

Bangladesh - Openness to and Restriction on Foreign Investment

Attitude Toward Foreign Direct Investment

Bangladesh actively seeks foreign investment, particularly in apparel, energy, power and infrastructure projects. It offers a range of investment incentives under its industrial policy and export-oriented growth strategy with few formal distinctions between foreign and domestic private investors.

Foreign and domestic private entities can establish and own, operate, and dispose of interests in most types of business enterprises. Four sectors, however, are reserved for government investment:

- Arms and ammunition and other defense equipment and machinery;
- Forest plantation and mechanized extraction within the bounds of reserved forests;
- Production of nuclear energy;
- Security printing.

Inadequate infrastructure, limited financing capabilities and government funding bureaucratic delays, and corruption continue to hinder foreign investment and the government of Bangladesh has not demonstrated sustained commitment to addressing these barriers to FDI.

Other Investment Policy Reviews

In 2013 Bangladesh completed an investment policy review (IPR) with the United Nations Conference on Trade and Development

(UNCTAD): <http://unctad.org/en/Pages/DIAE/Investment%20Policy%20Reviews/Investment-Policy-Reviews.aspx>.

It has not conducted an IPR through the Organization for Economic Cooperation and Development.

A Trade Policy Review was last done by the World Trade Organization in October 2012 and can be found at: https://www.wto.org/english/tratop_e/tpr_e/tp370_e.htm.

With EU assistance, Bangladesh conducted a trade policy review, the "Comprehensive Trade Policy of Bangladesh" which was published in the ministry of commerce in September 2014 and is still in draft mode pending further review and

approval: [http://www.mincom.gov.bd/01_Draft%20Final%20CTP%2015%2009\(1\)\(1\).pdf](http://www.mincom.gov.bd/01_Draft%20Final%20CTP%2015%2009(1)(1).pdf)

Laws/Regulations on Foreign Direct Investment

Major laws affecting foreign investment include: the Foreign Private Investment (Promotion and Protection) Act of 1980, the Bangladesh Export Processing Zones Authority Act of 1980, the Companies Act of 1994, the Telecommunications Act of 2001, the Industrial Policy Act of 2005, the Industrial Policy Act of 2010, and the Bangladesh Economic Zones Act 2010. The Industrial Policy Act of 2016 was approved by the Cabinet Committee on Industrial Purchase on February 24, 2016 and replaces the Industrial Policy of 2010.

The Industrial Policy Act of 2016 offers incentives for “green”, high-tech, or “transformative” industries. Foreign investors who invest \$1 million or transfer \$2 million to a recognized financial institution can apply for Bangladeshi citizenship. The government of Bangladesh will provide financial and policy support for high-priority industries (those that create large-scale employment and earn substantial export revenue) and creative (architecture, arts and antiques, fashion design, film and video, interactive laser software, software, and computer and media programming) industries. Specific importance will be given to agriculture and food processing, RMG, ICT and software, pharmaceuticals, leather and leather products, and jute and jute goods.

Land registration has historically been prone to disputes over competing titles, and scarcity of land is a significant investment constraint. Foreign investors have complained about delays in registering their businesses or branch offices due to questionable disputes with the National Board of Revenue (NBR) over prior years’ tax returns. Greenfield investors have complained about difficulty in obtaining natural gas connections for boiler operation or power generation.

Business Registration

The procedures for registering a business in Bangladesh are listed on the Board of Investment (BOI)’s website: <http://www.boi.gov.bd/site/page/ad10fa6e-128d-41c2-ae4-255a0a3cee14/Step-by-Step-Procedure>. The website has limited functionality and as of this report’s publication the online registration portal was not operational. The BOI is officially a

one stop shop for registering a business, but investors note it is frequently necessary to register with other entities such as the National Board of Revenue. According to the World Bank, business registration in Bangladesh takes 19.5 days on average with nine distinct steps: <http://www.doingbusiness.org/data/exploreeconomies/bangladesh/>.

The 2016 Industrial Policy defines manufacturing business sizes according to the following categories:

- Large: more than 300 workers and \$8 million in capital;
- Medium: more than 120 workers and \$4 million in capital;
- Small: 31 - 122 workers and \$250,000 in capital.

Industrial Promotion

The government has pursued ambitious plans for infrastructure development, particularly in the power and transportation sectors, but prolonged and contentious public procurement processes continue to challenge government efforts to develop infrastructure. The government of Bangladesh under Prime Minister Sheikh Hasina is currently prioritizing eight fast-tracked large infrastructure projects to address transportation and energy bottlenecks:

- Padma Multipurpose Bridge;
- Rooppur Nuclear Power Plant Project;
- Rampal Coal-fired Thermal Power Plant;
- Dhaka Mass Rapid Transit Development Project (Metro Rail Project);
- Sonadia Deep Seaport in Cox's Bazaar;
- Liquefied Natural Gas Terminal;
- Payra Seaport;
- Matabari Energy Hub in Cox's Bazar.

