Opinion

TUESDAY, OCTOBER 22, 2019

OUT OF CONTROL

BSP leader Mayawati

"Ever since the BJP government was formed in UP, every kind of crime and sensational incidents have been increasing in this big and important state, which has made life miserable for the common man"

How can govt ask Amazon, Walmart for supplier data?

Bad enough to change FDI rules after Walmart paid $16bn for Flipkart, govt now wants data that can benefit their rivals

THE GOVERNMENT'S BLOW-hot-blow-cold policy approach towards global multi-brand e-retailers such as Amazon and Flipkart is perplexing since, apart from the fact that it is supposed to be trying to attract FDI, the same rules don't seem to apply to local e-retailers, many of whom also have foreign investors, even if not at the level of the retailing subsidiary. It doesn't help that these changes—the government insists they are merely clarifications of existing rules—come after global retailers have spent billions of dollars ($16bn in the case of Walmart's Flipkart acquisition) to set up operations here, and have lakhs of employees as well as local suppliers.

Oddly, the government first allowed global players to set up shop in India via what is called the 'marketplace model' even though FDI is not allowed in multi-brand retail. But, after billions of dollars came in to set up millions of square feet of warehouses with world-class logistics, the government changed the rules frequently. In what is the latest change, the industry ministry wants these e-retailers to share details of the top five vendors supplying merchandise on their marketplace, the product categories they supply, their share of overall sales, the kind of support provided by the platform to these sellers (that probably means marketing margins and other commercial arrangements), the share of private labels in overall sales on the platform, where these are sourced from, etc. One could argue that the government is just trying to ensure the rules are being adhered to, but much of this is privileged information, and can quite easily get leaked to the competition. In any case, if the government can prove its rules are being violated, why doesn't it take action? The information has been sought following complaints by retailer associations like CAIT, which have alleged FDI norms are being flouted; they argue that while FDI is not allowed in multi-brand retail, these marketplaces are surreptitiously funding 'deep discounting', which is what is making customer flock to online marketplaces.

Having got the large investment, it would appear the government doesn't want to antagonise local retailers—also a big voter constituency. So, after it looked the other way when FDI came in by the billions using the fiction called the 'marketplace' model, the rules were changed—last December—to ensure that supplies by a vendor on a marketplace were capped at 25% if they had a common FDI parent. The new policy also prohibited e-tailers from exclusive tie-up with suppliers, like a mobile phone manufacturer, for instance. The rules also decreed that marketplaces should not discount prices, only manufacturers or sellers are allowed to do that.

While it is not clear what an appropriate or fair level of discounting is, amazingly, the same rules do not apply to local e-commerce platforms—many of whom also have foreign investment at the parent level—like those of Reliance Retail or Future Group. Also, 'deep discounting' has been permitted in other sectors; while incumbent telcos argued that RJio was indulging in predatory pricing by offering free calls and unbelievably low data-rates, even the Competition Commission of India (CCI) refused to act on this. Indeed, while this was justified by arguing that RJio's market share was too low for it to be indulging in predatory pricing, the same should also apply to online e-retailers who have a market share of 1-2%. Also, since the government view was that consumers were benefitting from low tariffs, the same logic should hold for online shopping. It is true that foreign e-retailers have access to capital, but they are also investing billions of dollars in India, and thereby creating lakhs of jobs and allowing lakhs of MSMEs to find buyers across the country. If the government wants the huge amounts of FDI flowing into the e-commerce space, which it appears it does, it must stop pandering to everywhim of local retailers; local retailers must learn to live with the competition just as steelmakers must stop demanding protection from imported products if the latter are cheaper.

Fighting fake news

Need more tie-ups like Mumbai cyber-cell with a startup

THE MAHARASHTRA CYBER police did well to tie up with a fact-checking app, Logically, to detect fake news and bias ahead of the assembly elections; Logically was monitoring social media platforms like Facebook, WhatsApp, YouTube, and Instagram for violations of the Model Code of Conduct, and reporting these to the Election Commission. It is not clear how many such violations were reported this time around, but during the general elections, going by law minister Ravi Shankar Prasad's reply in Parliament, a total of just 154 instances of fake news were detected by the Election Commission and reported to various platforms; given the kind of misinformation floating around on social media, the number looks quite small, suggesting the government has a long way to go when it comes to detecting and tackling fake news. Indeed, the government itself has been so worried about the proliferation of fake news, a year ago, it even asked all telecom service providers and internet service providers to explore how Instagram, Facebook, WhatsApp, Telegram, etc, could be blocked; the IT secretary had, at that time, even said he expected all platforms to behave in a responsible manner.

IT and telecom minister Prasad, in fact, has been having a running confrontation with social media firms on the need to share information with the government in a lawful manner in case there is such a need. Interestingly, the same point was made in a letter to Facebook chief Mark Zuckerberg by US Attorney General William Barr; the UK secretary of state, the US secretary of Homeland Security, and Australia's home minister were other signatories to Barr's letter.

