

# Doing Business index: Improving Bangladesh's ranking



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If you have a commercial dispute in which your claim is Tk 1 crore and you have decided to go for legal action, if successful, you can hope to recover around Tk 33.2 lakh, and in other words, the cost of recovery is estimated at 66.8 percent of the claim.

In all likelihood, the case will take 1,442 days or just 18 days short of four years to be resolved. This is what The World Bank's Doing Business Index 2017 says.

Indeed it is numbers like these that reinforce negative perceptions about Bangladesh. Before I go on to explaining what factors affect our ranking, it would be useful to introduce BIAC.

At Bangladesh International Arbitration Centre (BIAC), we have been making an effort to bring about a major change in the way we settle commercial disputes.

BIAC's objective is to embed settlement of commercial disputes through alternate dispute resolution (ADR) as the first default process, instead of taking it to the court.

This may sound very simple and logical, but the reality, for a variety of complex reasons, is quite different.

I know, the first thing that crops up in our minds is that we are as a people, fond of taking our disputes to the court, but the truth is our history and culture say otherwise.

Traditionally, our villages and towns had a

heritage of "shalishi" - an alternative dispute resolution process which had elements of both mediation and arbitration.

Although elements of it still exist in different forms in our rural and urban areas, the rise of new socio-cultural ethos and stronger and a more structured legal eco system that was established during the British colonial period has eroded and disempowered the social authority of this quasi legal process.

The quantum increase of contractual relationships and transactions and the consequent impact of increasing number of disputes have put enormous strain on our commercial legal system.

The legacy of a public sector dominated economy till the mid to late eighties limited the commercial legal precedence and practice of commercial jurisprudence in Bangladesh.

In such a situation, the conventional response of increasing capacity of the legal resources of the state to meet the need does not make economic sense and would be an unsustainable financial burden on the state.

Economists consider that this increases the economic transaction cost and therefore lowers the efficiency of the economy.

Institutions that facilitate low transaction costs boost economic growth. Douglass North states that there are four factors that comprise transaction costs - 'measurement', 'enforcement', 'ideological attitudes and perceptions', and 'the size of the market'.

Measurement refers to the calculation of the value of all aspects of the goods or services involved in the transaction. Enforcement can be defined as the need for an unbiased third party to ensure that neither party involved in the transaction reneges on their part of the deal.

It is the legal system that ensures 'enforcement'. However, if enforcement takes longer than what is an acceptable period, on time value of money calculation, the end result is that the discounted value of the 'enforcement' is unviable, nil or negative.

To make this point, let me cite some available statistics.

A study conducted by International Finance Corporation, Bangladesh Investment Climate Fund, and the Centre for Effective Dispute Resolution (CEDR) (UK) 2009 came up with the following findings, which I believe are still relevant.

Civil (appeal & revision) cases: 15.3 years

Writ cases: 3.68 years

Civil cases (original jurisdiction): 5.78 years

The situation in case of outstanding litigation under the Money Loans Court Act (2003) is not encouraging either.

**Bangladesh Bank: Number of cases pending with Artha Rin Adalat was 49,656 until 2016 (amount Tk 60,142 crore).**

Clearly the above numbers do reinforce the view that 'enforcement' is at best weak and at worst barely existent. This also feeds into the 'ideological attitudes and perceptions' part of the 'transaction cost' equation.

Issues like these have a much larger knock-on effect than one perceives.

Take the case of a global ranking published every year by different agencies on aspects of economics of different countries.

The 'Doing Business Index' of the World Bank ranks Bangladesh at 176th among 190 countries trailing Sri Lanka (110), India (130) and Pakistan (144). It may surprise many to find that war torn economies like Iraq (165) and Syria (173) fared better than us.

This is the point I was trying to make in the opening few lines on how qualitative rankings can exacerbate negative perceptions about the country. We certainly need to address this to help create a positive image of Bangladesh as a country which welcomes foreign direct investment.

This composite index has 10 underlying factors e.g. starting business, dealing with construction permits, getting electricity, registering property, getting credit, protecting minority investors, paying taxes, trading across borders, enforcing contracts and resolving insolvency.

We are in the last 10 of the 190 countries in three factors, in the last 50 in seven (including the three) factors and in the first 100 in only one.

To improve this ranking, we need to look at the ones that are pulling us down the most.

The three that stand out are Getting Electricity ranking 187, Registering Property ranking 185 and Enforcing Contracts 189 all out 190 countries.

We are among the last five countries in these three. While the first two of these three appear to be 'work-in-progress' for the government; the last one is the most challenging one and one that perhaps requires a quantum change in attitude towards the alternative dispute resolution process.

We cannot resolve the huge backlog of cases by simply increasing the number of courts or judges. The cost could be astronomical.

Most economies have faced this issue of backlog of cases and most have resolved it by making the legal infrastructure ADR friendly and more importantly, forcing litigants into the ADR track.

