

The Business

Chief Editor

Irfan Athar Qazi

E-mail: editorthebusiness@yahoo.com

thebusinesslhr@gmail.com

Tijarat House, 14-Davis Road, Lahore
0423-6312280, 6312480, 6312429, 6312462
Cell # 0321-4598258 Fax: 042-36362767

1270-B, Peoples Colony No I, Off: Chenone
Road, Faisalabad, Ph: 041-8555582
Cell: 0307-6000375, 0321-4598258

ISLAMABAD / RAWALPINDI

N-125 Circular Road, Ph: 051-5551654,
5532761, Cell # 0300-8567331

KARACHI

3rd Floor Kehkashan Mall 172-I Block II PECHS
Opp Rehmania Masjid Main Tariq Road
Ph: 021-34524550, Cell # 0300-8251534



Why exports are on the decline?

According to a report, Pakistan exports were declined by 24 percent in July compared to the month before — 2.219 billion dollar against 2.918 billion dollar — while imports declined by 46 percent during the two months — from 4.96 billion dollar to 2.642 billion dollar. It has been learnt that the State Bank of Pakistan (SBP) has taken appropriate measures to tighten the process of approval of letters of credit for spare parts, capital goods and remittance outflows that together with the decline in the international prices of oil and products as well as cooking oil has reduced the country's import bill. An observation, however, is in order. Exports in July 2022 were 2.219 billion dollar while the comparable figure for July 2021 was 2.34 billion dollar or a decline of 5.1 percent while imports registered at 4.861 billion dollar in July 2022 against 5.575 billion dollar in July 2021 or a decline of 12.8 percent. In rupee terms, however, exports increased from 373,412 million rupees in July 2021 to 489,624 million rupees in July 2022 or a rise in exports of 31.12 percent while imports rose from 889,782 million rupees in July 2021 to 1,072,493 million rupees in July 2022, which is a rise of 20.53 percent.

While the trade deficit improved by 12.88 percent in rupees terms — from negative 516,370 million rupees in July 2021 to negative 582,869 million rupees in July 2022. The difference lies in the unprecedented rupee depreciation witnessed in July 2022 with the State Bank of Pakistan's (SBP's) weighted average customer exchange rate estimated at 159.6 rupees to the dollar in July 2021 against 220.63 rupees to the dollar in July 2022. Evidence, however, suggests that not only a decline in the international commodity prices, which impact majorly on both exports and imports of Pakistan, but also some measures taken by the SBP have contained imports and therefore the trade deficit has shrunk.

Today the policy rate is 15 percent, against 13.25 percent in 2019 and the real effective exchange rate was as low as 90.97 in June 2019, rose to 93 in June 2020, 99.7 in June 2021 and by May 2022 provisional estimates (the SBP has not yet uploaded data for June and July 2022) it had again plummeted to 93.56. In other words, data indicates that the rupee remains undervalued though in Pakistan the linkage between an undervalued rupee and higher exports has never been conclusively established. It is, however, important to note that there is one massive advantage available to the economic team today in terms of a steady rise in remittance inflows in spite of studies that had cautioned countries with large emigrant workforce that remittances would decline over time. It is hoped that the government would proactively target limiting its annual reliance on external borrowing to pay off past liabilities.

Is there a way out of the mess Pakistan is in?

AIR MARSHAL M. ASHFAQUE ARAIN

Pakistan today is in a situation never witnessed before during the last 75 years. Pakistani rupee is depreciating at an unprecedented rate. The depreciation witnessed just in the last three and a half months exceeds highest depreciation in any decade of the country's existence.

Increase in petroleum and gas prices has led to increase in electricity rates. These factors are leading to rise in commodity prices pushing inflation above 37%. Food items and medicines are going beyond the common man's reach, making their life unsustainable. According to a debate in the National Assembly, Pakistan's foreign debt stands at USD 126 billion. While the economy requires urgent financial assistance, the IMF Board is in recess and not likely to meet for the next three weeks. Without an immediate lifeline, continued depreciation of Pak rupee will increase inflation and the economy will continue to hemorrhage.

The situation is so dire that calls are being made to the US Deputy Secretary of State requesting the US' help in early release of the IMF package. While such unprecedented moves show our desperation, they also indicate the incumbent government's inability to negotiate with international bodies and foreign governments. In another desperate effort to bring in some foreign exchange, the government has decided to sell some of the national assets under an ordinance. However, when the market value of national assets is below the book value, it will prove to be a wrong decision in the long run. Additionally, such desperation will also help foreign forces in exploiting the situation to their advantage.

As if the economic chaos was not enough, many parts of the country, especially Balochistan, Karachi, some parts of Sindh and Punjab have been devastated by floods. In addition to loss of precious life, properties have been destroyed. The floods will also impact agricultural productivity in the coming season. Untimely rains have impacted maize sowing, which will affect overall production. While

people are suffering, the government announced PKR 1.2 billion for the 75th independence day celebrations, though not sufficient, this money could have been utilised to help people distressed by the floods. As a result of higher energy prices, frequent power shutdowns and continuous depreciation of the rupee resulting in higher prices of raw materials, industries are unable to operate as well as are becoming uncompetitive in the international market. Because of the recently announced ban on imports, Pakistan's two major automobile producing units have announced reducing their production by 50%. With the shutting down of industrial units, dwindling exports will further add to the country's economic woes and widen the gap between import and export bills. Shutting down of the industry and sluggishness in the construction business will also add to unemployment and may create law and order situation. Actions by the government suggest that they neither have a roadmap for economic recovery nor political stability.

