

# LAWS, REGULATIONS, FORMALITIES AND FACILITIES/INCENTIVES ON INVESTMENT: A CASE OF BANGLADESH

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## **Abstract:**

*Investment is a crucial component phenomenon for economic and industrial development of a country. The main objective of this paper is to highlight the present investment related laws and regulations in Bangladesh. An analysis has been made to depict different aspects and their impacts on formulations, promotions, incentives and facilities support provided by BOI, BEPZA, BSCIC, Ministry of Finance, Bangladesh Bank and National Board of Revenue to both local and foreign investors. The results of the study indicate that variables related to investment in Bangladesh are highly positive for economic growth and industrial development of the country.*

**Key words:** Investment laws, regulations, EPZ, Bangladesh

**JEL classification:** K20, K23, K31, K32, K41

## **1. STATEMENT OF THE PROBLEM**

Bangladesh has a broad market oriented economy and offers the most investor friendly regulatory regime in South Asia. The country provides trainable, enthusiastic, hard working and competent labor force for labor intensive industries. A recent survey of JETRO pointed out that Bangladesh has comparatively lower labor cost than other Asian countries (JETRO Survey 2013). Bangladesh is one of the top exporters of readymade garments to USA and Europe (Daily star, March 23, 2015). Bangladesh is now the 27<sup>th</sup> most attractive investment country in the world (World Bank, 2013). The New York Times recently termed Bangladesh as “an unlikely corner of Asia” (Mondal-2014). Another report, jointly published by World Bank and IFC titled “Doing Business in Bangladesh” ranked Bangladesh in the 122<sup>nd</sup> position among 185 countries in case of doing business. The same report has also highlighted Bangladesh in the 25<sup>th</sup> position in respect of protecting investors, 83<sup>th</sup> in arranging credit, 95<sup>th</sup> in started business and 97<sup>th</sup> in case of payment of taxes respectively (World Bank -2013). The World Bank reported that it is easier in leasing and buying a private land by foreign investors in Bangladesh than India, Pakistan and Sri Lanka. Goldman Sachs branded as Bangladesh is in next 11 lists after the BRICS nations. The market base economy led the Bangladesh to encourage private sector that provides the main stimuli to its economic development.

Bangladesh is experiencing a steady growth of GDP around 6% (6.5% in 2014-15). A target of 7% growth of GDP has been established for the period of 2015-16. This requires the increase of investment about 23% to 25% for achieving this growth rate of GDP. Bangladesh is a highly

populated country (approximately 150 million). Economic growth will enhance the purchasing power of that population and make the country a significantly big market. Bangladesh is endowed with abundant supply of natural gas, water, and its soil is very fertile. The Geographical location of the country is ideal for global trade with very convenient access to international sea and air route. Current government has targeted to make Bangladesh a middle income country within 2021 by liberating and eliminating law, regulations and bureaucracy in different investment sectors. The government has announced three years export, import policies (2012-2015), which are consistent with the market economy.

Though a conducive investment environment is prevailed in the country, the present status of both domestic and foreign investment in the country is not satisfactory (Daily Star, June-2015). The investment in Bangladesh is of different forms like private investment, foreign private investment, and investment under BOI, investment under BEPZA, FDI and investment under BSCIC. Different form of investments is operated and control by their respective laws and regulations.

After the Rana Plaza building collapse in April 2013, the government amended the labor law in July of the same year and allowing full freedom of association in factories outside the EPZs. As a result, there are 203 trade unions have been registered from January to July in 2013 due to the amendment to the labor law. The government moved to amend the EPZ law under pressures from the USA government as the Obama administration suspended the generalized systems of preferences status, citing serious shortcomings in labor rights and working conditions. The US government slapped 16 conditions on Bangladesh, including amendment to the EPZ law to gain back the GSP status. Thus, the cabinet of Bangladesh approved a draft law protecting EPZs workers' right to association on July 7, 2014 with a provision that at least 30% of the workers of a factory within the EPZs will have to apply for registration of union. But foreign investors do not want trade unionism in EPZs because of potential agitation or demonstration that will hamper production and overseas trade in specialized areas. A Japanese investor in CEPZ said that we are worried about protecting our investments as the cabinet agreed to amend the EPZs law, which will allow unionism in the EPZs. Japanese investor also pointed out that we do not want any new unionism because we already have a workers' Welfare Committee. This committee is enough to protect the interest the workers (Daily Star, Oct. 10, 2014). Another Korean investor in Dhaka Export Processing Zone said that we are already concerned over compliance issues demanded by international retailers with rapid changing business environment (Daily Star, Oct. 26, 2014).

