

Feasibility Assessment of the Foreign Investment Legal System of Bangladesh

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Abstract: *Recently, international foreign investment law has perceived a rapid growth through conception and evaluation of respective laws based on the notion that foreign investment could be beneficial to a nation's economy if the foreign investment is harnessed to the economic development of the host economy. For this reason, Bangladesh endorsed legislations that was designed to screen foreign investment. But the effect of foreign investment on the domestic economy is not up to the mark. Hence the interest of this study is to examine the effectiveness of the prevailing legal and regulation of FDI in Bangladesh. In doing so, existing foreign investor's perceptions are collected and analyzed.*

Keywords: Foreign direct investment; Economic development; Legal system; foreign investment regulatory framework; Ideal paradigm

1. Introduction

It is purported that foreign investment particularly foreign direct investment (FDI) is crucial for the host country's economy [1]. In order to enable foreign investments to play vital role in economic augmentation without adversely affecting the host country's development trajectory, it is necessary to study the existing laws and infrastructure associated with FDI [2]. Like other developing nations of the south Asia region, Bangladesh began to enact in legislation right after it's liberation [3]. Bangladesh made easy provisions for foreign investment with the aim of large FDI inflow to the country [4]. But, despite easy provisions on investments, Bangladesh's goal of becoming a member of More Developed Countries (MDC) by 2024 is by far beyond its reach. This is because the contributions of foreign investments to the country's economy are far lower than expected. This is because, only making new policies for ease of investment without assessing their pragmatic impact on foreign investors, can never bring significant development to the country [5].

Several articles address some major deficiencies in foreign investment legal system of Bangladesh [6, 7]. The deficiencies include poor administration, improper facilities, absence of some vital laws and vulnerable to political and social risk factors. The deficiencies mentioned here are all theoretical and requires empirical evidence. Thus, this paper attempts to depict the empirical evidence of the vulnerabilities of Bangladesh's legal and regulatory system of foreign investment. In doing so perceptions of existing large investors are analyzed here in this paper. This study portrays the reactions from different foreign investors to Bangladesh's legal system compared to efficient one.

2. Methodology

This study is primarily based on secondary sources of data collected from different journals and newsletters. Then those data are tested empirically by collecting psychometric responses from 41 100% foreign owned companies (one prime representative from each company) on the foreign investment legal system of Bangladesh (see Annex 1). A

questionnaire (six point scale) consisting of ten questions are prepared for this purpose (see Annex 2). Each questions are prepared based on the deficiencies found from literatures [3, 7, 8]. Then the entire legal system of Bangladesh is compared with the Ideal paradigm [9, 10]. In order to express the condition of the Bangladesh's legal system more specifically, responses to each aspect of the legal system are converted into a score based on a scale of zero to five, with five indicating maximum conformity with the Ideal system. Scores are then converted into the following verbal descriptors: "above par," "par" and "below par". Where 4 and above is above par (efficient), 2 to under 4 is par (moderate) and under 2 is below par (inefficient). Results were calculated excluding "don't know," "don't understand," and blank responses.

3. Results and Discussion

To what extent investors perceived the Bangladesh's legal system to deviate from the Ideal Paradigm is determined here in this study. Respondents (investors) are asked to describe their perceptions on the legal system, by completing a series of ten statements about the laws, courts, bureaucrats and government of Bangladesh. In the following subsections, investor's perceptions of Bangladesh's laws, bureaucracy, courts and government are examined in turn. Descriptors in the final column of each table show whether the response option broadly indicates conformity with (+), or deviation from (-), the Ideal paradigm."

Perceptions on Bangladesh's law

The descriptor column in Table 1 indicates that most respondents perceived that the laws of Bangladesh broadly conform to the Ideal Paradigm with regard to accessibility, verification and clarity. However, most perceived a deviation from the Ideal Paradigm with regard to the predictability of legal change. Indeed, Eighty percent of respondents indicated that changes in laws and policies are unpredictable. Unpredictable changes to Bangladesh's laws reportedly arise from the declaration by the Parliamentary, ministerial and delegate legislation.

