BRIEF
EMPOWERING GROWTH

POLICY BRIEF

CONTAINER FREIGHT STATION

A ROADBLOCK OR A FACILITATOR IN TRADE SUPPLY CHAIN?

Supported by

British
High Commission
New Delhi

DECEMBER 2016

INTRODUCTION

With the consistent surge in international trade volumes, the onus of port efficiency lies on expeditious evacuation of containers from the port area. This is so because Indian ports are not equipped with adequate space and infrastructure to handle the growing volumes. As a result, the ports have started to manage ship movements, and Container Freight Stations (CFS) have been developed near the ports to relieve the ports off storage capacity and clearance procedures. Globally, the concept of a CFS is known as 'Off Dock Container Yard' (CY), which as an extended arm of the port.

A CFS is a place where containers are stuffed, de-stuffed, and segregation of import/ export cargo takes places. All the activities related to Customs clearance of goods for home consumption, warehousing, temporary admissions, re-export, temporary storage for onward transit and outright export and transhipments take place from such stations.

When containerisation gathered initial steam during the mid-80s, the Government of India conceptualised the CFS business model, with the sole intention of ensuring highest possible security inside the port and for de-congesting the port in order to increase efficiency. The ports developed afterwards, such as Nava Sheva, had a dedicated area in the master plan for CFS.

In recent years, many concerns have been raised about the role of CFS in India. These concerns can be categorised into two: a) the concerns of the trade regarding the functioning of CFS and b) the concerns of a CFS regarding the dynamics affecting their operations. This policy brief aims at highlighting both sets of concerns and suggesting measures to overcome the challenges and ensure that both parties effectively contribute to the process of ease of doing business in India.

Exhibit I. What is a CFS?

The Customs Manual (2015) by CBEC, defines CFS as "A common user facility with public authority status equipped with fixed installations and offering services for handling and temporary storage of import/export laden and empty containers carried under Customs transit by any applicable mode of transport placed under Customs control. All the activities related to clearance of goods for home use, warehousing, temporary admissions, re-export, temporary storage for onward transit and outright export, transshipment, take place from such stations."

Setting up a CFS

The setting up of a CFS is subjected to the approval of an Inter-Ministerial Committee (IMC) which consists of officials from Ministries of Commerce, Finance (Dept. of Revenue), Railways and Shipping. If required, the view of the state government is also sought.