The latest example is Malaysia that brought down the index ranking by lowering the average number of days it takes to enforce a contract to 425 in 2012 from 585 in 2011 by forcing litigants to use ADR rather than trying to resolve all outstanding cases through the judicial process.

Malaysia moved from 102 out of 183 economies to 23 out of 190 economies in 2011 and 2017, respectively. This upward ranking was to a great extent assisted by their improvement in "Enforcement of Contract" ranking through adoption of an ADR-friendly regime.

Forcing cases on the ADR track freed the courts to concentrate on the more important and impactful litigation, lowered transaction cost and created a more efficient economy.

BIAC was set up by three leading trade bodies - the International Chamber of Commerce, Dhaka; Chamber of Commerce & Industry; and the Metropolitan Chamber of Commerce & Industry. This not-for-profit institution, like similar ones in Singapore, Hong Kong, Thailand and Malaysia, has been for the last five years working in the ADR space in Bangladesh.

It is the only ADR institution in the country and can play a more effective role if utilised to assist in the process of making enforcement of contract.

Effective ADR in the commercial legal infrastructure is now not a 'good to have', it is increasingly becoming a 'must have' for Bangladesh. The positive 'spin-off' from this will be a much desired improvement in our 'Doing Business' ranking with consequent impact on foreign direct investment.

There have been reports in newspapers that Bangladesh Investment Development Authority (BIDA) has recently undertaken a project to improve this global ranking of Bangladesh.

It is indeed one of the most important initiatives this institution has taken which the precursor institution, BOI, should have done much earlier.

Muhammad A (Rumee) Ali is the CEO of BIAC and a former deputy governor of Bangladesh Bank.

## Lack of dividend and loan growth take shine off StanChart

REUTERS, London

A failure to resume dividends and to grow its loans overshadowed a recovery in first half profits for Standard Chartered, pushing its shares 5 percent lower on Wednesday.

The bank's profit jumped 93 percent in the six months to the end of June, partly because it avoided the hefty losses from its private equity business and bad loans that blighted its results a year ago.

StanChart's underlying loan impairments of \$583 million for the first half were down from \$1.1 billion in the same period a year ago. These are closely watched by investors in the Asia-focused bank, which has had a glut of bad debts in the past few years following over-exuberant lending.

"We are positioned to resume growth, and we have shown early encouraging signs we can do that," Chief Executive Bill Winters told reporters on a conference call.

Despite the signs of progress and optimistic tone from its executives, StanChart shares fell more than 5 percent in London following the results announcement.

The bank said it would not resume paying dividends, as some investors had hoped for following its stronger profits and capital position. StanChart said it would revisit the issue at the end of the year.

## Apple seeks tax breaks for suppliers to make iPhones in India



A pedestrian walks past an Apple iPhone 6 advertisement at an electronics store in Mumbai, India

REUTERS, New Delhi

APPLE Inc has asked the Indian government to extend tax breaks to its suppliers if India seeks to become a manufacturing hub for iPhones and its components.

Government officials say meeting this request would require a new policy that applies fairly to other device makers, too.

The US tech giant has been in talks with Indian officials since May of last year, when CEO Tim Cook and Prime Minister Narendra Modi agreed to set up a production base in the country that goes beyond just assembling the devices, as happens today.

The two sides have been discussing a list of "prerequisites" that Apple submitted in October, including duty exemption on raw materials for manufacturing components and capital equipment for 15 years for it to make iPhones from scratch in India.

The company has told the government it would be bringing in a host of these ancillary units when it sets up operations to cater to India, one of the world's fastest growing smartphone markets, a top government official said.

"They want the same treatment to be given to the component manufacturers; the tax concessions, they want everything. But then some kind of policy will have to be evolved," the official said.

Apple declined to comment.

The demand could further delay Apple's plans to penetrate the Indian market, the world's third largest for smartphones behind the United States and China, but where it has only a 2 percent share.

The company is looking to India after

sales in the Greater China region, once a major growth driver, slid 14 percent year-on-year to \$10.7 billion in the three months ended April 1.

In May, Apple, working with Taiwanese contract manufacturer Winstron, began assembling the iPhone SE in Bengaluru.

The plan that Modi and Cook ordered the two sides to work on, however, envisages manufacturing a full range of iPhones for the domestic market, as well as for export. For India, which would only be the second iPhone production centre after China, such an investment would be a big win for Modi's Make-in-India campaign.

It would also spawn a vast network of suppliers, in the way that India's auto ancillary sector took off to feed Maruti Suzuki India's production line over three decades ago.

Another official, who has led efforts to secure foreign investment in the manufacturing sector, said Apple's proposal to build its phones in India was being examined favourably by the government.

"My view is that India needs to support Apple to create an ecosystem, which was done for Maruti. This helped to build the automobile and auto component industry in India," the official said, seeking anonymity in line with government policy.

