



TRANSPARENCY INTERNATIONAL-PAKISTAN

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18th September, 2013

Mr. Tariq Bajwa,
Chairman,
Federal Board of Revenue,
Government of Pakistan,
Islamabad.

Sub: Non Recovery By FBR of Rs. 55 Billion ISAF SOU MOTO Case No. 16-2010.

Dear Sir,

Transparency International Pakistan refers to the Secretary (L&P) following reply vide letter No. 3(5)L&P/2010(FTO), dated 29th August 2013 on Rs. 55 Billion ISAF SOU MOTO Case No. 16-2010, which is not related to what TI Pakistan has requested the Chairman on 27th August 2013.

“ That the report of DG Intelligence & Investigation FBR mentioned in your aforesaid letter has already been forwarded to NAB authorities who have been entrusted investigation in this matter by Supreme Court of Pakistan ”

In fact officers responsible in FBR to write this reply to TI Pakistan are not presenting the real facts of this Mega Scam before the Chairman FBR.

Enclosed is the Supreme Court of Pakistan orders of March 4, 2013 for your record which you shall examine as you are personally accountable for compliance of this order.

In compliance of this order of the Supreme Court, DG Intelligence & Investigation was directed by the ex-Chairman FBR vide letter C.No. 1/1/CH/FBR/2013, Dated: March 11, 2013 has directed DG Intelligence & Investigation to conduct thorough investigation into the subject matter, and submit the report, which will be submitted in the Supreme Court of Pakistan.

The FTO report calculate duty loss of Rs 19 billion on 7,922 containers. as well as ex Chairman Salman Siddique statement in Supreme Court on loss Rs 55 Billion on 25,000 containers were due to illegal containers under ATT, Afghan Transit Trade, and has nothing to do with NATO or ISAF cargo.

What NAB is doing is not FBR concern, as the attached press report will make it clear that they have started taking action against some clearing agents involved in this case, under NAO 1999.

Kindly understand that this report sent to you by TI Pakistan is not a full investigation report by DG Intelligence & Investigation, but was only a preliminary report, which had confirmed that FBR did lose billions of rupees in ATT Scam.

According to DG Intelligence & Investigation report of 19th April 2013, on 3,300 containers which were off loaded in Karachi, and did not reach Afghanistan, the duty at Rs 2.4 million per container (FRTTO working), FBR has identified loss of Rs 7.9 Billion.

In order to complete the investigations, FBR was requested for following permissions;

“Consequently, let the report be obtained from the Federal Tax Ombudsman as well as Chairman, FBR as to the extent of the implementation of the Recommendations of the FTO by the Department



and further such reports shall also identify the modus operandi proposed and required to be undertaken to efficiently and expeditiously effect the recovery of the loss caused to the Public Exchequer. Such report should be filed within two weeks”

Based on the investigations conducted so far the stance of the Honorable Supreme Court of Pakistan in the Suo Motu case 16/2010, is well established. Direct and incontrovertible evidence is available to establish pilferage of cargo, its quantum, revenue implications for affecting future recoveries, and for the determination of responsibility, within and outside the department.

The desealing record of the collect orates of Quetta and Peshawar is essential to continue this investigation. Although record has been provided by Quetta Collectorate, the Peshawar Collectorate has expressed its inability. Headquarters is requested to approach the Collectotrate of Peshawar in this regard.

This is lengthy and cumbersome investigation; nonetheless it is an issue of national importance that has already been taken up by the Honorable Chief Justice of Pakistan. Whole hearted support of the Federal Board or Revenue would be required to complete the investigation, determine the beneficiaries and affect recoveries. We, however expect serious resistance to this investigation since certain high level officials of Customs will do their best to close down or impede this investigation.

Cooperation of other collectorates, PRAL and NADRA would be critical in provision of Information / record as and when needed, and where identification, arrests or conducting of raids may be necessary. The Directorate General would also require access to banking information to identify the actual beneficiaries of the pilferage of revenue. This is especially true since in this case of the supposed beneficiaries are Afghan nationals, while the real beneficiaries are Pakistanis involved in this illicit trade who hide behind as Afghan façade.

It appears that prima facie FBR, those officers who were involved in the mega scam are trying to suppress the case, and misguiding the Chairman FBR.

TI-Pakistan requests you to order DG Intelligence & Investigation (if he is not involved in clearance of containers in this scam) to complete the investigation report of missing 25000 containers, and allow above mentioned permissions requested by DG Intelligence & Investigation on 19th April 2013.