The power generation sector has seen substantial progress in recent years. The government currently allows unsolicited bids and expedited approval of power generation projects to facilitate its goal of raising generation capacity to 20,000 MW by 2021. As of March 2016, government figures indicated an installed capacity of 12,129 MW and power generation projects continue to move forward, some under the 2009 legal and regulatory framework for public private partnerships (PPP).

Bangladesh also aims to formulate a coal policy to encourage investment in developing coal resources and coal-based power projects; however, production of a foreign-owned, open-cast coal mine in northwest Bangladesh remains pending due to local opposition and political pressure from environmentally focused civil society groups.

Limits on Foreign Control and Right to Private Ownership and Establishment

Foreign and domestic private entities can establish and own, operate, and dispose of interests in most types of business enterprises. Bangladesh allows private investment in power generation and natural gas exploration, but efforts to allow full foreign participation in petroleum marketing and gas distribution have stalled.

Four sectors are reserved for government investment and exclude both foreign and domestic private sector activity:

- Arms and ammunition and other defense equipment and machinery;
- Forest plantation and mechanized extraction within the bounds of reserved forests;
- Production of nuclear energy;
- Security printing.

While discrimination against foreign investors is not widespread, the government frequently promotes local industries and some discriminatory policies and regulations exist. For example, the government closely controls approvals for imported medicines that compete with domestically-manufactured pharmaceutical products and it has required majority local ownership of new shipping and insurance companies, albeit with exemptions for existing foreign-owned firms, following a prime ministerial directive. In practical terms, foreign investors frequently find it necessary to have a local partner even though this requirement may not be statutorily defined.

Privatization Program

The government privatized 74 state-owned enterprises (SOEs) during the past 20 years, but many SOEs retain an important role in the economy, particularly in the financial and energy sectors. The Privatization Commission has slowed its rate of privatization activities and is slated to merge with the Board of Investment (BOI) to form a new Bangladesh Investment Development Authority.

The current government has taken steps to restructure several SOEs to improve their competitiveness. The government converted Biman Bangladesh Airlines into a public limited company that initiated a rebranding and fleet renewal program, including the purchase of ten aircraft from Boeing, six of which were delivered by March 2016. Three nationalized commercial banks (NCBs) - Sonali, Janata, and Agrani - have been converted to public limited

companies. The government also liberalized the telecommunications sector during the last decade, which led to the development of a competitive cellular phone market.

<http://www.boi.gov.bd/site/page/b0735eb9-ab7e-4010-bad9-2a9e8b8720ab/Privatization>

Screening of FDI

The BOI of Bangladesh is responsible for screening, reviewing and approving FDI in Bangladesh. The BOI is directly supervised by the Prime Minister's office and the Chairman of BOI has Minister-equivalent rank. No U.S. businesses have commented on the screening mechanism of the BOI, but there have been instances where receiving approval was delayed. Once the foreign investor's application is submitted to BOI, the authorities review the proposal to ensure the investment does not create conflicts with local business.

The steps for investment are available at <http://www.boi.gov.bd/site/page/ad10fa6e-128d-41c2-ae4-255a0a3cee14/Step-by-Step-Procedure>. BOI is currently the gateway for all the foreign investors, but will eventually be merged with the Privatization Commission to form a new Bangladesh Investment Promotion Authority (BIPA), which is expected to be finalized in 2016.

Depending on the sector, all foreign investors are required to obtain clearance certificates from the relevant ministries. The BOI gives a time frame by which all the required documents need to be submitted. For example, if the proposed foreign investment is in the healthcare equipment field, investors need to obtain a No Objection Certificate (NOC) from the Directorate General for Health Services under the Ministry of Health. The NOC states that the specific investment will not hinder local manufacturers and is in alignment with the guidelines of the ministry.

Very few applications fail to get registration for non-compliance with local law or failure to submit proper documentation. Negative outcomes can be appealed, except for applications pertaining to:

- Arms and ammunition and other defense equipment and machinery;
- Forest plantation and mechanized extraction within the bounds of reserved forests;
- Production of nuclear energy;
- Security printing.

A foreign investor needs to register its company under the Registrar of Joint Stock Companies and Firms (RJSC&F) and open a bank account under the registered company's name. The

investor needs to submit the RJSC&F Company Registration certificate, legal bank account details, NOC from the relevant ministry or department, and a project profile (if the investment is more than \$1.25 million) along with the BOI's formatted application form for screening.