Table 1: Perceptions of Bangladesh’s laws

Statements and response options	Responses	Descriptors
Laws are (..) accessible		Accessibility
<i>Never/ rarely/ sometimes</i>	10% (4)	
<i>Always/ Mostly/ Frequently</i>	90% (36)	
Laws are (..) unclear		Clarity
<i>always / mostly / frequently</i>	12% (5)	
<i>never / rarely / sometimes</i>	82% (33)	
Laws are (..) new and untested		Verification
<i>always / mostly / frequently</i>	2% (1)	
<i>never / rarely / sometimes</i>	85% (35)	
Changes in the law and policies are (..)		Predictability
<i>highly predictable</i>	2% (1)	
<i>fairly predictable</i>	14% (6)	
<i>Unpredictable</i>	80% (33)	

Perceptions of Bangladesh’s Courts

The descriptor column in Table 2 indicates that most respondents perceived the decisions of Bangladesh’s courts to be objective and consistent enough to broadly conform to the Ideal Paradigm. Seventy three percent of respondents reported that courts could mostly, always, or frequently be trusted to enforce laws objectively according to transparent rules. However, most respondents perceived deviation from the Ideal Paradigm in the area of court delays. Ninety percent of respondents said that court procedures were always, mostly or frequently subject to unreasonable delays."

Table 2: Perceptions of Bangladesh’s Courts

Statements and response options	Responses	Descriptors
Courts can (...) be trusted to enforce the law objectively according to transparent rules		Objectivity & Consistency
<i>Never/ rarely/ sometimes</i>	15% (6)	
<i>Always/ Mostly/ Frequently</i>	73% (30)	
Court procedures are (...) subject to unreasonable delays		Delays
<i>always / mostly / frequently</i>	5% (2)	
<i>never / rarely / sometimes</i>	90% (37)	

Perceptions of Bangladesh’s Bureaucrats

The descriptor column in Table 3 indicates that perceptions of Bangladeshi bureaucrats were mixed. On balance, consistency in bureaucratic decision-making was slightly more often reported to be in conformity with the Ideal Paradigm. Questionnaires indicate that fifty-four percent of respondents reported that bureaucrats always, mostly, or frequently enforce laws consistently, as against forty-five percent who indicate that this is never, rarely, or only sometimes the case. In addition, respondents perceived that courts deviate from the Ideal Paradigm in terms of independence and corruption. Sixty-one percent of respondents felt that politicians could always, mostly or frequently influence the decisions of government officials, and a further thirty-two percent reported that this could sometimes happen. With regard to corruption, only fifteen percent of respondents reported that it was rarely or never necessary to use bribery when dealing with government officials. Interestingly, respondents most frequently indicated (eighty-one percent) that it is sometimes necessary to use corruption. This is probably the worst possible response, since it indicates that it may not be clear to investors whether bribery is necessary, or whether it will have the desired effect.

Table 3: Perceptions of Bangladesh’s Bureaucrats

Statements and response options	Responses	Descriptors
Laws are(...) consistently enforced by government officials		Consistency
<i>Never/ rarely/ sometimes</i>	45% (18)	
<i>Always/ Mostly/ Frequently</i>	54% (22)	
It is (...) necessary to use bribery when dealing with government officials		Corruption
<i>always / mostly / frequently</i>	81% (33)	
<i>never / rarely / sometimes</i>	15% (6)	
Politicians can (...) influence the decisions of government officials		Independence
<i>always / mostly / frequently</i>	61% (25)	
<i>never / rarely / sometimes</i>	32% (13)	

It can be concluded that while respondents may, by a small margin, perceive bureaucrats to be consistent, they generally perceive those decisions to be vulnerable to corruption and political interference.

Perceptions of the Credibility of the Bangladesh Government

The descriptor column in Table 4 indicates that most respondents perceived the government is credible enough to be in broad conformity with the Ideal Paradigm. Seventy-six percent of respondents reported that the government announcements of major policies are always, mostly or frequently credible. This is in contrast to investor perceptions of the stability of individual laws discussed above. It may be that while the Bangladesh government generally provides macro-level credibility, it does not generally provide micro-level credibility.