The investment of Bangladesh is well protected by laws and practices. The existing rules and regulations differ from the nature of investment to investment controlled by the concern authorities. Major laws affecting investment are the foreign private investment act of 1980; the industrial policies formulated by the government from time to time, the Bangladesh Export Processing Zones Authority Act of 1980, and the companies' act 1994. In addition foreign investors are also required to follow the regulations of Bangladesh Bank (BB) 2003, the National Board of Revenue (NBR) ( for taxation and customs matter), [www.mofabd.org] law related to wages and employment, trade union and industrial disputes, working environment, labor administration and related matters, and disputes settlement procedures both for domestic and international concerns.

This paper has been designed to provide information to the potential investors, entrepreneurs and stakeholders regarding the different laws and regulations, formalities required, facilities and incentives and support services provided which will attract inflow of investment and encourage domestic entrepreneurs for setting up their business ventures. In addition the paper will constitute an aid to policy makers, researchers, and academia and business community of the country.

## **2. OBJECTIVES OF THE STUDY:**

The primary objective of the study is to highlight the present status of various regulations, formalities required, facilities and incentives provided by different authorities involved in stimulating investment in Bangladesh. The specific objectives of the study are:

- I. To point out the different acts, policies and regulations that governs investment in Bangladesh.
- II. To identify common formalities and documents required for establishing industrial/business venture in Bangladesh.
- III. To depict the formalities and procedures required by BEPZA, BOI, and BSCIC.
- IV. To know the incentives provided by different agencies for investment in Bangladesh.
- V. To evaluate the problems faced by investors in setting industries in Bangladesh.
- VI. To provide suggestions how to overcome these problems.

### **3. METHODOLOGY**

The study is based on mainly both primary and secondary data. Secondary data have been collected from publications of BOI, BEPZA, BSCIC, Bangladesh Bank, Publication of planning commission, national and international Research Journals, News paper articles, World Investment Report, and Papers presented by eminent scholars in national and international seminars on investment. Personal interview and field investigation techniques were adopted in collecting primary data. A structure questionnaire was used in collecting primary data from High official of BEPZA, BOI, and Business Leaders from FBCCI, BGMEA and Chittagong Chamber of Commerce in order to elucidate problems recognized and their severity. Attempts were made to use up to date data to make the study more viable.

### **4. ANALYSIS:**

#### **4.1. LEGAL FRAMEWORK FOR INVESTMENT**

The Investment in Bangladesh is regulated by foreign private investment (promotion and protection) Act, 1980 (Act. No. X1 of 1980). Major laws related to private investment both foreign and local are listed below:

1. The Foreign Private Investment (Promotion and Protection) Act of 1980
2. The Bangladesh Export Processing Zones Authority Act of 1980
3. The Investment Board Act of 1980
4. The companies Act of 1994
5. The Bangladesh Private Export Processing Zones Authority Act of 1996
6. The Import and export Policy Order 2012-15
7. The Industrial Policy 2010
8. Policy and Strategy for Public-Private Partnership (ppp), 2010
9. Special Economic Zones Act of 2010

In addition, foreign investors are required to follow the regulations of the Bangladesh Bank and the National Board of Revenue for taxation and customs matters.

#### **4.2. GENERAL FORMALITIES AND DOCUMENTS REQUIRED FOR ESTABLISHING A NEW INDUSTRIAL UNIT IN BANGLADESH:**

1. Trade License from City Corporation.
2. Tin Certificate from income Tax Office.
3. Chamber Certificate from Chamber Office.
4. VAT Certificate from Custom Office.
5. Bank Solvency Certificate from any Bank.
6. Govt. Permission from Board of Investment.
7. Land deed Agreement – of the proposed factory.
8. IRC = Import Registration Certificate from CCI/ DCCI Office.
9. ERC = Export Registration Certificate CCI/ DCCI Office.