On the diplomatic front, Pakistan now stands isolated. During the last three and a half months, no head of the state/government has visited Pakistan, nor have there been any fruitful foreign visits by Pakistani leadership. High-level visits to the US in recent weeks also suggest lack of coordination.

Talks with the IMF have lingered for too long and the final decision is yet not in sight. This uncertainty is leading to speculations and the stock exchange is in freefall while the investors have no trust in the system. Continued currency devaluation-led economic uncertainty and lack of government focus and fake / unverified information floating around on the social media, is resulting in hoarding of commodities and exorbitant prices. With such negative developments, the political parties are fighting a war for their survival and have forgotten about the plight of the people they represent or the direction in which the country is heading.

Federal and provincial governments as well as major political parties are nowhere to be seen in the flood affected areas. The government, instead of focusing on governance, has been working to secure

its interests by hastily amending laws and resorting to political engineering to ensure its survival. In addition to mudslinging and using social media platforms to propagate disinformation against opponents, some political parties are also leaving no stone unturned to malign national institutions. While there have been institutional failures, the political parties are endeavouring to exploit the situation to their benefit by pressurising institutions, such as the judiciary.

While Pakistan remains hostage to internal problems, India has made some very swift moves in the economic and military domains. The US has given it waiver from Countering America's Adversaries Through Sanctions Act (CAATSA) and India can now purchase S-400 missile defence system from Russia without fear of sanctions. India is also importing crude oil from Russia at reduced rates. Taking advantage of the situation, India has also initiated negotiations with the Taliban government in Afghanistan. All these steps are detrimental to Pakistan's interests. If the situation continues like this, it will be too difficult to come out of the economic mess as well as political polarisation. Combined effect of these two failures could lead to anarchy, something unacceptable in a nuclear state. In the national interest, political leadership needs to show statesmanship and wisdom and let go their egos. They need to sit together and negotiate a way forward in the national interest, foregoing their party or personal interests. All institutions, of any consequence, must adhere to their defined roles and discharge their responsibilities to the best of their abilities with fairness and without succumbing to any pressures. If need be, they must give up their past practices if those have proven prejudicial to national interest. Mainstream media and social media must be held accountable for propagating fake news, spread of propaganda and misinformation.

—Air Marshal M Ashfaque Arain (Retd) is Advisor to Chief of the Air Staff on CASS Affairs and is also Director of the Emerging Technologies programme at the Centre for Aerospace

Structured discretion, unstructured courts

ALI UZAIR BHANDARI

The principle that "discretion must be structured" is a maxim often repeated by our Supreme Court. But that maxim appears not to apply to the chief justice of Pakistan.

There has been a lot of debate in recent times regarding the judicial appointment process in Pakistan, and in particular appointments to the Supreme Court. This is a process which, to date and despite efforts, revolves almost exclusively around the discretion of the CJP.

Prior to the passage of the 18th Amendment in 2010, the process of appointments to the Supreme Court was simple. The CJP would make recommendations for appointments to the president which recommendations, as per the 1996 Judges' case, were ordinarily binding on the president. The rationale for vesting such discretion in the CJP (as per the 2002 Judges case) was that "being the paterfamilias of the judiciary", the CJP was "the best judge to ascertain and gauge the fitness and suitability of the judges working in the high court for appointment as judges of the Supreme Court."

There are over a hundred high court judges across Pakistan. It is highly unlikely that all of them were personally known to every CJP. Giving the chief justice complete discretion thus all but ensured arbitrary appointments based on favouritism and personal prejudices. Indeed, the fact that absolute authority throughout the entire appointment process lay with just one person should have been reason enough for the entire process to be revised. The 18th Amendment tried to make the appointment process less ar-

bitrary by adding Article 175-A to the constitution. As later modified by the 19th Amendment, a detailed procedure for appointment of judges to the superior courts was laid down which started with a Judicial Commission, headed by the CJP and comprising senior judges, the attorney general and the law minister. The names approved by a majority of the Commission were to be referred to a Parliamentary Committee, comprising opposition and treasury members in equal numbers. The Parliamentary Committee was to then confirm or reject the nominations of the Judicial Commission, forwarding the confirmed names to the prime minister, and subsequently the president, for appointment. This way, the power to appoint judges was to be taken away from just one person and instead vested across multiple individuals and institutions. That promised day, however, never arrived. Instead, even the new process was structured so as to maximize the powers of the CJP. This was done primarily through the Judicial Commission of Pakistan Rules, 2010 which provided that only the CJP could nominate individuals. At the same time, the Rules made no mention as to how these nominations were to be made and on the basis of what criteria.