While that is a larger battle that may not get resolved soon, the government would do well to keep engaging social media firms in finding solutions, and get more firms like Logically on a common platform to help track fake news faster on a 24x7 basis; indeed, some social media firms are doing similar work, and the government should help build on that. Barr's letter, in fact, said that more than 90% of the 18.4 million reports to the US National Centre for Missing & Exploited Children in 2018 were those made by Facebook (based on what it gleaned from people's posts/messages); his letter, as it happens, was warning Facebook that such complaints wouldn't be possible if the social network did end-to-end encryption of messages on it. WhatsApp, similarly, had tied up with factchecker BoomLive for detecting fake news, and even had the Hyderabad police on its app to do the same thing; those in the city could forward messages to the police on, say, a local gang of kidnappers, to get a confirmation. Ideally, nodal officers for all state police should be on the same fact-checking app, as should credible news organisations.

AYUSHmanBharat

Ayush should be covered under Ayushman Bharat, provided there are explicit treatment standards

GIVEN HOW THE government has been a staunch advocate of strengthening alternative medicine under the aegis of the Ayush (*ayurveda*, yoga, *unani*, *siddha*, and homoeopathy) ministry, it is rather odd that these forms of treatment have been kept out of cashless insurance coverage under the Pradhan Mantri Jan Arogya Yojana (PMJAY). While the Ayush ministry, as per a report in *Hindu BusinessLine*, has proposed the inclusion of 19 *ayurveda*, *unani* and *siddha*, eight yoga and six naturopathy treatments under PMJAY, health ministry officials seem to believe that including these under the scheme could lead to fraud, given how it would be difficult to control for leakages in a scenario where it is "difficult to ascertain that hospitalisation is for correct purposes".

While the ailments for which the Ayush ministry is seeking inclusion under PMJAY, including mental illnesses like clinical depression, can be treated or managed with allopathic treatment, bringing Ayush treatment under PMJAY is a key step towards encouraging alternative medicine. Experts say the lack of standardisation in treatment within Ayush disciplines means anybody can open up a centre and bilk the government and patients. The government must pay heed to this. Given how most alternative medicine is proprietary—for instance, the composition of most ayurvedic medicines is based not just on texts, but also on the practitioner's own tweaking of recipes—this will be a difficult proposition. Against such a backdrop, the Ayush ministry working with AIIMS to develop protocols for specific treatments, or using findings of scientific research to bolster evidence of efficacy, will help in the long run. The ministry, meanwhile, needs to focus on compiling treatment templates from the texts and making them available to the National Health Authority to make a stronger case for inclusion.

DISSECTING SLOWDOWN

HIGHER INCOME SEGMENTS ARE DRIVING GROWTH, AND WILL DO SO IN THE FUTURE. THE GOVT MUST PLAN DUTY STRUCTURES ON GOODS/SERVICES ACCORDINGLY

Get wiser about consumption to push growth up

ARINDAM BHATTACHARYA

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Views are personal

THESE DAYS I am often asked, "As a consultant, what is your prognosis of the current situation and expectations of the future?" My answer on the future is simply that in the long term, growth is driven by only two things: right demographics, and productivity improvement. On the former, there is no debate. On the latter, there are open questions. Reform agenda to harness the combination of entrepreneurial energy, new skills and industrial technologies, competitive factor markets, enabling infrastructure, and supportive regulatory regime are critical. The NDA government has continued the reform process, and the recent corporate tax cut is the third radical economic reform after IBC and GST (which, I agree, are still works in progress and needs fine-tuning). The Competitiveness Index recently released by the World Economic Forum placed India at number 68—a fall of 10 ranks from last year, which shows much work still needs to be done.

This article is not about the future, but the present, of what ails the economy. Experts have offered many reasons behind the slowdown, ranging from NBFC credit squeeze, risk averseness of bankers, high deficit (including off-balance-sheet debt) with falling savings rate squeezing out private investments, negative sentiments from overzealousness of tax and enforcement authorities, and stressed balance sheets of infrastructure companies to slowdown in real estate sector from combination of demonetisation, GST, and RERA. And, I am sure others reasons can be added to this list.

All these explanations are right, with different degrees of impact. The government has taken steps to address many of them, the latest being the bold move to cut corporate tax to promote investments. But, as some observers have pointed out, many of these measures are focused on stimulating the supply side, and will need a longer timeline to deliver benefits. We have to stimulate consumption, which contributes to just under 60% of GDP and is the biggest driver of growth in the short-term. This has become a bigger imperative as slowdown in domestic consumption is not being compensated by increased growth in investments and exports. And, given some of the challenges outlined earlier and the unsettled state of the global trading regime, a rapid upturn in these two drivers of growth seems challenging in the short-term.