10. Nationality Certificate from Local Commissioner.
11. Govt. fees as per investment as pay order in favor of BOI
12. Lay out Plan of the Factory.
13. Factory License from Factory Inspectors Office.
14. Fire License from Fire department.
15. P.D.B./Gas connection if required – also from P.D.B./Gas department.
16. In Corporation Certificate in case of Limited Company.
17. Environment Pollution Certificate from EPC. Department.

A long procedural formalities and bureaucratic complexities are faced by the entrepreneurs while setting new industrial units. Besides these, there are a lot of procedures and documents required in getting different certificates that takes a longtime. Entrepreneurs became frustrated and disheartened in establishing ventures/manufacturing units. Moreover, the following supporting documents are required and the following procedures are the needed to maintain & get environmental clearance certificate

1. No Objection Certificate from local authority
2. Project Profile (On business letter head)
3. Layout plan
4. Cadestrial /Cadestra Map with Dag & Khotian
5. Process Flow Diagram (on business letter head)
6. Registration of BOI (if required)
7. Rent Agreement (if required)
8. Initial Environmental Examination (IEE Report) (If required)
9. Environmental Management Plan (EMP Report) (If Required)
10. Environmental Impact Assessment (EIA Report) (If required)
11. Copy of Treasury Chalan

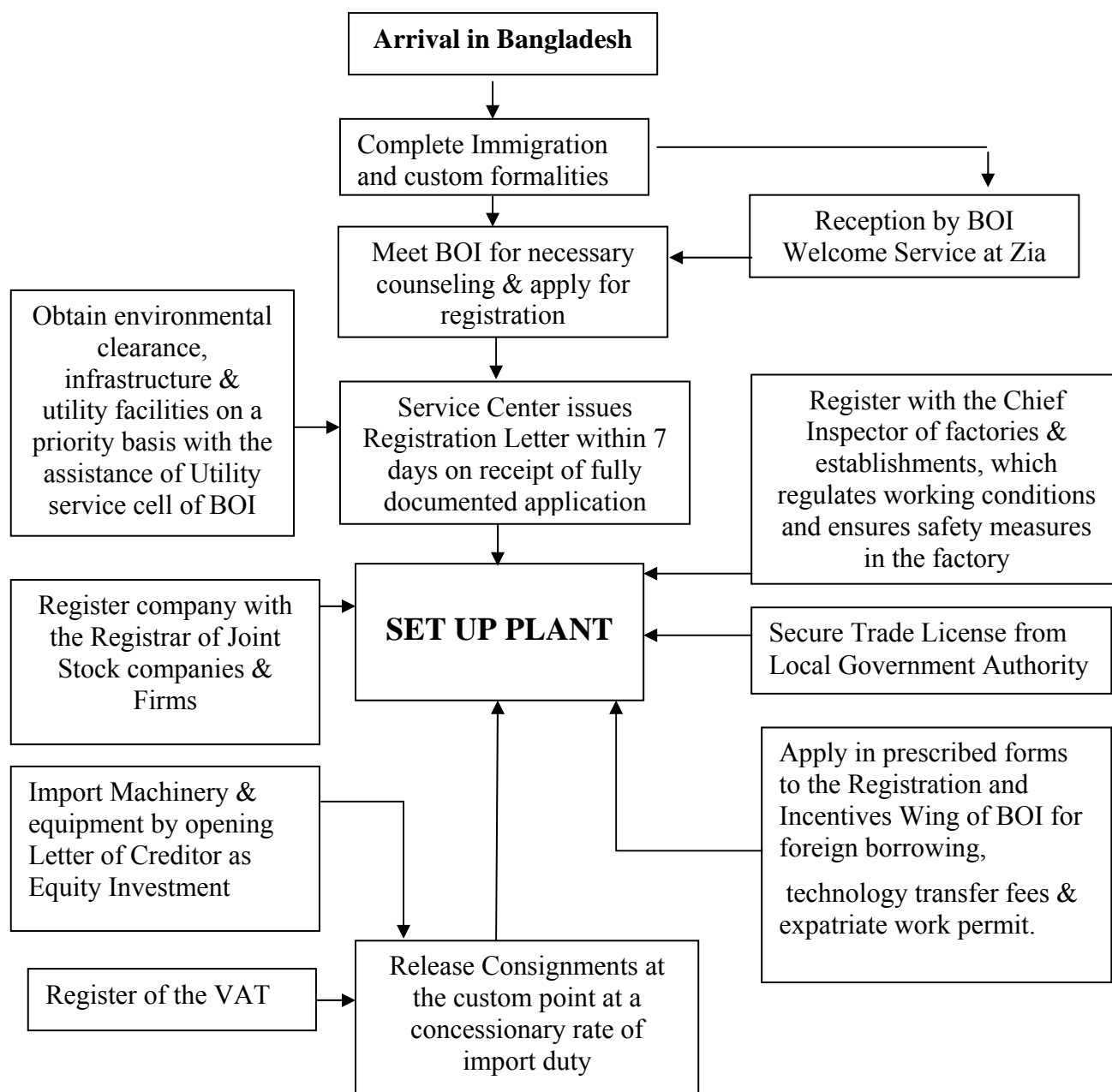
### 4.3. FORMALITIES AND INVESTING PROCEDURES IN EPZs

The concept of EPZs was introduced in Bangladesh to attract foreign investment with special protection. Thus, an attempt has been made to highlight the formalities and investment procedures of EPZs in below:

**Table 1: Formal Documents and Fees of EPZs**

Requisites/Steps	Fees and Rentals Items	Fees in USS
a. Project Proposal Form	Application form	45
b. Bank Solvency Certificate	Registration Fee	250
c. Memorandum of Association	6 month Rental (Land) a) Dhaka, Chittagong, Comilla, Adamjee Karnaphuli b) Mongla, Ishwardi,, Uttara (Nilphamari)	2200 1000
d. Articles of Association		
e. Certificate of Incorporation		
f. Joint Venture Agreement	6-month Rental (Factory Building ofr 1500 m.)	
	a) Dhaka, Chittagong, Comilla, Adamjee Karnaphuli b) Mongla, Ishwardi,, Uttara (Nilphamari)	4125 2500

The following are procedures followed for set up business at a glance in Bangladesh by BOI are as follows:



**Figure 1: Investors Operational Flowchart for new investors**

Source: Board of Investment in Bangladesh ([www.boi.gov.bd](http://www.boi.gov.bd))

#### 4.4. INVESTMENT FACILITATION & PROMOTION AGENCIES IN BANGLADESH

Bangladesh Government has recognized the importance of private sector investment for accelerating industrial growth of the country since 1980 and formulated relevant industrial policies time to time (e.g. foreign private investment (promotion and protection) act). The following are the key investment promotion and facilitation agencies of Bangladesh.

**Table 2: Investment Authorities**

Agency	Areas of Concern	Investment Type
1. Bangladesh Small & Cottage Industries Corporation (BSCIC)	Small cottage industries	Domestic
2. Bangladesh Export Processing Zones Authority (BEPZA)	Exported Oriented Industries located in EPZs	Domestic & FDI
3. Board of Investment (BOI)	All other industries including promotion of the above	Domestic & FDI
4. d. Bangladesh Economic Zones Authority (BEZA)	Established New industrial Area	Domestic & FDI
5. Privatization Commission	Privatization of Public Enterprises	Domestic
6. Public Private Partnership (PPP) Office	Partnership with National & International Investment Community	Domestic & FDI
7. SME Foundation	Small & Medium Enterprises Promotion by Technical & Financial support	Domestic

In addition two government owned companies - Infrastructure Investment Facilitation Center (IIFC) and Infrastructure Development Company Limited (IDCOL) are working tremendously for private sector infrastructure development of Bangladesh.

#### **4.5. INCENTIVES PROVIDED BY BANGLADESH EXPORT PROCESSING ZONES AUTHORITY (BEPZA)**

Under, the BEPZA Act. 1980, EPZs are provided infrastructural facilities, administrative and support services to the investors along with rewarding incentives. BEPZA runs 8 EPZs and facilitates investment by local and foreign firms to produce goods for exports. Now there are 428 industrial units operating in EPZs and invested US\$ 402.58 millions in FY 2013-14, where it was US\$ 328.53 millions in FY 2012-13, which is increased 22.54% in FY2013-14 than FY 2012-13. It is mandatory to form a workers' welfare committee at every factory in EPZs. The WWC is to form in collaboration with six important stakeholders viz Bangladesh government, World Bank, American Federation of Labor Congress of Industrial Organization, US embassy of Dhaka, International Labor Organization and BEPZA. The major incentives & facilities provided by BEPZA are listed value:

**Table 3: Facilities and Incentives given by BEPZA**

Fiscal Incentives	Non- Fiscal Incentives	Infrastructure & Facilities
Concessionary Tax for 5 years after completing initial 10 years	100% Foreign equity allowed	Fully serviced plots
Duty free import of machinery & raw materials	Unrestricted exit policy	Ready factory building
Avoidance of Double Taxation based on DTTs	Full repatriation facilities of dividend and capital at the event of exit	All types of Utilities
All other incentives as provided by BOI	Import of raw materials allowed on Documentary Acceptance basis	Warehouse and Secured Bonded Area
	Intra and Inter-zone export is allowed	Business Support Services
	Subcontracting within EPZs permitted	Administrative Services
		Customs Clearance at plant site
		Workers Dormitory Enclave
		Recreational Amenities
		10% Sales to Domestic Tariff Area

Different support services like telephone, electricity supply, port facilities, customs, banking and insurances facilities, Security and Exchange Commission (SEC), C & F agents, shipping

facilities, investors club, medical centre, school and college services are also provided to the entrepreneurs by BEPZA and BOI.

#### **4.6. FACILITIES / INCENTIVES PROVIDED BY BOI:**

BOI was established to encourage, facilities and promote investment in private sector both local and foreign under the Investment Board of Act of 1989. It provides all sort of information required by an investor. The following facilities and incentives are provided by BOI to investors and Non-Resident of Bangladeshis

##### **A. Investment incentives**

- i. Investments of NRBs will be treated as FDI and will enjoys all facilities of foreign investors
- ii. NRBs are granted 10% quota for all IPOs.
- iii. NRBs can trade shares/ debentures of Bangladeshi companies in stock exchange
- iv. NRBs can transact in foreign currency in their Non-residents Foreign Currency Deposits (NRFD) account
- v. Important NRBs will be awarded as “Important Non- Resident Bangladeshi (INRB) upon fulfillment of certain conditions.
- vi. Full repatriation of investment and profit is allowed
- vii. Re-investment of dividend will be considered as new investment
- viii. Multiple entry visa for 6 months to the prospective new investors
- ix. Citizenship is granted for non-returnable investing at least US\$ 5,00,000 in production concern and US\$ 10,00,000 in financial institution.
- x. Permanent resident ship is granted for investing at least US\$ 75,000 (non-returnable)
- xi. Special facilities and venture capital support will be provided to export-oriented industries under “Thrust sectors”

##### **B. Tax Exemptions**

- i. Royalties and fees on technical know-how of foreign collaborators, firms, companies and experts are subject to tax exemption
- ii. Interest on foreign loans under certain condition can be deducted from taxable income.
- iii. Income taxed in home country will not be taxed again (ensured by bilateral agreements).
- iv. Foreign Technicians of specific industries (as mentioned in tax ordinance) will get tax exemption for 3 years.
- v. Fifteen year tax exemption on income from commercialized private sector power generation company
- vi. Tax exemption on capital gains from the transfer of shares of public limited companies listed with a stock exchange.

#### **4.7. FACILITIES / INCENTIVES PROVIDED BY BSCIC:**

In 1992 through a parliamentary legislation Bangladesh Small and Cottage Industries Corporation (BSCIC) was established to provide comprehensive services to development and expansion of small and cottage industries for economic development of the country. The followings are major facilities and incentives provided by BSCIC:

1. Identification & selection of entrepreneurs;
2. Entrepreneurship development;
3. Project selection for the entrepreneurs on the basis of his education, professional background, financial solvency and past experience;

4. Preparation of project proposals;
5. Project appraisal (Technical, Financial, Economic and Management);
6. Credit arrangement, and supervision of credits
7. Supervision of project implementation;
8. Infrastructure development and allotment of developed plots to the entrepreneurs.
9. Management and skill development;
10. Design, prototype development and distribution;
11. Research and development;
12. Evolve appropriate production process, adoption and transfer;
13. Assist entrepreneurs in quality control and quality improvement;
14. Prepare marketing study and provide marketing assistance (including exports);
15. Initiate integrated programs through Co-ordination with other agencies involved in SCI development;
16. Publication of information materials on SCI;