More importantly, the Parliamentary Committee was rendered redundant by the Supreme Court. This was done in the Munir Bhatti case, which held that the Parliamentary Committee could not set aside the Judicial Commission's findings as to the competence of a nominee and that the decisions of the Parliamentary Committee were justiciable, meaning that they could be challenged in, and set aside by, a court. Finally, while answering a presidential reference in 2013 regarding the scope

of the president's powers under Article 175-A, the Supreme Court reiterated its view in the 2002 Judges' case by holding that the prime minister and the president were bound by the recommendations made to them and by holding the CJP to be "the best person to practically/technically evaluate a person's caliber to be nominated as a judge". The net result of these developments has been that everyone except for the Judicial Commission has been made nearly irrelevant in the entire process and even the Judicial Commission can only consider names approved by the CJP. How the CJP is to decide those names has been left entirely to the CJP's discretion.

Transparency and 'structuring of discretion' are principles that we have learnt from the Supreme Court itself. These are principles the Supreme Court requires all other institutions to respect. Why should not these principles apply to the Supreme Court itself? And if so, how?

One alternative suggested by many is to make appointments to the Supreme Court purely based on seniority, at least till such time that no concrete reforms are put in place. I disagree.

There is no such requirement in the Constitution except in relation to the appointment of the CJP himself. Consequently all other appointments are not required to be made on the basis of seniority. Furthermore, high court judges are not the only ones eligible for appointment to the Supreme Court: our constitution provides that lawyers can be elevated directly from the bar. Another suggestion is for each member of the JCP to suggest names. This is a proposition I agree with. Each member of the JCP could nominate one person

per vacancy, and only those individuals nominated by at least two members of the JCP would then be considered by the JCP. This solves half the problem in that it takes away the exclusive discretion of the CJP. The other half of the problem — the basis on which the initial names are to be shortlisted — remains.

Several suggestions have been made in this regard and include a quota-based system proposed in a white-paper submitted to the JCP. This system suggests a percentage of slots reserved for women and minorities and nominations based on number of reported judgments, and quality of reported judgments. While I think the above proposal has merit, there are other factors which need to be considered. For example, one aspect which requires consideration is the type of judge required on the bench. Disputes before the Supreme Court range from criminal matters to civil disputes, from constitutional issues to purely commercial disputes. However, not all judges of the Supreme Court are equally experienced in all matters. Thus, while considering nominations, the JCP should also take into account the particular expertise required. I am a very junior member of the bar and, as per tradition, am supposed to be seen but not heard. However, I write this because I have been so very disappointed by the events of the past few weeks and the stalemate amongst members of the Judicial Commission. The Supreme Court currently has over 50,000 pending cases. Within the next few weeks, the Supreme Court will have five vacancies out of 17 seats, nearly one-third of its total capacity. There are no signs of an emerging consensus that will allow these seats to be filled. But this is a stalemate our justice system can ill-afford.

Greed and reality

GEORGE OCHENSKI

It wasn't long ago that economists in our capitalist system were absolutely giddy over what they dubbed 'globalization.' In this reality-denying construct, nations all over the planet would work together, each producing commodities using available resources, and we'd all be happily living in a Golden Age of peace and prosperity for all. 'A rising tide would lift all boats' we were told.

But now globalization has run headlong into the grim realities of war, resource depletion, and a planet on fire. Toss in wars, international sanctions, the pandemic, and globalization, for what it was ever worth, is deadlier than a doornail. Looked at objectively, one can credibly wonder how these economists and politicians ever expected humanity to suddenly 'just get along.' What, they didn't foresee Russia attempting to continue its excursion into Ukraine? What have nations ever done except to invade and plunder resource-rich countries for themselves? Or how about the latest Congressional political theater that now sees hundreds of billions of dollars being shoveled out to subsidize the already fabulously wealthy moguls of Silicone Valley so we can 'compete with China' on semiconductor production? In fact, the whole concept that we must now posit China as an opponent on the world stage is farcical. If China wanted to cripple the US it could do so without firing a shot in less than a month. First, it could call in the incredible debt our government has racked up by borrowing from our 'competitor.' But if China really wanted to bring this nation to its knees, they'd do what Russia did with its natural gas shipments to Europe — they'd shut down Chinese exports to the US.

It's almost laughable to think about that. The real challenge these days is trying to find something that isn't 'Made in China'. Following the very bad advice from globalization advocates, the US happily gave up domestic production because, as the economists will tell you, the price was right. Cheaper labor and fewer regulations of all sorts produced commodities so cheap the profit margins were simply irresistible to the 'investment class'. When the global pandemic trashed those much-lauded 'supply chains' it didn't take a genius to foresee the result. But Wall Street's 'Masters of the Universe' ignored the foibles because of the enormous profits flowing into their bank accounts and CEO salaries. Suddenly, the few domestic manufacturing industries still operating couldn't get the parts they needed — like semiconductors — to produce their goods. As usual, our feckless politicians refuse to acknowledge any fault whatsoever. Instead they point accusing fingers at China as if the Chinese were immune from the pandemic's social and economic disruptions. With our politicians, it's always 'someone else's fault' — especially the former guy.

Excerpted: 'Globalization, Greed and Reality'