Table 4: Perceptions of the Credibility of the Bangladesh Government

Statements and response options	Responses	Descriptors
The government’s announcements of major policies are (...) credible		Credibility
<i>Always/ Mostly/ Frequently</i>	22% (9)	
<i>never / rarely / sometimes</i>	76% (31)	

Table 5 shows the condition of each aspect of the legal system, as measured against the Ideal system. As compared to the criteria of the Ideal paradigm, most features of the Bangladesh legal system is rated as either par or below par except the accessibility and verification of law. Overall, we can see Bangladesh’s legal system is not efficient.

Table 5: Legal system of Bangladesh measured against Ideal system.

Institution (Overall)	Features	Descriptor
Bureaucracy	Consistency	par
	Corruption	Below par
	Independence	Par
Courts	Consistency	par
	Efficiency	Below par
Government	Credibility	Below par
Laws	Accessibility	Above par
	Clarity	Below par
	Verification	Above par
	Stability	Below par

The perceptions of foreign investors on the legal system of Bangladesh. Which was found not efficient in every aspects. As it is necessary for the host country to have efficient legal system to attract FDIs [10], Bangladesh policy makers should reform all the legal institutions mentioned here.

4. Conclusions

In a nutshell Bangladesh's legal system is vulnerable as compared to global context i.e. Ideal paradigm. Bangladesh's laws and regulatory system is not appropriate for the foreign investors to run their business smoothly and this might be the reason behind limited investment from fortune five hundred companies. Thus this study would help the policy makers to realize the need for legal and regulatory reforms.

5. Future Scope

Future study may include some suggestions that could help the policy makers of Bangladesh to reform the legal and regulatory system. Feasibility of the policy suggestions can be tested empirically.

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ANNEX 1

Surveyed Multinational Companies

Unilever Bangladesh Limited.

Unilever is an Anglo-Dutch multinational consumer product manufacturing giant operating in Bangladesh since 1964.

Website- <https://www.unilever.com.bd>

Reckitt Benckiser Bangladesh Ltd. (RB Bangladesh)

A leading UK based multinational company in Bangladesh. RB (Reckitt Benckiser) is a global leader of consumer goods in health, hygiene and home products. Since 1961, RB is doing business in this country.

Website- <https://www.reckitt.com/investors-media/rb-bangladesh>

Bata Shoe Company (Bangladesh) Ltd

World's largest footwear manufacturing and retail multinational company headquartered in Lausanne, Switzerland.

Website- <https://www.batabd.com>

MediaVest Bangladesh

Media Vest is a subsidiary of Publicis Groupe, a Paris-based holding company which is the world's third largest communications group, the world's second largest media counsel and media buying group, and active in digital and healthcare communications. MediaVest Bangladesh, established in Bangladesh in 2014, is a media specialist agency relating to advertising media selection services.

Website- www.mediavestww.com

Grey Advertising Bangladesh Ltd

GREY Advertising Bangladesh Ltd, Bangladesh office of Grey Group, is the first multinational advertising and media buying group in Bangladesh. Based in New York, Grey Group is now one of the largest global advertising and marketing agency network.

Website – www.grey.com/bangladesh

GlaxoSmithKline – GSK Bangladesh

Pharmaceutical and Consumer products manufacturer in Bangladesh. GlaxoSmithKline Bangladesh Ltd is a subsidiary of GlaxoSmithKline plc – a British pharmaceutical company headquartered in Brentford, London. Products – secondary manufacture of pharmaceutical products and marketing of vaccines, pharmaceutical healthcare products and healthfood drinks (Horlicks).

Website – www.gsk.com.bd

Nestlé Bangladesh Ltd.

A leading Switzerland based multinational company in Bangladesh. Nestlé is the world's leading nutrition, health and wellness company.

Website- <https://www.nestle.com.bd>

The Procter & Gamble Company (P&G)

Procter & Gamble Bangladesh Private Limited is a subsidiary of Procter & Gamble Co. (P&G) – a United States based multinational company operating more than 180 countries worldwide. Some of its products are Pantene, Head & Shoulders, Olay, Oral B, Pampers, Whisper, Gillette

etc.

Website- www.pg.com

Marico Bangladesh Limited.