To develop effective policy options for driving demand, we must first understand what is happening to it. Here, we find an interesting pattern unfolding which can get obscured by media headlines unless we de-average carefully. For example, the headlines have been indicating the dramatic and continued slide in automotive sales and its impact. There is absolutely no doubt that addressing the short-term challenges of India's biggest industry is critical. The government has responded with several steps, like higher depreciation and removing ban on government vehicle purchase, to reverse this slide. Lower interest rates should also help. But, to me, the more interesting 'data' to note are anecdotes which suggest that sales of small-ticket mass consumption products—like glucose biscuits or bicycles—have fallen, and production volumes cut. This suggests that even mass consumer goods that were least impacted during earlier economic slowdowns are hit along with sectors like automotive this time. Surprisingly, at the same time, many higher-end brands across consumer categories continue to show robust growth. For example, in skin-care products, like moisturisers and body lotions, premium brands are growing much faster than mass brands. Similar patterns are observed across product segments ranging from shampoos to mobiles, and even alcoholic beverages. In motorcycles and cars, entry-level brands are de-growing at a faster pace than premium brands.

Clearly, there seems to be differential slowdown of demand across categories, and inside a category. To understand root causes for slowing demand of even small ticket price mass consumption products, we have to de-average the income pyramid and consumption patterns, and understand and separate the historical shift in consumption pattern from the short-term impact of economic slowdown for effective policy interventions.

> **Policy interventions must have differential targets to make them effective, instead having a one-size-fits-all approach**

A decade ago, the discussion on consumption growth in India was all about 'Next Billion' (NB) households, i.e., households emerging from the lowest income segment, and starting their consumption journey. In 2010, the NB households and the next higher income segment (BCG calls them Aspirers) drove 60% of the total consumption, and were growing the fastest. Fast forward ten years, today, this share has fallen to around 40%, and in another decade, will fall further to below 30%. On the other hand, the consumption share of the top two income segments (BCG calls them Affluent and Elite) will have increased from less than 20% to slightly below 50%. So, clearly, the consumption pyramid and growth rates are undergoing a radical long-term transition. Higher income segments are driving growth, and will do so in the future. We have to understand this when we plan the duty structures on goods and services, and label some as luxury and others as mass.

The big question in the short-term is why has mass consumption demand slowed down faster than this shift in consumption pyramid should suggest. Now here, I offer a hypothesis for consideration as I don't have enough robust data to back it up. My logic has three parts. First, while we have seen an average per capita growth of over 6% over the last few years, most of this has gone to the upper income segments of Affluent and Elite; NB and Aspirers have seen slower-than-average income growth. Second, the households in these lower income segments have been hit the hardest from the impact of demonetisation and GST as many of them would be engaged in the informal and SME sectors, which, reports suggest, have been badly affected. Combined with recent NBFC credit squeeze, the consumption of households in these two income segments has slowed down faster than the average. And third, this demand gap has not been compensated by the higher consumption (higher consumption rate *higher priced products) of the Affluent and Elite households. The reasons could be a combination of higher tax rate on 'luxury' goods, subdued 'animal spirits' from stagnation/volatility/erosion in value of real estate and stock markets—the main wealth vehicles—and negative sentiments from overzealousness of tax authorities as well as recent increase in personal income tax.

That brings me to my key conclusion. If we want to pull the consumption growth levers, we need to understand this de-averaged view, both the root causes of the short-term behaviour, and the long-term shifts. We have to design and target policy interventions differentially to make them effective, and not simply go with the more convenient option of a one-size-fits-all strategy. What that could be is something that I leave to the judgement of our policymakers.

Growth outlook calls for rate-cut in Dec

Broadbased slowdown, if Diwali demand remains muted, may shave off 30 bps from BofAML's existing 6.2% GDP growth forecast for FY20. RBI should cut 25 bps in Dec, despite Oct inflation at 4.6%

INDRANIL SEN GUPTA & AASTHA GUDWANI

Sen Gupta is Chief India economist, and Gudwani is India economist, BofA Merrill Lynch. *Views are personal*

OUR UPDATED BOFAML India Activity Indicator continues to point to a broad-based slowdown for another quarter. This likely poses a further 30bps downside risk to our 6.2% FY20 GDP growth forecast. (We will review after getting a sense of the October 27 Diwali demand.)

Growth as per our India Activity Indicator dropped to 3.3% in August from 6.7% in July and 7.2% in April-June (see graphic). All its seven components slowed down from July. With the Diwali festival due earlier on October 27 from November 7 in 2018, activity should logically have picked up. Note our monthly BofAML India Activity

Indicator is a comprehensive high-frequency indicator of seven components to gauge growth momentum of the Indian economy.