Transparency International Pakistan is striving for across the board application of Rule of Law, which is the only way to stop corruption.

With Regards,


Syed Adil Gilani
Adviser

Copies forwarded for the information of:

1. Secretary to Prime Minister, Islamabad.
2. Director General, NAB (A&P), Islamabad.
3. Director General, FIA, Islamabad.
4. Registrar, Supreme Court of Pakistan, Islamabad.

NAB files reference against 24 individuals in ISAF container scam (see the list of accused)

By Anjum | April 24, 2013 |

Ad Space is Available

KARACHI: National Accountability Bureau (NAB) has filed reference against over 24 individuals including customs officials, clearing agents and border agents in ISAF Container Scam.

In pursuance of Suo Moto Case No. 16/2010 (ISAF Container Scam) taken by the Supreme Court of Pakistan, NAB Sindh initiated inquiry proceedings upon receipt of complaints from FBR Containers Probe Committee in January 2012, according to the reference.

It said that in the judicial order dated March 28, 2012, the Supreme Court of Pakistan order the NAB to conduct thorough inquiry in the matter by providing proper opportunity of hearing to all concerned, however the report of the Federal Tax Ombudsman (FTO) of January 10, 2012, shall be read as part of the order.

The investigation officer of the NAB finalized the investigation report and found a number of people accused in the scam.

In the reference the accused persons are included:

The NAB questioned Usman Tariq, Assistant Collector Customs, Afghan Transit Group, who stated that in terms of Section 207 and 209 of the Customs Act 1969 read with other relevant laws authorized clearing agent of an Afghan importer is jointly and severally liable for safe transit and cross border of Afghan Transit Goods, and in case the Afghan Transit cargo is pilfered en-route, the clearing agent is also liable to pay the government duty and taxes involved in such cargo.

Regarding the responsibility of customs officials, the NAB said that it is appropriate officer who allows goods to be transited under the section. "It is responsibility of principal appraiser (Afghan Transit group) to manage, supervise and control over the goods in transit to Afghanistan.

It is also the responsibility of principal appraiser to keep on reconciling the record pertaining to cargo cleared under Afghan Transit Trade and in case if ATTI /CBC (Cross Border Certificate) of a container / consignment is not received back within 45 days from the border collectorate, it becomes his duty and responsibility to contact and confirm from the respective exit collectorates regarding cross border confirmation of the consignments cleared by the Transit Group under his jurisdiction / control."

It further investigated: "It also becomes the duty and responsibility of principal appraiser (transit cargo) than in case if the ATTI/CBC is not received back from exit collectorate within 45 days, he should apply preventive measures by not allowing to clear any other container / consignment of the same importer or clearing agent so that further revenue loss to state exchequer could be avoided."

The investigation, however, found that principal appraisers (number 23 and 24 of above list) kept

clearing the containers without ascertaining their cross border status as such they failed to exercise their authority to prevent to loss to the national exchequer and also abetted the accused clearing agents and border agents.

The report said that 222 containers involved in the instant case were cleared under the import documents of different Afghan importers. The cross verification with clearing and border agents also confirmed that the containers were cleared by them on behalf of Afghan importers. "In this regard, the Afghan importers could not be proceeded against in view of the Section 04 of National Accountability Ordinance, 1999," it stated.

As per FTO report incidence of duties and taxes evaded worked out at Rs 19 billion on 7,922 containers. As such average duties and taxes per container work out to be Rs2.4 million. The NAB inquiry further worked out individual liability in respect of each clearing agent. The accused No. 01 to 04 in the above list got 222 containers cleared from Customs on behalf of accused border agents (Number 05 to 22). National exchequer has suffered a loss of Rs532.8 million in the shape of duty and taxes evaded in respect of 222 containers got cleared by the accused persons. "The accused No. 01 to 24 are severely and jointly responsible for above mentioned loss," it said.

The NAB investigation also revealed that CBC in respect of containers were issued by customs officials at exit point i.e. Torkham and Chaman. "However, the said containers could not complete round trip within eight days, as such any CBCs issued are fake and unreliable." In this regard, NAB approached the Federal Board of Revenue to identify the officials who had endorsed and cleared CBCs against 7,922 containers involved in the scam and take necessary action against such officials under intimation to NAB.

After having sufficient material to justify filing of reference, the matter is referred to the Administrative, Judge, Accountability Court, Karachi