#### **4.7 INCENTIVES PROVIDED BY OTHERS GOVERNMENT AGENCIES:**

Bangladesh Government is to stimulate the economy and transform a poverty-stricken economy to Newly Industrialized Economies (NIE) by 2021. Government has liberalized the industrial and investment policies in recently years by reducing regulatory requirements and opening up many areas. Bangladesh Bank tries to encourage foreign firms/investors by letting them to take back higher portion of their business returns. It has also agreed to accept market value approach, income approach or discounted cash flow approach or their average for valuation of shares, depending on the nature of the company. Substantial incentive program has also been implemented which is presented below:

**Table 4: Incentives offered by MOF, BB, and NBR**

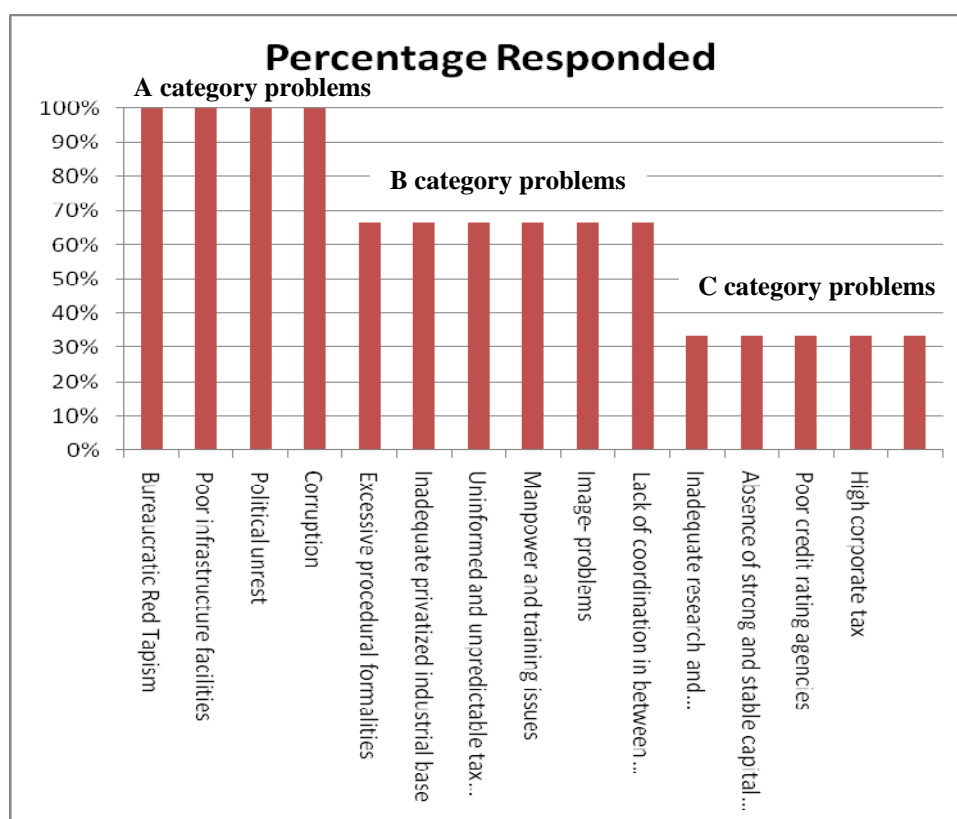
<b>Approval Authorities</b>	<b>Major Fiscal Incentives</b>	<b>Major Non-Fiscal Incentives</b>
Ministry of Finance	Tax Holiday	Remittance of royalty technical know-how, technical assistance fee
Bangladesh Bank	Accelerated Depreciation Allowance (ADA) instead of tax holiday	100% Foreign Equity allowed
National Board of Revenue	Accelerated Depreciation Allowance	Unrestricted Exit Policy
	Concession on duties over imported machinery	Full return of investment and dividend at closer of business
	Elimination of Double Taxation	Permanent Residence Permit and Citizenship for investing US\$ 75,000 and US\$ 5,00,000 respectively

## **5. FINDINGS**

### **5.1. PROBLEMS FACED BY THE INVESTORS IN SETTING AN INDUSTRY IN BANGLADESH**

According to the survey of World Economic Forum, inadequate infrastructure, corruption inefficient bureaucracy and continue to haunt entrepreneurs in Bangladesh are major problems for attracting investment especially FDI. Recently, Japanese Prime Minister Abe's visited in Bangladesh, pointed out one of the key impediments that Bangladesh did not have a "one step service office" to ensure hassle free completion of necessary formalities for investors to start new businesses. Thus, an attempt has been made to identify the problems and their severity related to investment by a Pareto picture (Appendix 1 gives original values).