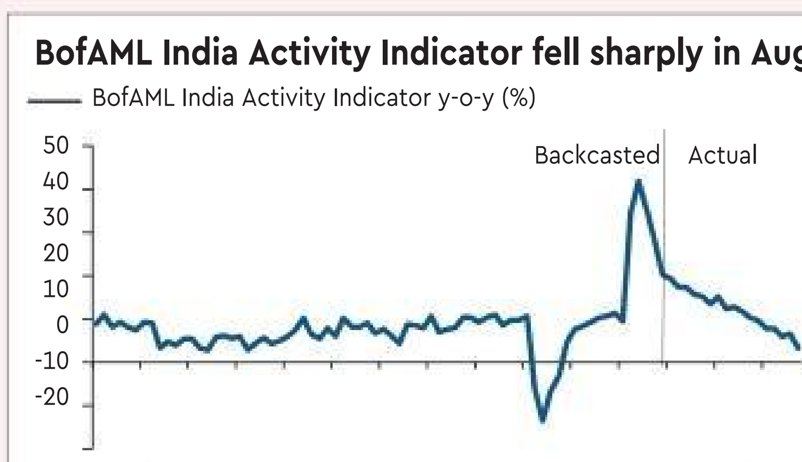
We expect RBI MPC to cut another 25bps on December 5 (see graphic) despite tracking October inflation at a relatively high 4.6% on a temporary onion price hike. As banks link their lending rates on retail/SME loans (~40% of bank book) to external benchmarks, like the RBI repo rate, this should reduce the cost of credit before the October-March 'busy' industrial season intensifies.

RBI stepping up durable liquidity to contain lending rates: We continue to expect the RBI to step up infusion of durable liquidity ($20bn FYTD, $40bn FY20 BofAMLe) to contain lending rates in the 'busy' season. Despite the recent step up in public spend pushing the money market into a substantial temporary surplus; RBI has bought $7+bn of FX recently to ensure adequate durable liquidity. Unless FPI flows revive, we expect it to resume OMO by the winter.

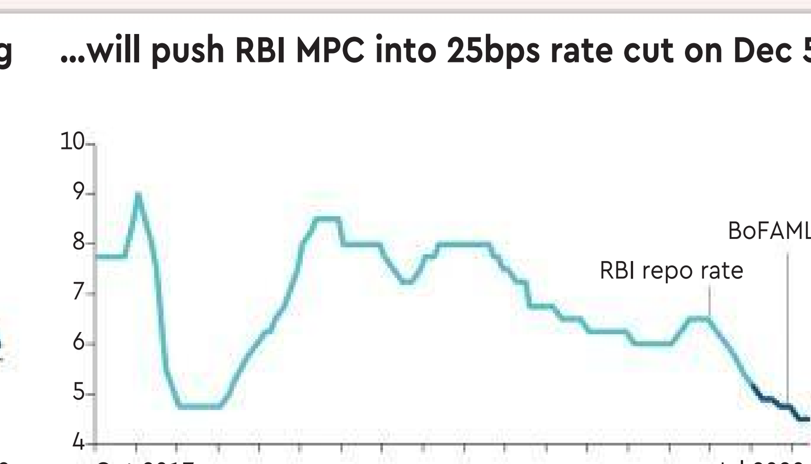
The MoF may cut income tax to stimulate demand if the on-going Diwali festival demand turns out to be really weak. We estimate that the Direct Tax Code's new income tax slabs, as reported in the media, will likely cost about 0.8% of GDP. Given that the corporate tax rate cut has already cost the fisc 0.7% of GDP, the bar for an income tax rate cut remains very high, in our view.

Edited excerpts from BofAML's India Activity Indicator (October 16, 2019)

BofAML India Activity Indicator fell sharply in Aug



...will push RBI MPC into 25bps rate cut on Dec 5



Broad-based slowdown as all constituents fell, auto led the fall

		2018									2019							
Component	Wt	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug
Real cash demand	35.7	29.9	26.6	24.8	22.9	20.8	19.9	18.2	19.7	19.0	18.1	16.6	13.9	11.8	11.4	9.7	9.9	9.7
Real credit	18.8	9.6	9.4	8.9	7.8	9.8	8.2	9.6	10.5	11.4	11.4	11.7	10.4	10.6	10.5	9.7	11.0	9.3
Traffic Index	16.2	8.5	5.8	6.4	8.0	7.7	6.8	8.8	5.1	5.4	4.6	2.5	1.7	-1.3	-1.4	-0.4	-0.4	-3.1
IIP	13.5	4.5	3.8	7.0	6.5	4.8	4.6	8.4	0.2	2.5	1.6	0.2	2.7	3.2	4.5	1.2	4.6	-1.1
Auto Sales	5.5	44.8	35.8	44.9	21.4	19.6	16.0	21.8	9.1	2.5	5.3	5.1	1.9	-2.8	-3.1	-4.3	-13.4	-19.2
Capex	5.5	6.7	19.7	12.3	19.9	25.5	14.1	22.7	7.7	14.9	5.2	-0.6	2.5	5.1	5.8	-5.3	-3.2	-15.1
Construction	4.7	20.7	12.6	13.8	10.7	13.9	11.4	17.5	9.1	10.9	10.5	8.0	15.1	2.7	3.3	-1.0	7.8	-4.2
BofAML India ACT	100.0	19.4	17.4	17.3	15.7	15.2	13.5	15.2	12.3	12.7	11.8	10.3	9.7	7.8	7.9	5.9	6.7	3.3

