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STAR ARCHIVE

Regulatory reform initiative

SAMIR ASAF

LAWS are approved by the parliament, while "regulations" are authoritative rules dealing with procedure, rules, or orders issued by an executive authority or regulatory agency of a government having the force of law. In this sense, regulations and rules are subordinate to laws. We will adopt the broader definition of "regulatory reform" to include laws as well as rules.

From an economic or social development standpoint, we all support an enhanced investment and regulatory climate in Bangladesh. With the formation and operation of the Regulatory Reforms Commission (RRC), we have taken a positive step towards such enhancement.

Regulation is necessary for governing and promoting the welfare of citizens within the broader context of the need to maintain discipline and order in a country. These laws, rules, and procedures together govern individual and institutional activity.

Too much regulation suffocates economic activity, thwarts innovation, and increases the cost of doing business thus limiting national competitiveness. And regulation is not always the answer for a policy problem. Over-regulation throughout most of the 20th century was no longer the appropriate model for economic efficiency in a globalised information age characterised by hyper-competition, and a general propensity for investor friendly business climates, regulatory efficiency and simplification.

Thus the latter part of the 20th century saw a wave of attempts to modify some existing regulatory structures and systematise the creation and review of new ones. A part of this was the deregulation movement with ongoing programmes to review regulatory initiatives with a view to minimising, simplifying, and making more cost effective regulations.

Bangladesh's regulatory landscape has improved significantly in the last three and a half decades. Progress has been achieved in financial sector deregulation, trade and commerce, environmental laws, privatisation, women's rights, independence of the media and judiciary, and in other areas. But in the context of hyper-competition and pressures of globalisation, much greater progress has been made by other developing countries such as Thailand, Malaysia, Korea, Indonesia, and India.

The business operating environment in Bangladesh continues to be characterised by excessive regulations that are often ad hoc, unclear, inaccessible, inefficient, inconsistent with government's policy priorities, irrational, outdated, and suffers from broad non-compliance and lack of transparency. Regulatory uncertainty resulting from sudden issuance of regulation with limited or no prior consultation catches the stakeholders by surprise and negatively impacts business confidence. In many areas, regulations are non-existent where in fact they are required.

The regulatory landscape in Bangladesh is therefore not satisfactory. Its development is not inclusive by way of a process. Public accountability and private sector engagement are not yet within an overall strategy of regulatory management and reform. We are not maximising the net social welfare because the balance between regulatory and non-regulatory approaches has not been optimised. Therefore, continued regulatory reform should be high on the government's agenda.

A forward-looking policy and regulatory framework is required in Bangladesh. By adopting RIA, we will have taken an essential step toward a rational decision-making framework for regulation that uses empirical data and analytical techniques to quantify potential impact on social and economic costs and benefits, and which is inclusive in terms of greater participation from civil society members and relevant stakeholders.

Doing business in Bangladesh is frustrating. There is wide non-compliance both at national and sub-national levels. There are approx. 15,000 SROs in Bangladesh today. That's too many. Many laws are well over 100 years old and have not been modified. The Industrial Policy regulation that industrial enterprises must reinvest at least 40 percent of tax-free income (clause 7.2) is unreasonable and needs to be abolished.

The stipulation that expatriates working in Bangladesh are entitled to repatriate only 50 percent of their wage (clause 14.5) negates the very premise of promotion of foreign direct investment in the country. Bangladesh Bank, perhaps the only central bank in the world that does this, fixes CEO salaries of Banks and Financial Institutions! Banks cannot buy or lease cars for their executives or board members if its cost exceeds Tk. 26 lacs! A no-visa-required seal from a Bangladeshi consulate abroad requires a referrer whose TIN number and latest copy of tax returns must be submitted.

Here are some additional data points from IFC's "Doing Business Report 2009" relating to the actual time and effort required in various stages of operating a business in Bangladesh. In Bangladesh, it takes 73 days to start a business, 245 days to register property paying 10% of property cost, 302 hours to work through the cumbersome tax payment procedures, 28 days (on average) to export and 32 days to import, and 1,442 days to recover commercial debt through the courts. The cost to enforce a contract is on average 63% of the value of the claim. Companies pay a relatively high tax rate 37.5%. In addition, non-management employees need to be paid 24 months of salaries if they are laid-off.

Other countries are also making progress in regulatory reform. According to IFC's Doing Business report, top 10 reformers include Azerbaijan, Albania, Kyrgyz Republic, Belarus, Senegal, Burkina Faso, Botswana, Colombia, Dominican Republic, and Egypt.

Bangladesh has made positive reforms in the areas of registering property and starting a business, while the RRC has already achieved progress in a few areas. The RRC has made 38 recommendations, all of which are at various stages of implementation. RRC's tenure has been extended until 29th Oct 2010.

RRC's noteworthy achievements include computerisation of a total of 8,995 SROs category-wise; ongoing E-registry development; modernisation and computerisation process for Land Management Administration System. The RRC recommended general pre-publication of all gazettes, but the government chose to apply this on an "if and when necessary" basis. Based on an RRC recommendation, the time taken for issuance of Location Clearance Certificate and Environment Clearance Certificates have been halved by the Department of Environment (DOE).

The duty drawback and exemption system has been computerised, and forms simplified. Capital machinery import clearance process has been simplified through introducing risk based assessment by NBR. Bonded warehouse licensing process has been opened to all; Ministry-level RRC focal points have been operationalised; and a diagnostic evaluation and assessment of all regulatory bodies will be implemented by RRC shortly. I am hopeful that RRC will be made a permanent body and that its recommendations will be effectively implemented by the concerned ministries.

Notwithstanding RRC's achievements, Bangladesh needs to adopt Regulatory Impact Assessment (RIA) as a tool for enhancing regulatory effectiveness, particularly as it relates to the issuance of new regulations. In the

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