Marico Bangladesh Limited (MBL) is one of the top FMCG Multi-National Companies in Bangladesh. Marico Bangladesh is a subsidiary of Marico Ltd – a Indian multinational consumer goods company based in Mumbai.

Website- www.marico.com/bangladesh

Vinarco International Limited.

A leading Thai multinational company in Bangladesh.

Website- <https://www.vinarco.com>

RAK Paints (Pvt) Ltd

RAK Group Bangladesh is a joint venture between UAE and Bangladesh. RAK Paints is a sister concern of RAK Group Bangladesh.

Website- <https://www.rakpaintsbd.com>

Berger Paints Bangladesh Ltd.

A leading multinational company in the Paint Industry in Bangladesh.

Website- <https://www.bergerbd.com>

Asian Paints (Bangladesh) Ltd.

A leading multinational company in the Paint Industry in Bangladesh.

Website- <https://www.asianpaints.com.bd>

ACS Textiles (Bangladesh) Ltd.

Leading Multinational Home Textiles Manufacturer of Bangladesh.

Website- <http://www.acstextiles.com>

Siemens Bangladesh Ltd.

A leading German multinational company in Bangladesh.

Website- http://www.siemens.com.bd/enwa/about_us/about_us_home.html

C.P. BANGLADESH Co. Ltd.

Thailand based multinational agricultural, livestock farming and readymade food processing company in Bangladesh.

Website- <https://www.cpbangladesh.com/index.php?skylarksoft=6>

Chevron Bangladesh

World's largest and most competitive multinational energy company engaged in exploration and production of natural gas in Bangladesh.

Website- <https://bangladesh.chevron.com>

YKK Bangladesh Pte Ltd.

A leading japan based multinational Fastening Products (zippers, hook-and-loop fasteners (Quicklon), fabric tapes and plastic products, snaps and buttons etc.) manufacturer company in Bangladesh.

Website- <https://ykkasia.com/ykk-bangladesh>

Youngone Corporation

A South Korean leading textile apparel and footwear

manufacturer company in Bangladesh. One of the largest RMG makers in the world employs a 36,000 strong local workforce in its 16 factories in Bangladesh.

Website- <https://www.youngonecorporation.com>

Arirang Aviation Ltd.

South Korean Business in Bangladesh. Aviation School, Private Plane Charter, Ambulance & Rescue services by Arirang Aviation Ltd a concern of Youngone Corporation.

Website- www.arirangaviation.com

MCC Transport Bangladesh (Maersk Bangladesh Ltd.)

A fully owned subsidiary of A P Moller – Maersk A/S of Denmark, Maersk Bangladesh Ltd is the leading shipping agency in Bangladesh representing shipping lines like Maersk Line, Submarine and MCC Transport.

Website- <https://www.maersk.com/local-information/west-central-asia/bangladesh>

Linde Bangladesh Limited. (Formerly BOC Bangladesh Limited.)

A leading German multinational company operating businesses over 50 years in Bangladesh.

Website- www.linde.com.bd

Coats Bangladesh Ltd.

A leading UK based multinational company in Bangladesh. Provides sewing thread solutions for Bangladesh Garment Sector.

Website- <https://www.akkhan.com/coats-bangladesh-ltd>

Advanced Chemical Industries (ACI) Limited.

A leading UK based multinational pharmaceutical company in Bangladesh.

Website- <https://www.aci-bd.com>

Perfetti Van Melle Bangladesh Pvt. Ltd.

Perfetti Van Melle is an Italian global manufacturer of confectionery and gum.

Website- <https://www.perfettivanmelle.com>

Li & Fung (Bangladesh) Ltd.

Li & Fung (Bangladesh) Ltd is a subsidiary of Li & Fung Limited which is a Hong Kong based leading multinational company worldwide and recognized as the world's leader in consumer goods design, development, sourcing and distribution.

Website- <https://www.lifung.com>

GIZ Bangladesh

The Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH – A German based multinational company in Bangladesh.

Website- <https://www.giz.de/en/worldwide/351.html>

Amari Dhaka – Hotel

A Thailand based multinational Hotel group in Bangladesh. Amari is hotel and spa group operating in Thailand, Qatar and Bangladesh.