Source: BofA Merrill Lynch Global Research Estimates

LETTERS TO THE EDITOR

FATF not blacklisting Pakistan

With support lent by its allies, such as China, Turkey, and Malaysia, Pakistan had avoided the ignominy of being placed on the blacklist of the Financial Action Task Force (FATF) that acts against terror financing in the world. While India had been persistently mobilising international support to isolate Pakistan and put pressure on it to dismantle the infrastructure of terror being operated with impunity within its borders, there is no discernible sign yet on the ground to suggest that Pakistan has mended its ways and refrained from promoting cross-border terrorism. Countries like China and Turkey, which support Pakistan for their own strategic reasons, would do well to understand and appreciate the fact that turning a blind eye to acts of terrorism would only endanger the peace and stability of the world.

— M Jeyaram, Sholavandan

Uncertain Brexit

Brexit was perhaps as misconceived as the efforts to give it a practical shape have been. British-Irish history had long been troubling finalisation of a Brexit deal. Despite the Irish political demarcation into The Republic of Ireland, a sovereign nation, and Northern Ireland, a part of the UK, both had managed to keep their bonds strong under the EU's economic umbrella. Brexit would be an anathema to this. To assuage Irish sentiment, the deal provides for a customs check protocol at port on Irish Sea, rather than a hard border within. This could well have been done three years earlier. In voting for a delay to pass the Brexit accord by October 31, 2019, the MPs have yet again chosen pedantics over pragmatism. Brexit stays as uncertain as ever.

— R Narayanan, Mumbai

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There's utter confusion on plastic waste regulation in the country

India intends to move away entirely from single-use plastics by 2022. Prime Minister Narendra Modi even mentioned the goal of making India a plastic-free nation in his speech at the United Nations General Assembly last month. Yet the fact is India hasn't had much success with plastic waste regulation despite ambitious policy moves. Environmentalist Chandra Bhushan tells FE's **Sarthak Ray** *what ails India when it comes to meaningful action on reducing plastic waste. Excerpts:*

What does India's plastic regulation provide for, and where does it fall short?

We have many regulations on plastics. The big one, of course, is the Plastic Waste Management (PWM) Rules, 2016, with specific obligations for every stakeholder in the plastic supply-chain, including the extended producer responsibility (EPR) for producers, importers, brand owners. The Solid Waste Management Rules (SWM Rules), 2016, also have provisions for plastic waste, including EPR. But there is a difference in EPR provisions under SWM Rules and PWM Rules. SWM Rules say that manufacturers/brand-owners shall provide financial assistance to local authorities for establishing waste management systems to fulfil their EPR. PWM Rules, however, don't mention the financial contribution to local authorities. Instead, these direct manufacturers/brand-owners to collect waste through their distribution channel or the local body concerned.

The Biomedical Waste Management Rules, 2016, mandated phase-out of chlorinated plastic bags, gloves and blood bags within two years. This has not happened.

Then there are state regulations banning single-use plastics (SUP). Odisha has defined SUP as polythene carry-bags, bottled water of less than 200ml, disposable cutlery made of thermocol and plastics and decorative materials (flower and the likes) made of thermocol. UP has excluded 200ml plastic water bottles and decorative materials, and included disposable tumblers, in the definition of SUP. Tamil Nadu has defined SUP as "use and throw plastics," which include plastic carry-bags, flags, plastic sheets used for food wrapping and spreading on the dining table, plastic plates, plastic-coated cups, tumblers, water pouches and packets. So, states have a different definitions of what constitutes SUP.

Frankly, there is utter confusion on plastic regulation in the country. It's time we brought synergies in the rules and developed a national definition of SUP.

India has tried to regulate plastic pollution for at least two decades now. And yet nearly every stakeholder seems ill-prepared. Is regulation the problem, or is it industry and consumers who have simply failed to respond?

The problem is with regulations, and with consumer awareness and industry's status-quo approach. Consumer apathy is at the core of the problem. We all talk about plastic pollution, but end up using polythene bags. We crib about dumpsites, but litter ourselves, and waste segregation is still to take off meaningfully. The industry has not been very responsible either. Despite knowing the problem, it has kept waiting for the government to bring regulations. No company in India has shown leadership in dealing with plastic pollution.