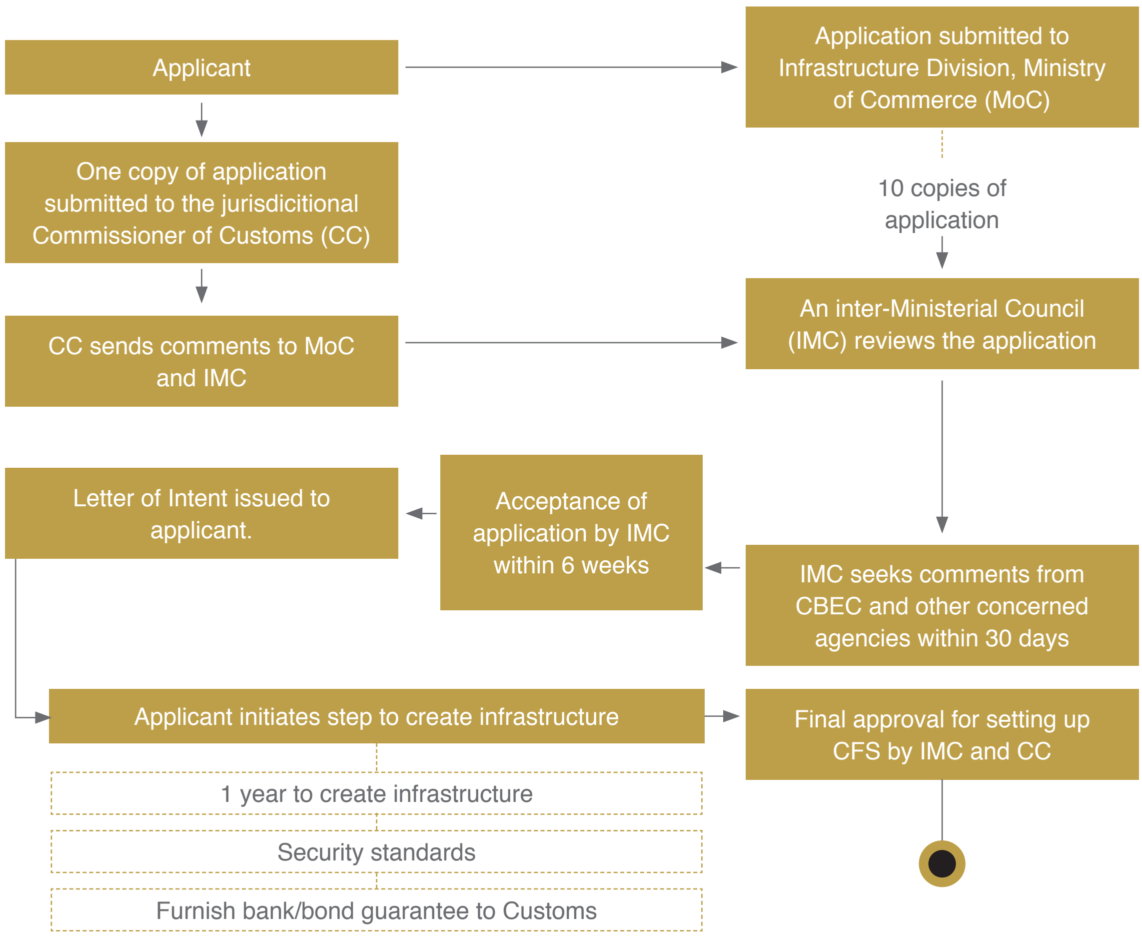
The applicant submits 10 copies of the application form with the requisite documents to the Infrastructure Division at Ministry of Commerce, New Delhi, and one copy with the Jurisdictional Commissioner of Customs. The former submits comments on the application to the IMC within a time period of 30 days. The IMC takes a decision of the application within 6 weeks of submission.

Upon receiving approval, the applicant is required to set up the infrastructure within one year from the date of approval. The Ministry of Commerce may grant an extension of six months after reviewing the justification for delays given by the party. The applicant is also mandated to send quarterly progress reports to the Ministry of Commerce.

After the applicant has put up the required infrastructure, met the security standards of the jurisdictional Commissioner of Customs and provided a bond backed by bank guarantee to the Customs, final clearance and Customs notification is issued.

The approval is subject to cancellation in the event of any violation of the conditions of approval. Further, the working of the CFS is open to review by the IMC.

Figure 1: Process of Setting up a CFS according to Customs Act, 1962



CHALLENGES

Concerns of the Trade

1. **Ambiguities in selection of CFS:**

   Primary research at various ports across the country, including extensive interactions with key stakeholders, frequently highlighted that in a considerable number of instances, an importer/customs broker (CBr)[1] does not, in practice, choose the CFS. It has been reported that the cargo is repeatedly moved to a CFS of the shipping line's choice, rather than that of the importer/CBr. According to Customs Facility Notice 45/2011 and 69/2011[2],

   "All Shipping Lines/Steamer Agents will be required to compulsorily indicate in the IGM against each line, the name/code of the Container Freight Station opted for and intimated by the importers/CHAs for delivery of their imported cargo. For this purpose, the importers/CHAs are advised to intimate the shipping line/agents about their option of the destination CFS, at least 72 hours prior to the arrival of the vessel (entry inward)."

   However, there has been several reported cases wherein if a CBr exercises his choice of CFS, the shipping line demands an undertaking for the responsibility of the container as well as a non-refundable nomination charge of INR 4,000-6,000 per container. As a result, the importer/CHA has to incur additional charges, sometimes amounting to INR 20,000 per container, leading to an increase in transaction cost. This practice is particularly prevalent at ports like Vishakhapatnam, Tuticorin, JNPT and Chennai.