**Figure 1: Investment Problems and Their Severity**

From the analysis of the above figure, indicates that Bureaucratic Red Tape, Poor infrastructural facilities, Political Unrest and corruption are the most serious problems for attracting investment in Bangladesh, which have been supported by 100% of the sample respondents. Excessive Procedural formalities, inadequate privatized industrial base Uninformed and unpredictable tax structure, Manpower and training issues, image problems and lack of coordination between industrial policies and its implementation have been considered the second major problems for attracting investment, which supported by 66.67% sample respondents. On the other hand, inadequate R&D facilities, absence of strong and stable capital market, poor rating agencies and high corporate tax are also found important reasons for investment in Bangladesh.

## 5.2. REMEDIAL MEASURES TO OVERCOME THESE PROBLEMS:

According to The Daily Star newspaper foreign investors desire to get all sorts of facilities and promotions under the umbrella of the BOI so that they can receive one stop service and proceed quickly without any hassle. They have strongly requested to give BOI the authority to give major permissions such as trading, import, bond and factory licenses, environmental clearance, TIN and VAT registrations, certification for the safety and tax exemption that are required for setting up a business. Thus, an attempt has been made to identify the some remedial measures to overcoming problems that are faced by investors in Bangladesh.

1. Sustained Socio-Political stability
2. Development of infrastructure facilities
3. Development of capital market
4. Increase of efficiency and effectiveness in Banking System
5. Development of skilled manpower.
6. Decrease in the corporate and other taxes and determination foreign exchange rates through market mechanism
7. Development of private sector industrial based

8. Establishment of regional and sub-regional zones
9. Increase the functioning of independent commissions against corruptions
10. Creating of living environment for foreign investors
11. Rebuild the image problem
12. Continuity of investment policy
13. Improvement of investment climate
14. Removing the bureaucratic complexities
15. Government service will be result oriented
16. Reduction in corruption and hidden costs.
17. Consistent electricity, gas and water supply.

## 6. CONCLUSION

There are many hinders of attracting investment. Information asymmetry is one of them. Lack of information increases uncertainty that reduces attractiveness of potentially lucrative investments. This study attempted to give a one stop source of all required information to all potential domestic and foreign investors regarding investment laws, regulations, formalities, and facilities/incentives in Bangladesh and thereby encourage level of investments to the desired level of the country. Main focus was on manufacturing enterprises. Attempts were made to categorize investment related problems into three categories (A,B, and C) based on their severity recognized by investors. Suggestions were given over how to minimize bureaucratic complexities for expedite the investment in the country. Necessary policy directives given in the paper will provide meaningful guide to all the stakeholders related to establishing ventures in Bangladesh. Bangladesh government has to come forward to enhance the entrepreneurial capabilities of investors through providing more liberalized laws, regulations policies, facilities and incentives. The recommendations given in this paper definitely help to improve investment climate in Bangladesh. This in turn gives a positive message to the both domestic and foreign investors about the investment friendly environment prevailed in Bangladesh. Concerned authorities involved with investment also get guidelines how to make continual improvement and reform in the policies, regulations, formalities and required activities that will be supportive for attracting more inflow of FDI into the country.

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## Appendix # 1

### Problems of Investment identified by Respondents

SL. No.	Problems recognized by respondents	No of respondents	% of the respondents
1	Bureaucratic Red Tapism	30	100%
2	Poor infrastructure facilities	30	100%
3	Excessive procedural formalities	15	66.67%
4	Political unrest	30	100%
5	Inadequate privatized industrial base	15	66.67%
6	Corruption	30	100%
7	Uninformed and unpredictable tax structure	15	66.67%
8	Manpower and training issues	15	66.67%
9	Absence of strong and stable capital market	10	33.33%
10	Image- problems	15	66.67%
11	Inadequate research and Development facilities	10	33.33%
12	Poor credit rating agencies	10	33.33%
13	High corporate tax	10	33.33%
14	Lack of coordination in between investment policies and implementations	15	66.67%
15	Absence of efficient and effective banking system	10	33.33%

(Field Study)