We enact regulations, but don't plan for implementation. For example, we don't give enough time to the market or local governments to adapt to new rules. Also, our approach to rule-making is command-and-control or ruling with a stick, to be precise. The experience of the past 20 years should have made it clear that regulations and penalties are not sufficient to eliminate the use of SUP. We need a transformation in the market and the municipal services to achieve this. This will require both stick and carrots.

EPR has been part of Indian regulation for some years. Yet not much seems to have happened here...

Current EPR provisions are designed for failure. For instance, we can mandate and enforce EPR on the formal sector, but they account for only 50% of multilayer plastic use. Small businesses and the informal sector use the remaining 50%. How do you enforce EPR on them?

Also, big companies outsource their EPRs to plastic recycling organisations (PROs), which are supposed to collect plastic wastes on behalf of the companies and send them for recycling. But there is evidence that PROs are involved in double-counting and data-fudging. I don't think the PRO model will be useful in fulfilling EPR obligations.

A fundamental mistake we are doing is by separating plastic waste management from the wider municipal waste management. Proper plastic waste management will only happen if there is good municipal waste management. EPR provisions will have to be designed for this reality.

Shouldn't we be more focused on recycling than bans, given almost 40% of the plastic waste generated in the country remains uncollected?

We will have to do both. Ban those products that are not required or have an alternative, and improve recycling.

Today, all the valuable plastics are recycled in the country. In fact, India has one of the highest rates of plastic recycling. What is not recycled is multilayered plastics (MLPs) or plastics that are too contaminated with other wastes.

To increase recycling, we must improve segregation of waste at source and improve the collection and transportation of segregated wastes. Currently, the unsegregated waste contains a lot of contaminated plastics. If the plastic waste is dirty, smeared with food, it doesn't enter the recycling value-chain as it is not viable to invest effort and resources in cleaning up the plastic to retrieve recycling potential, if any.

Similarly, as MLPs contain several polymers, they can't be recycled. At best, they can be incinerated in cement plants, used as a refuse-derived fuel (RFD), used in road construction or for making down-cycled products. As they fetch a lower price, they are not collected. To deal with MLPs, waste segregation and collection becomes very important. That is why I have kept arguing plastic waste management can't be treated as separate from solid waste management.

The government has banned use of plastic carry-bags below a certain thickness (50 microns). Does this help in any way?

The argument in favour of thicker plastic is it makes plastic carry-bags costlier and discourages use-and-throw culture. Also, a thicker plastic waste fetches a higher price and hence is likely to have a higher recycling rate. But this argument ignores many ground realities. Firstly, recycling rate depends on segregation and collection, and not only price. Secondly, this is not likely to reduce the amount of plastic in the environment. If people completely shift from thin plastic carry-bags to thicker ones, total polymer consumption might increase. So, if the vision is a plastic-free India, then the first step should be "less plastics" and not more. Lastly, this regulation will only work if people had access to affordable alternatives. So, along with banning thin plastic carry-bags, the government should also promote options like textile or paper bags.

How is the lack of alternatives to plastic hindering plastic waste management?

Alternatives don't come about on their own; they require deliberate government action. In countries where alternatives have been developed, fiscal tools have been used to either make plastics very expensive or make alternatives cheaper. We have not used economic tools so far. The private sector will invest in developing and producing the replacement when they know the government is serious about enforcing the ban. A combination of economic and regulatory tools is required to incentivise quick entry of alternatives in a viable manner.

Are there any examples globally of meaningful plastic waste regulation?

Globally, plastic waste regulation is about better segregation, collection, and then disposal. The focus is not so much on the end-of-the-life reuse/recycling. This is the reason why, globally, more than 90% of the plastics are not recycled.

Take the case of Sweden, which is considered to have one of the best plastic waste management systems. Its plastic recycling rate is meagre, as it burns most of its plastic waste to generate electricity.

Other developed countries, like the US, have outsourced plastic pollution. They consume a lot and then ship the waste to developing countries. Earlier, China was their dumpyard, but now, given China and India banned import of plastic waste, these countries are looking towards Africa.

As far as banning SUP is concerned, the discussion has started only a few years ago and few developed areas, like the EU and Canada, have regulations and timelines on the ban. But so has India and a few other developing countries.

Frankly, developed countries are not exactly a guiding light on plastic waste management.

Some existing solutions, such as recycling plastics for road construction, incineration for energy generation, etc, come with their own set of problems. They are widely seen as a polluting bit in the plastics life cycle...

It is essential to understand that a plastic product cannot be recycled forever. As plastics are produced from hydrocarbons, at some point they have to be either incinerated in cement or power plants or used to recover oil or dumped in the landfill or used for producing some long-lasting products. Therefore, the plastic life cycle eventually is "from oil to oil" or "from oil to ash (incineration)." So, we will have to develop state-of-the-art facilities for energy recovery and conversion. There is no way out.