Website- www.amari.com

Ever Smart Bangladesh Ltd.

A Hong Kong based Multinational Garments Company in Bangladesh. Products are Knit & Sweater.
Website- www.crystalgroup.com

NewVision Solutions Ltd.

Business Consulting and Research
A research and management consulting company in Bangladesh. Promoting Japanese investment in Bangladesh.
Website- www.newvision-bd.com

SA Trading.

Manpower exporter. A multinational recruiting company in Bangladesh. Offers employers a wide range of placement services including permanent, temporary and contract recruitment; employee assessment and selection; vocational training; outsourcing and consulting.
Website- www.satbd.com

Denim Expert Ltd.

(Netherland-Bangladesh Join Venture Co.) KEPZ.
Denim Expert Ltd. is a 100% export orient Denim and Jeans ready made clothing manufacturer from Korean Export Processing Zone (KEPZ), North Patenga, Chittagong, Bangladesh.
Website- www.denimexpert.com

ThyssenKrupp Elevator (BD) Pvt. Ltd

a German multinational lift company in Bangladesh.
Website- <https://www.thyssenkrupp-elevator.com/bd>

Kotobuki Bangladesh Ltd.

Osaka, Japan based multinational company in Bangladesh located in Mongla EPZ and manufacturer of Automobile Parts (Car Seat Heater / heating appliance).
Website - www.kot-web.com

Novartis (Bangladesh) Limited

Global healthcare company based in Switzerland.
Website : www.novartis.com.bd

Alcon Pharmaceuticals Ltd.

Global healthcare company based in Switzerland. A concern of Novartis (Bangladesh) Limited.
Website : www.alcon.com

TCI Bangladesh Ltd.

India based logistics and supply chain service provider.
Website : www.tcil.com

Holcim (Bangladesh) Ltd.

Website- <https://www.lafargeholcim.com.bd>

HeidelbergCement Bangladesh Ltd.

German multinational cement company in Bangladesh. Products are Ruby Cement and Scan Cement.
Website - www.heidelbergcementbd.com

SGS Bangladesh Limited.

Swiss multinational company in Bangladesh. Provides a complete range of testing, quantity inspection, assessment, ISO certification and technical assistance services for manufacturers, traders and retailers.
Website - www.sgs.com.bd

Citibank N.A. Bangladesh

New York, USA based banking & financial company worldwide. Citi has been present in Bangladesh since 1987. Today Citi has three branches, two banking offices and more than 150 employees in Bangladesh.
Website- <http://www.citigroup.com/citi>

ANNEX 2

Perspective of foreign investors on the legal system of Bangladesh with respect to ideal system

Company Name:						
Respondents Position in the company:						
Questions	Responses (mark '√' on your choice)					
Laws are(...) consistently enforced by	Always	Mostly	Frequently	Sometimes	rarely	Never
Score	5	4	3	2	1	0
Laws are (..) unclear	Always	Mostly	Frequently	Sometimes	rarely	Never
	5	4	3	2	1	0
Laws are (.) new and untested	Always	Mostly	Frequently	Sometimes	rarely	Never
	5	4	3	2	1	0
Changes in the law and policies are (...)	Always	Mostly	Frequently	Sometimes	rarely	Never
	5	4	3	2	1	0
Courts can (...) be trusted to enforce the law objectively according to transparent rules	Always	Mostly	Frequently	Sometimes	rarely	Never
	5	4	3	2	1	0
Court procedures are (...) subject to unreasonable delays	Always	Mostly	Frequently	Sometimes	rarely	Never
	5	4	3	2	1	0
Laws are(...) consistently enforced by government officials	Always	Mostly	Frequently	Sometimes	rarely	Never
	5	4	3	2	1	0

	Always	Mostly	Frequently	Sometimes	rarely	Never
It is (...) necessary to use bribery when dealing with government officials	5	4	3	2	1	0
Politicians can (...) influence the decisions of government officials	Always	Mostly	Frequently	Sometimes	rarely	Never
	5	4	3	2	1	0
The government's announcements of major policies are (...) credible	never	rarely	sometimes	frequently	mostly	always
	0	1	2	3	4	5

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