[1] Post 2013, most Custom House Agents (CHAs) have been renamed as Customs Broker (CBr)

[2] F NO.S/I–22(01)/2010 - UNIT-II (Part-IV), Office of Commissioner of Customs, Mumbai Zone- I

2. **Disproportionate charges levied by CFS and shipping lines:**
   It has been observed that a range of arbitrary charges are being levied by the shipping lines and CFS to the trade. For instance, charges such as container cleaning and container maintenance charges[3] are being levied by the shipping lines on the importer/CBr, even when the containers provided to them for exports are often not clean. Further, with respect to the CFS, the customs has made it mandatory for all CFS to display their tariff online. While all CFS have followed this guideline, it was observed that some undeclared tariffs were part of the invoice. For instance, at JNP, ambiguous charges over and above the displayed rates are being levied in the form of additional handling charges above normal handling charges. Also, charges to the tune of INR 14,000 per container are levied for LCL shipment atsome ports, which does not form a part of online declared tariff. Further, at Cochin Port, disproportionate CFS transportation charges are observed wherein the tariff for transportation of a container to a CFS 500 metres away from the port gate is equal to the transportation tariff to a CFS 15 kilometres away, as per the trade. Such pratices result in an increase in transaction costs.

3. **Delay in movement of containers from port to CFS:**
   When a container is offloaded from a vessel, it is stored at the container storage yard at port, where it is allowed three free days storage[4]. At this point, there have been instances of delay in clearance of the containers due to a) regulatory issues – delays in customs clearance of containers from the port, and b) operational issues – delays in the processes of CFS tractor trailers (TT) entering the yard as well as picking up containers. The former issue reportedly pertains to the availability of the customs officer to clear the cargo from the yard, while the latter is attributed to multiple factors such as late movement of the TTs from the CFS, congestion at the port gate, dearth of container handling equipment for loading/ unloading and lack of adequate number of TTs at the authorised CFS. Redressal of this issue is highly sought after by CFS and the Customs at the port in order de-congest of the port as well as by the trade to reduce demurrage.

4. **No provision for 24x7 operations at CFS:**
   At ports like JNPT, Chennai and Tuticorin, it was reported by the trade that there is a need for more CFS operating 24x7. For instance, out of 14 CFSs at VOC Port, only one CFS operated by CONCOR functions 24x7. Similarly, at JNPT, 2 CFSs out of 33 operate 24x7. The issue of a CFS operating 24x7 is three pronged: a) inadequate number of Customs officers to work in shifts, b) unavailability of partner government agencies (PGAs) round the clock and difficulties in obtaining reports from them, c) inadequacy of manpower and machinery at CFS to employ in the night shift. While on one hand, the trade emhasises on the need for 24x7 CFS, on the other hand, certain CFSs have expressed that additional shifts often have not seen adequate flow of cargo, thereby creating doubts over the deployment of necessary resources for ensuring 24X7 operability. In a country where most cargo is Risk Management System (RMS) facilitated, there is a requirement for more number of CFSs to operate 24x7 to ensure same day clearance of containers, wherein the trade can avail such services in a planned manner.

Exhibit II. Cartels between shipping lines and CFSs

A grievance which has been frequently shared by the trade across the country has been the perceived shipping line-CFS nexus, which affects the selection process of CFSs by the importers/CHAs and also the transaction costs. The trade has regularly reported that in spite of a Public Notice – by the customs - in place, entailing the CFSs to move their cargo to the CFSs of their choice, there are instances wherein the cargo is moved to the CFS as per the choice of the shipping lines, including cases they have to be moved to CFS empaneled with the shipping lines. Further, a range of ambiguous and unaccounted for charges – i.e. not represented in tariffs posted in websites - are reportedly levied by the CFSs and the shipping lines, sufficiently increasing cost pressure, as reported by the trade.

[3] As per few invoices obtained during primary study

[4] The container is allowed to stay at the yard for three days without incurring any demurrage (land rent)

5. **Limitations in payment timings:**
   It has often been reported that many CFS across the country are not accepting payments after 8.00 p.m., despite a Customs Notice insisting on 24x7 acceptance of payments. For instance, at JNP, as a part of the Ease of Doing Business measure, the Commissioner of Customs insisted on 24x7 payment at CFS [read PN No. 25/2016]. There are a number of factors that result in delayed payments by the importers/CBr such as late receipt of delivery order from shipping lines or late out of charge from customs officials. As a result, it is essential that the payment gateway be open 24x7 for accepting payments and thereby facilitating faster cargo release.