There are obvious environmental benefits of using plastics in road construction. Studies show that the life of the road is enhanced and the maintenance requirement is reduced. But, ultimately, plastic fibres, either as micro-plastics or in some other form, will eventually move out of the road into the environment. We do not yet understand the impact of this and hence must study this issue further.

How can industry course-correct? Packaging and logistics are a big part of the problem (packaging accounts for 43% of plastic manufacture in India).

The announcement by the PM to ban single-use plastics by 2022 has undoubtedly forced the industry to look for alternatives. I've been advising the industry to address this problem from four fronts:

- Design for recycling. Instead of using multiple polymers in packaging like multilayered plastics, they should be shifting to single polymers that will aide recycling. This can be done quickly.
- Reduce the weight of packaging and the need for packaging. There is a vast scope to reduce plastic consumption here. This is again a short- to medium-term goal.
- Start developing, substituting plastic with alternatives. This is something that they need to start working immediately, but this a medium- to long-term goal.
- Start working closely with the local authorities to ensure littering is minimised and the collection of segregated plastics is maximised. This will reduce visible pollution, enhance recycling and end-of-life use.

An agreement to agree

SUBHASHREE R

Advocate, Lakshmikumaran & Sridharan. Views are personal

Bringing uniformity in double taxation avoidance agreements through MLI

INDIA RECENTLY RATIFIED the MLI. Officially termed as the Multilateral Convention on Measures to check Base Erosion and Profit Shifting, MLI is an attempt by nations to bring amendments to the language of the bilateral double taxation avoidance agreements (DTAAs) in a uniform manner. India signed MLI in June 2017 and deposited the instrument of ratification on June 25 this year. The provisions of MLI will impact the provisions of different DTAAs starting from April 2020 onwards.

MLI requires signatory nations to provide for a minimum standard to prevent treaty abuse and improve dispute resolution mechanism. The aim is to ensure entities do not take advantage of differences in the wording of DTAAs resulting in double non-taxation like the case of a global coffee chain in the UK. MLI contains model articles pertaining to permanent establishments (PE), limitation of benefits clause that would limit treaty benefits to only those who qualify as residents of a treaty country rather than shell entities, binding arbitration, and so on. Nations may choose one or more of DTAAs to be a covered tax agreement (CTA), and opt for one or more articles to be incorporated in the existing bilateral treaty. Post ratification, the MLI provisions will have to be read into bilateral treaties. This is hailed as an efficient way to amend treaties without having multiple bilateral negotiations. MLI also seems to provide a better and faster route to bring certainty in interpretation of treaty provisions for both the non-resident taxpayer as regards taxability and for the resident as regards withholding obligations.

India has notified DTAAs with 93 countries as a CTA. But a closer look at the reservations—option by a country not to amend a certain article—suggests India may not have moved forward to counter treaty abuse. Some of India's major trading partners like China, Germany, Switzerland and Mauritius have not notified India agreements as a CTA. Hence, any change to the DTAA will be effected only through bilateral negotiations. Article 30 of MLI provides a leeway to nations to effect other changes to the treaty by bilateral negotiation even if they haven't chosen amending provisions as per MLI.

A debated issue is the avoidance of creation of a PE, generally referred to as an agency PE—it's created if the person who, working on behalf of the foreign entity (FE), can bind the FE. Thus, it was possible for a person to undertake all activities short of contractually binding the FE, and then claim no PE was constituted. India amended the definition of business connection in the domestic legislation (Income-tax Act) to state that if a person has authority to contract or habitually contracts on behalf of another or habitually plays the principal role leading to conclusion of contracts, then it would constitute a business connection and, thus, income attributable to such activity would be taxable in India. Prior to the amendment, these provisions mirrored the provisions of agency PE in DTAAs. The amendment brought the domestic law largely in line with the language in MLI. But in case the treaty partner does not opt for change in language as per MLI, then the language of the domestic law cannot prevail over the treaty. Thus, amendments to the domestic law *per se* may not yield the desired results for India in the absence of corresponding amendment in DTAAs.

Many treaty partners have not adopted Article 14 of MLI (avoidance of tax by splitting up of contracts). Entities can divide the work among various related enterprises such that no activity falls within the time threshold required to constitute an installation PE or a construction PE (in respect of project sites). Another method is to split the activities of installation, erection, supervision, etc, among various entities, so that when seen individually, no PE is constituted. Article 14 tries to address both the situations by providing that if either the activity is split among persons such that the aggregate of such activities exceeds 30 days without breaching the overall threshold (say 6-12 months) prescribed in the treaty or they are performed by closely-related enterprises, then a PE may be constituted. But most treaty partners have not opted for this article, even though India has.

The attempt to bring uniformity in language of the treaties and address tax evasion through MLI is laudable. A model draft with nations opting one or more of the articles is definitely a quicker way to amend the treaty. However, nations will seek to protect their stated positions or negotiated positions, and the certainty sought by business as regards taxation by a country and relief from double taxation may yet be elusive. What MLI achieves is perhaps an agreement to agree.

