

## The Curse of SROs

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The Public Accounts Committee (PAC) (and especially its Chairman Nadeem Afzal Chan and its member Zahid Hamid) deserves to be applauded for taking up the issue of the notorious instrument called the SRO (Statutory Regulatory Order) and for articulating the need to end the practice of the executive issuing SROs, which make a complete mockery of the tax structure approved by parliament through the Finance Bill tabled with the budgetary proposals for the year.

Seemingly unbeknown to parliament and the public at large the government of the day can, through this opaque, notorious SRO, grant favours to friends, political cronies and powerful specific groups/lobbies of inefficient producers through concessions in income tax, customs duties and GST. The FBR's notifications through these SROs nullify the provisions of the Finance Bill approved by parliament, which under our Constitution is the ultimate repository of such powers. It is indeed revealing that the additional cost of such tax waivers and exemptions granted each year is in excess of Rs.150 billion (the total cost to the tax base during the tenure of this government being more than Rs.660 billion), and then we lament that our tax to GDP ratio is amongst the lowest in the world!

For illustration take the case of customs duties. We find that as against the effectively traded 5,000 tariff lines there are SROs covering 84% of them- impacting 45% of imports, encompassing almost all sub-sectors, rendering the actual tariff different from the standard tariff. This has resulted in the Customs Tariff having multiple rates, several exemptions and several conditions requirement fulfillment, providing opportunities for the discretionary use of powers by officials, raising the cost of doing business and incentivizing malpractices, corruption and misdeclaration for evading duties. The power of the administrative apparatus to issue SROs has, therefore, provided money making opportunities for those empowered to approve such exemptions.

These arrangements under the cover of the reprehensible practice of SROs represent a cozy pact between the well-connected and the bureaucracy or the political masters in power. The abuse of such discretionary powers has enabled inefficient producers to thrive at the expense of us unfortunate, hapless, consumers who pay a heavy price for keeping afloat producers who are not competitive internationally. These preferential treatments enable the beneficiaries to 'extract rents' and make easy money without having to make efforts to produce and market competitively a good quality product. Many a rags to riches story can be traced to this ubiquitous instrument, which has made large chunks of the manufacturing sector addicted to

high levels of protection. Moreover, this way neither those favoured nor those favouring them become accountable to parliament for striking such bargains. Tragically, even the courts have, through a host of decisions, protected those benefitting from these SROs. And the cost to the economy of this protection has also been huge in terms of scarce resources being tied up in the inefficient production of goods.

Investors are understandably shy of operating in an environment muddied by the lack of transparency of the decision making process resulting in concessions that shift the goal post in favour of the chosen few who acquire a monopolistic status or are in a position to form cartels. Consequently, the policy and supporting tax structure incentivizes investments, and allocation of scarce capital, in speculative ventures and inefficient industries instead of in sectors in which the economy has a comparative advantage or in longer gestation projects of greater importance to the economy.

By abdicating its power and allowing the executive to arrogate to itself the power to give such dispensations not only has the parliament been a party to rendering meaningless the sanctity of the Federal Budget and the Finance Bill that it has itself passed it has been an accomplice to acts that are ultra vires the country's Constitution.

Apparently, the power of the executive flows from an old 1969 Act under which it was delegated such powers by parliament. The PAC having taken the lead to change the narrative should demand that this ACT be repealed, to take away all such powers of the executive in the future, restoring them rightfully back to parliament. This would be consistent with international best practices, the world having discontinued with such a practice. Of-course, nonsense arguments will be made about the possible loss of revenues and the need to facilitate governments to take quick decisions in emergency situations. And that depriving the executive of such flexibility would hamper governmental operations in a rapidly changing global environment. In this writer's view conditions could be drafted under which prior parliamentary permission would not be required, although its approval would have to be obtained within 90 days. As for the argument on loss of revenues it is instructive that because of these SROs that their proponents would seek to retain approximately 2,000 tariff lines (representing 50% of the SROs) are liable for import duties of less than 5.1%, with almost 900 of them zero rated; with, as mentioned above, the total annual cost to the economy of these concessions having crossed Rs.660 billion! So much for the likely claims about potential loss of revenue.

As regards SROs issued to date there should be a comprehensive review of each SRO with its retention being contingent on parliamentary ratification (through incorporation in a Finance Bill), otherwise there should be an action plan for its gradual phasing out. This will ensure greater transparency and accountability.