6. **Prevalence of paper based Delivery Order:**
   It has continually been stated by multiple stakeholders that the usage of paper based Delivery Order complicates the clearance processes, and leads to inflated transaction costs and unwarranted delays. As a prevalent practice, the importers/CBr are allowed the pickup of import containers post the payment of freight and D.O. charges to the shipping lines, and the subsequent generation of the Delivery Order. The importer/customs broker, after paying the D.O. charges, needs to collect a hard copy of the D.O. from the shipping line and carry it to the office of the custodian. The generation of D.O. electronically can relieve the importer/customs broker from visiting the offices of the shipping line and the custodian, reduce procedural complexities and help reduce transaction costs. According to the trade, the widespread implementation of the same has seen considerable delays.

Concerns of the CFS Operators

1. **Re-evaluation of bank guarantee (BG) calculation:**
   Vide Regulation 5 (3) and 5(4) of Handling of Cargo in Customs Area Regulation, 2009, the custodian of cargo has to deposit a bond and bank guarantee to the Customs. The value of these guarantees are to be calculated on the average duty and FOB value per TEU on average number of import and export TEUs handled 'during a period of thirty days'. However, it has been reported that in practice, the value of bond and bank guarantee is being calculated on the total number of TEUs (EXIM) handled in the financial year rather than the authorised limit of thirty days. This leads to considerable increase the amount of BG to be submitted. It has been reported that there have been instances where the difference between the currently practiced BG calculations against the actual calculation criteria has been as much as 82 per cent. This has resulted in blocking of capital for the trade, which further translates to increased transaction costs.

2. **Paucity of space at CFS due to abandoned cargo:**
   Many CFS operators have complained about the lack of space at the CFS due to uncleared or abandoned cargo. Despite a provision for the same in the Regulation 6(m) of the Handling of Cargo in Customs Area Regulation, 2009, which calls upon the CFS to 'dispose off in the manner specified and within a time limit of ninety days, the imported or export goods lying unclaimed, uncleared or abandoned', the cargo continues to lie undisposed for longer durations. According to Section 48 of the Customs Act 1962, for the procedure of auction of such cargo, the maximum number of auction/tenders to which a lot is subjected to should be four, with goods to be necessarily sold for the highest bid in the last auction/tender regardless of the 'reserved price' fixed by the customs. However, in practice, there have been instances wherein containers have been put for auction 8 to 9 times. This is counterproductive and leads to the cargo being stored at the CFS for years. It has led to under-utilization of space and additional costs for the CFS.

3. **Unclear guidelines for preservation of CFS data:**
   There is an absence of any clear guidelines by the customs on storage of old data and documents. As a result, CFS operators are necessarily required to preserve hard copies of all such old documents for indefinite periods. Further, no guidelines are in place for digitisation of the existing data.

SUGGESTIONS

1. **Encouraging Direct Port Delivery (DPD):**
   India is one the few countries where a CFS has been set up to act as an extended arm of the port. Most of the other countries rely on direct port delivery (DPD) from the port to the importer's warehouse. This eliminates the need for a CFS in the vicinity of the port, and reduces the transaction time and cost for trade. In recent times, the Customs in India has laid emphasis on DPD, wherein the containers will directly be delivered to the consignees instead of waiting in a CFS for clearance. This process is currently being encouraged for the Authorised Economic Operators (AEO). With DPD, the trade can be relieved of the delays faced and various expenses incurred. According to a report generated by a working group constituted by The Central Board of Excise & Customs (CBEC), Department of Revenue, Ministry of Finance in January 2016[5], the indirect routing of containers via CFSs can lead to expenditures to the tune of USD 200 per TEU[6], including direct costs (CFS charges) and associated indirect costs of delays. The report also highlighted that the additional costs of transportation, handling and storage at CFSs does not add any value to the international supply chain. It emphasised that the prospect of DPD should be emboldened by launching "Make in India Green Channel" to gradually cover the top 1,500 importers of the country. Starting with the top 500 importers primarily focussed on large manufacturers, the report suggested that gradually other categories can be introduced, taking the list of eligible importers to cover approximately 70 percent of cargo. Further, to provide fillip to the 'Ease of Doing Business' initiative, the Prime Minister's Office (PMO) has also directed the Ministry of Shipping to increase the share of DPD consignments to 40 percent by the end of 2016. Given these developments, it is suggested that the share of DPD be brought up on a priority basis to facilitate the developmental goals of the country.