"Initial support will pay rich dividends in the long run and facilitate innovation, design and manufacturing of electronics components in India," the official added.

Apple competitors such as South Korea's Samsung Electronics and China's Oppo could also benefit from a broader policy review as they, too, currently have predominantly assembly operations in India.

## South Asia becomes global LNG hotspot as Bangladesh enters market

REUTERS, Dhaka/Singapore

SOUTH Asia, long a backwater for energy markets, is emerging as a hotspot for liquefied natural gas (LNG), with Pakistan and Bangladesh set to join India as major consumers, helping to ease global oversupply that has dogged this market for years.

Only India and Pakistan currently import LNG in South Asia, taking in a combined 25 million tonnes, or 8 percent of global demand last year.

But with a fast growing population, strong economic growth and soaring energy demand, more import projects are being developed, lead by Pakistan and Bangladesh.

"Both countries already have extensive gas infrastructure due to legacy production from domestic gas fields," said Chong Zhi Xin, principal Asia LNG analyst at energy consultancy Wood Mackenzie. "As domestic production has failed to keep up with demand, both markets are a natural fit for LNG imports."

Pakistan only started importing its first LNG in 2015, and surprised some in the industry by developing its first terminal within schedule and budget. A second is about to become operational and a third is expected to be completed next year.

With Bangladesh set to join the club of importers next year, the region could import 80-100 million tonnes a year by the mid 2020s, analysts said, making it the world's second biggest import region, ahead of Europe.

Bangladesh, a country of over 160 million people, could import as much as 2,500 million cubic feet per day (mmcf) of LNG, equivalent to around 17.5 million tonnes per year, by 2025, said Nasrul Hamid, Bangladesh's state minister for energy and power.

With its own gas reserves depleting and seeking to almost double power capacity to 24,000 megawatt (MW) by 2021,

Bangladesh is tapping cheap and plentiful supplies on world markets and investing heavily in LNG.



The Haveli Bahadur Shah LNG power plant in Jhang, Pakistan is seen.

Several floating storage and regasification units (FSRU), the first developed by private U.S. company Exxcelerate Energy, are due to begin importing cargoes starting in 2018.

"We are working on two FSRU's from which gas will start flowing (by) next July," Hamid told Reuters.

Both FSRU's will be deployed off Moheshkhali Island in the Bay of Bengal, in the southeast of the country. They will have a combined capacity of 7.5 million tonnes a year.

Two more FSRU's are planned, though no exact dates have been finalised. In addition, state-run Petrobangla signed a preliminary deal with India's Petronet in December to set up an onshore terminal to regasify a further 7.5 million tonnes a year of LNG on Kutubdia Island, just to the north of Moheshkhali, at a cost of \$950 million.

"By 2025, depending on our national demand, we will import anywhere from 2,000 to 2,500 mmcf of gas," Hamid said.

Those imports would add to plans from India and Pakistan to buy 50 million and 30 million

tonnes of LNG per year, respectively, by the mid-2020s.

"LNG imports in South Asia are expected to rise four-fold from 22 million tonnes per year in 2016 to over 80 million tonnes per year by 2030," said Mangesh Patankar, head of Asia/Pacific business development at energy consultancy Galway Group.

Should all plans in the region go ahead and Sri Lanka also start imports, this figure could rise to 100 million tonnes, industry project data shows.

That would push South Asia's demand ahead of Europe as the world's second biggest LNG import region by 2020, though it would still lag North Asia's 150 million tonnes of annual imports.

The boom in demand will help ease oversupply in LNG markets, which have resulted in a more than 70 percent price fall from their 2014 peaks to \$5.75 per million British thermal units.

Hamid said Bangladesh was in talks with Qatar's RasGas and Indonesia's Pertamina for long-term deals, while it also planned to import significant amounts of its future demand via the freely traded spot market.

"We are looking for a mixture of both long-term contracts and the spot market," Hamid said.

Rupantarita Prakritik Gas, part of Petrobangla, in June posted a notice looking for LNG suppliers for spot cargoes from 2018.

Not everyone believes Bangladesh and Pakistan will achieve their LNG ambitions.

"It is likely to be an overly ambitious target... China took more than 10 years to reach 20 million tonnes of LNG imports. In India, it took 13 years to reach the same amount," said Chong Zhi Xin. Low domestic gas prices also required LNG imports to be subsidised in Bangladesh and Pakistan, he said.

"As LNG imports increase, so does the subsidy bill. Without pricing reforms, it would be a challenge for Pakistan and Bangladesh to fulfil their LNG import ambitions."

Hamid, however, is confident. In order to meet surging demand, he said LNG was part of an even bigger plan.

"The solutions are FSRU, land-based LNG, deep sea exploration in the Bay of Bengal, and transnational (gas) grids," he said.