REGIONAL CAFE: TAMIL NADU

Running out of water, and time

Chennai can no longer depend only on surface and groundwater sources

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CHENNAI'S WATER WOES have faded from news headlines in the last few weeks. Everyday some bit of good news has been trickling in ever since the skies opened up at the end of August after a gap of 400 days. The Southwest monsoon has eased the city's water crisis as it brought a surplus of 30% rainfall in September, the highest since 2014. The two neighbouring states, Andhra Pradesh and Karnataka, have been more than willing to release water from their overflowing rivers, Krishna and Kaveri, to feed Chennai's water reservoirs.

Chennai's water crisis went global when Hollywood star Leonardo DiCaprio tweeted about it in June. The Washington Post and other Western papers and TV channels too gave it prominence with pictures of women waiting to collect water with colourful plastic pots. The crisis caught everybody's imagination.

However, women waiting for water is not a new phenomenon. Even during years when the monsoon doesn't fail and Chennai doesn't run dry, women still have to use pots to take water home from corporation storage containers. Tap water has not been available for slum and tenement dwellers even in the heart of the city. Women have had to climb several floors to take water up to their tiny flats. Men who are usually under an alcoholic stupor cannot wake up early enough to fill containers.

According to 2011 Census, Chennai had a population of 8.24 million. Now it is possibly a little over 10 million. The city does not have a perennial water source. There are four lakes outside the city that are fed mostly by rains from the Northeast monsoon. On June 18, 2019, they all ran dry, leaving the city in severe crisis.

The city's average rainfall is 1,400mm. After the floods of 2015, when Chennai nearly went under water, there were hopes that acute water shortage will not occur for several years. That was not to be. With two successive droughts and no rain for 400 days, Chennai reached its 'day zero' in June when all its four major reservoirs ran dry.

Chennai Metrowater's total water supply for the people is about 830 million litres per day (MLD). The reservoirs supply 65% of the water. Groundwater accounts for 9%, desalinated seawater 16%, and 10% reclaimed wastewater comprises the rest. In June, the total supply got reduced to less than half. Desalinated water, Veeranam Lake and some peripheral sources helped Metrowater supply driblets of water when Chennai was fast drying up.

There have been frenetic rainwater harvesting (RWH) activities to charge fast depleting groundwater. Installation of RWH systems and upgrading existing ones are big businesses now. So is domestic borewell digging. Communities are also attempting to desilt and rejuvenate many small water bodies. Water experts say that these are necessary initiatives to recharge groundwater, but are not the solutions for the city's water crisis.

There have been similar crises many times. By the 1990s, the state government started working on several water augmentation schemes and came up with some solutions in the 2000s. The supply of water from Veeranam Lake in Cuddalore district to Chennai to meet the city's drinking water requirement and the Telugu Ganga scheme to bring Krishna river in Andhra to Chennai were completed in the middle of 2000s. A 100 MLD desalination plant went operational in 2013. RWH was made compulsory for all households.

The authorities rise to the occasion whenever there is a crisis and come up with innovative solutions like bringing water by train, finding water in quarries, and so on. These have been patchy and temporary solutions. This year's crisis has showed that Chennai can no longer depend only on surface water and groundwater sources. To do something more permanent and climate independent, strong political will is required.

Worldwide water use for agriculture is 70%. In India it is 90%. Even in Chennai metropolitan area it is 80%. Households consume only 10%. India is known to be highly inefficient consumer of water for agriculture. Drip irrigation has not been given as much attention as it should have been in the state. Tamil Nadu should get more serious about changing cropping patterns to grow less water-intensive crops. Experts say that farmers should be persuaded to switch over to reclaimed wastewater wherever possible for irrigating non-food crops. The state government has to start giving priority to conserve and preserve water usage for agriculture.

Wastewater treatment has to be given priority. Water-short countries are moving rapidly to recycling wastewater for all uses. K Ashok Vardhan Shetty, IAS, former chairman of Chennai Metrowater, says, "Even if 30% of Chennai's present quantity of wastewater is reclaimed for reuse, an additional 250 MLD of water will be available. Reclaimed wastewater should be mandated for non-potable uses in industries, construction, gardening and landscaping, large apartment blocks, and so on."

Poor water pricing has been a major problem. It has resulted in inefficient use of water, lack of funds for improving infrastructure and investing in new technologies which are now available and are cost-effective. Free and highly subsidised water is no longer viable. Water pricing is a difficult decision for a state that believes in freebies. Shetty says that as water metering in households is near impossible, Metrowater must install metres at various transmission and distribution points to identify precisely where leakages occur.

The city is dependent on the Northeast monsoon, which is a few days away. If it fails again, Chennai will be in dire straits. It's time the government and communities came together with the help of technology to work on long-lasting solutions.