[5]Increasing Direct Port Delivery: Report of a Working group on increasing the levels of Direct Port Delivery for Faster Clearances and reduced Release times, Central Board of Excise & Customs, 07/01/2016

[6]INR 13,370, taking 1 USD = INR 66.85 (as on 07/01/2016, the release date of the policy brief)

2. **Reducing the role of Customs inside port to tackle the delay in movement of containers to CFS:**
In order to expedite the movement of containers from the storage yard to CFS, a three pronged reform is suggested: (a) regulatory - the CFS operator could take over the role of seal checking at the storage yard prior to the movement of containers. Through this, the onus of movement of containers will only be on one agency, whereas port can play the role of providing gate clearance. The role of customs could be limited to providing clearance inside the CFS for non-DPD containers; (b) operational – it is suggested that the port authorities identify the issue of delay in movement of TTs to the storage yard and take adequate steps for its redressal; (c) performance monitoring – there may be penalties on the CFS for late movement of TTs from the CFS to the port gate to reduce delays on that front.

3. **Monitoring of charges levied by shipping line and CFS:**
The Directorate General of Shipping, Ministry of Shipping, issued a circular[7] on 7th September 2016, advising to bring transparency in transaction cost in EXIM trade. The circular listed 25 charges (given in Exhibit III) that should not be levied – as a good/best practice - by shipping lines/carriers/agents such as terminal handling charges, winter season surcharges, survey charges, cost recovery charges, and late DO charges among others. However, there is a need for a permanent regulatory authority to monitor the implementation and compliance of the same.

4. **Need for generation of electronic Delivery Order:**
As an important measure to aid trade facilitation, the generation of electronic D.O. needs to be further focussed on to ensure faster cargo clearance, increased transparency, enhanced security, reduced delays and diminished transaction costs. The key aspects associated with the implementation of the same would include

Exhibit III. Charges Listed in DGS Circular No. 1 of 2016, F.NO.MTO-2(1)/2015, Directorate General of Shipping

1. Winter season surcharges
2. Survey charges
3. Lo Lo charges
4. Cost recovery charges
5. Vessel traffic charges
6. Container monitoring charges
7. Detention invoice release charges
8. Late DO charges
9. CFS receiving charges
10. Supply chain security fee
11. CBL pass through charges
12. Warehouse special charges
13. Transporters union charges
14. Urgent examination expenses
15. ENS charges
16. Late DO release charges
17. BL print charges at destination
18. DO revalidation charges
19. Import General Manifest (IGM) charges
20. Empty return at different port charges
21. Empty yard offloading charges
22. Destuffed delivery charges
23. Inland Hauling Charges (IHC)
24. Terminal Handling Charges (THC)
25. Change of Destination (COD) charges

[7]DGS Circular No. 1 of 2016, F.NO.MTO-2(1)/2015, Directorate General of Shipping

a) the adoption of electronic invoicing systems for all charges as well as e-payment facilities by the shipping lines, b) the implementation of systems for generation of electronic D.O. in required format by the shipping lines, c) electronic messaging systems by the custodian for the receipt of electronic D. O., d) ensuring secured payment of charges as well as delivery and receipt of D.O. The widespread implementation of this set up promises to sufficiently streamline trade processes.

5. **Need for a regulatory body for shipping lines:**
   It is recommended that a regulatory authority for shipping lines, consisting of representatives from the Ministry of Shipping, Ministry of Commerce and the associated trade bodies be instated to govern and monitor key aspects related to operational aspects of shipping lines and also ensure redressal of issues on a regular basis.

6. **Coordination on time window between importers/customs brokers and customs officials for clearance:**
   Given the paucity in the number of customs officials at CFS and the arbitrariness of clearance time, it is important that a certain time window is set for clearance of a particular bill of entry such that in that given time frame both the importer/customs broker and the customs official is present. Having both parties present as per predefined timelines would ensure well-managed and effective clearance of cargo, thereby reducing dwell time at CFS.

