seeds produced by farmers have to conform to standards prescribed for commercial seeds. Due to this reason,

farmers may find it difficult to adhere to the standards required of commercially sold seeds. Hence, the commercial standards prescribed for farmers producing their own seeds needs to be exempted, for purpose of own or local cultivation **[Para- 4.7.4]**

31. The Agriculture Summit 2005- Reforms for Raising Farm Income. This summit has identified several action points along with the concerned Ministry for initiating action under major heads, but the Government failed to initiate appropriate action on the identified important aspects/areas connected with the aspects and elements of promoting competition within agriculture sector **[Para- 4.8.1- 4.8.2].**
32. There is an urgent to restore the Priority Lending Loan Portfolio status to the borrowers from NCDC so as to avoid differential treatment among same or similar category of borrowers. Infusion of corpus fund to NCDC has become the need of the hour for the purpose of ensuring cheaper financial assistance to undertake agricultural marketing, processing etc. related activities **[Para- 4.9.1- 4.9.2]**
33. The subsidy assistance to the extent of 20-25 percent is made available by NCDC only to cooperatives seeking financial assistance (for marketing and storage etc.) from under developed and least developed states only need to be extended to cooperatives seeking financial assistance from cooperatively developed states as well. **[Para – 4.9.3]**
34. The subvention scheme hitherto to made available to Public Sector Banks, Regional Rural Banks and Cooperative Banks need to be extended to the farmers availing financial assistance from money lenders and private banks as well with a view to, inter-alia, minimise and eradicate slowly, the corrupt practices prevalent in the process of extending concession by government. **[Para- 4.10.3]**
35. The RIDF parked with NABARD needs to utilised for the purpose of providing financial assistance to cooperatives through NCDC so as to increase the rural agricultural infrastructural facilities. This will slowly and gradually pave way for eliminating the near monopoly status engaged by FCI, CWC & SWCs towards hiring godowns **[Para- 4.11]**
36. There is an urgent need to bring a central enactment to ban controls on intra and inter state movement of goods. Comprehensive review of this Act with a view to scrap undesirable provisions is needed as being suggested by several quarters. Even when the country has achieved self sufficiency in food stuffs, many of these controls, which have outlived their utility are still continuing. Hence there is a need to withdraw them **[Para- 5.1.1-5.2].**

37. The Committee of State Ministers in charge of Agriculture marketing to promote reforms made so many recommendations. The following recommendations made by the Committee in relation to agricultural marketing needs to be implemented by the government at the earliest possible.

- The system of licensing of traders, commission agents etc. should be replaced by simpler and more progressive system of registration.
- There should be single window unified single registration for traders/ market functionaries across the State to facilitate.
- There should be Unified single registration for main market (Hub) and collection centers (spokes).
- There is a need to have distinction between genuine service provider and black marketers/ hoarders, to encourage investment and better service delivery to the farmers.
- The role of service provider and regulator should be demarcated.
- Member states de-link the provision of compulsory requirement of shop for registration of trades/market functionaries for increasing the competition.
- Market fee/cess can be levied at first transaction only between farmer and trader and in subsequent trading between trader to trader, there should be service charged related to service in the State as well as across the country.
- States should take initiative to remove such physical barriers, if any. **(Para 5.3)**

38. The Quality standards need to be fixed for each and every product under Law. Grading and standardization for all Agri- products is necessary for competing with foreign goods **[Para- 5.5].**

39. An amendment in the definition of Cooperatives under S.2 (C) by adding the word ‘or producer company as defined under the Companies Act, 1956’ can enable the Corporation to provide financial assistance to producers company as well.**[Para- 5.6]**

40. There must be strict punishment provided in this Act to any person who contravenes any provisions of the Act or imports, sells or stocks seeds deemed to be misbranded or not registered **[Para- 5.7].**

41. The Legal Provisions identified for bringing legislative changes **[Para- 5.8.1-5.8.9]** need to be amended/ modified suitably for the purpose of infusing the elements of competitions within Agriculture Sector at the earliest. **Para [5.8].**

42. Though, an earnest attempt has been made, within the time and resource constraint, to study and analyse the laws, rules, orders, regulations, schemes, programmes pertaining to Agricultural Sector with the intention to specifically identify laws, rules etc. which affect, limit, restrict or prohibit the elements of competition, there is an urgent need to study all the said innumerable law, rules and regulations etc. pertaining to agricultural sector so as to get the desired result. It is recommended that the Government shall undertake immediate steps to commission a detailed sub-sectoral study on the subject for the agricultural sector covering all the laws, rules, regulations etc. framed by Central as well as State Government [Conclusion].