7. **Governance on CFSs – performance analysis and monitoring of charges levied:**
   There needs to be consistent analysis of performance metrics of CFSs and constant monitoring of operational aspects to bring down procedural delays. Further, stringent measures need to be taken in case a CFS does not comply with the displayed tariff while charging the trade for services rendered. This may include either levy of penalty or cancellation of licence, not many cases of which have been observed till date.

8. **Online payment window to be operational 24x7:**
   For ease of doing business, speedy clearance of cargo is of utmost importance. To ensure the same, it is necessary that the online payment window be in operation 24x7 such that cargo can be cleared at a faster pace from the CFS.

9. **Faster clearance of abandoned cargo:**
   It is pertinent that abandoned cargo be cleared from the CFS in the fourth auction even if it does not fetch the reserve price. This is important for optimum utilisation of space at the CFS. Further, it is suggested that if the customs fails to clear the cargo within the specified timelines, then the agency should be liable to pay ground rent for such cargo to the CFS.

10. **Provision for exemption from BG if CFS is compliant for more than 5 years:**
   Increase in bank and bond guarantee translates to increase in transaction cost for the trade. It is important that costs are kept to a minimum so as not to put pressure on the CFS and subsequently the trade. Further, it is also suggested that BG be waived off for CFS operators compliant for 5 years consecutively. Such incentives are important for the process of ease of doing business.

11. **Digitisation of existing and archived CFS data and specification of documents to be stored:**
   Digitisation of data is an important part of ease of doing business. It substantially reduces transaction time in trade. As no norms exist on the method of archiving the data stored with the CFS, it becomes difficult to retrieve copies of the documents when required at a later stage. The CFS should digitalise all the existing data to ease the process of data retrieval. It is also suggested that the customs gives out a list of the documents to be stored based on importance. Requisite information management systems must also be available with the customs brokers to bring in increased efficiency.

12. **Focus on technology oriented work and capacity building:**
   In the present global scenario, ease of doing business translates to the speed of doing business. Technology driven ports and equipped manpower can facilitate the necessary growth in trade perceived by the government. For this, it is imperative that regular workshops on capacity building are conducted for stakeholders such as trade, port authorities and customs. For instance, if an integrated software is developed for the port, CFS and customs, much faster clearances could be provided. Over the years, major developments in the area of information management and integration, such as SWIFT, VGM, etc. have come to the foray. These developments have been major in the context of trade facilitation, and

As India embarks on a renewed journey towards the overall improvement of its trade environment, port-led development would continue to be the fulcrum around which much of the strategic deliberations would expectedly revolve. Further, the cargo handling capacity of ports – a key factor determining trade volumes - would be determined to a considerable extent by the logistics supply chain they operate in. The mosaic is consistently changing, with increased focus on dwell time reduction, decongestion, direct port delivery and the likes. At this point in time, Container Freight Stations (CFS) continue form a major infrastructural component in the logistics framework, mandated to aid decongestion of ports and enhancement of handling capacity at the terminals. This policy brief has been aimed at highlighting key processes and concerns – of the trade as well as the operators – with respect to the functioning of CFSs, with focus on related areas such as information management, DPD, etc. Subsequently, an effort has been made towards summarising possible remedial measures in the form of suggestions. It is expected that deliberations on the areas discussed, and constant efforts by all stakeholders would sufficiently bolster the domestic supply chain, ensure streamlined procedural improvements and thereby add value to the international supply chain India forms a part of in the times to come.

Bureau of Research on Industry and Economic Fundamentals (BRIEF) is an economic research organisation with focus on diagnostic studies, policy research, program implementation, and assessment of various schemes in the socio-economic domain. Our past engagements have spanned across areas such as international trade, infrastructure and policy analysis with special emphasis on India and other developing countries. BRIEF functions as a research partner to various academia and research institutions in carrying extensive research on contemporary issues.

Bureau of Research on Industry and Economic Fundamentals (BRIEF),
B-59, South Extension Part II, New Delhi-110049, India
+91-11-41066328; info@briefindia.com
www.briefindia.com