

Workshop Proceedings: Reducing Administrative Barriers to Investment

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1 Session 5¹: Introduction to Administrative Barriers

Session Chair Farooq Sobhan, President of Bangladesh Enterprise Institute (BEI), opened the session briefly summarizing the previous days' workshop on Economic Zones, noting that reduction of administrative barriers to investment is another proven method to drive private sector development and, therefore, a second key component of the Bangladesh PSDSP.

Mr. Sobhan introduced Mamdood Hossain Alamgir, Director, Board of Investment. Mr. Alamgir welcomed participants on behalf of the Board of Investment and Chief Guest Mahmudur Rahman, Executive Director of BOI, who had attended the first day, but was unable to attend the second day. Mr. Alamgir commented on the extensive amount of work put into the producing the draft Administrative Barriers Review to be discussed today and thanked the PSD Core Group for their important role in the review process. Mr. Sobhan followed with the long term view on previous work regarding the investment climate in Bangladesh. BEI has contributed to donor investment climate studies and produced its own evaluations of the private sector environment in Bangladesh. Mr. Sobhan then introduced Craig Wilson, Program Manager, Investment Climate Assessments at SEDF to provide further detail on the SEDF/FIAS study.

Mr. Wilson told the history of the PSDSP design phase and explained that one of the key first steps was to begin a major study to review selected major administrative barriers. The ABR Working Group was formed within the PSD Core Group to lead the study on the GoB side. To provide initial input to the study, the Japanese (JICA) funded a complete review of commercial laws in Bangladesh. Then with additional input from previous analyses, the Private Sector Consultative Group, the PSD Task Force, and the PSD Core Group confirmed the six issues of focus for the ABR. Mr. Sobhan then called upon the members of the ABR Working Group to give their insights on the process.

¹ This workshop was part of a two-day event, which opened on the preceding day. Day two opened with Session 5 of the two-day agenda.

Jalalul Hai, Deputy Director, Board of Investment, spoke on behalf of the ABR Working Group. He began by stating the purpose of the ABR Working Group was to build capacity within the Government involved in the design phase of the ABR and participate in the process (focus groups, process mapping, facilitating access to agency level information, etc.). The ABR Working Group is also the repository of knowledge of the ABR process within the Government. The goals of the ABR are to reduce cost and time for investment, reduce the opportunity of corrupt practices, to develop a methodology for reform, and to build capacity within the government machinery to identify and address administrative barriers.

Mr. Hai explained that Phase 1 of the ABR was to select the target administrative processes for the study, selected as follows: (1) Environmental Clearance Certificate; (2) Location Clearance Certificate; (3) Duty Exemption and Drawback System; (4) Equipment & Capital Machinery Clearance; (5) Bonded Warehouse Licensing; (6) Foreign Loan Documentation. Phase II of the ABR was to study each of these issues through three separate mechanisms: (1) Business intermediary/Business Survey; (2) Process Mapping; (3) Focus Group Discussion (FGD). The ABR played a significant role in the business intermediary/business survey by providing inputs to questionnaire development; providing access to the relevant agencies; assisting to identify business intermediaries; and reviewing the outcomes of the survey. Also in the process mapping, the Working Group reviewed and customized the standard templates, selected contact persons within agencies, reviewed the draft process maps and met with agency heads to get their feed back, and identified bottlenecks in the process. Phase III was then to perform an in depth analysis of data collected to make appropriate recommendations for reform and action plan. Complete findings of the study to be presented later in the day.

Finally, Mr. Hai discussed the future of ABR and the Working Group. Possible future ABR issues presented include company registration, obtaining TIN number, access to land, investment registration, work permits for foreign nationals, IRC & ERC, and trade licensing. Suggestions for institutionalizing the Working Group include forming a central committee under the Prime Minister's office for regular review by agencies and respective administrative ministries, solicit public opinion, and incorporate exposure to best practices.

2 Findings of the Administrative Barriers Review

Mr. Sobhan thanked the ABR Working Group for the participation in the workshop and throughout the entire ABR process. Mr. Sobhan then introduced **Iftekar Ahmed**, Senior Research Fellow at Bangladesh Enterprise Institute, to present the findings of the ABR. Mr. Ahmed discussed the logical breakdown of the ABR issues according to the government agency under which the process sits. National Board of Revenue (NBR) administers duty drawback, bonded warehouse licensing, and capital equipment clearance. The Department of Environment administers environmental and location clearances. BOI covers the foreign loan documentation and also has a role in recommended firms for a bonded warehouse license. Some common themes emerged from the stakeholders of all six issues. Common client complaints included that the process is extremely cumbersome, processing takes too long, and unofficial payments must be made. On the other side of table, common agency complaints included that privileges granted will be abused, phantom businesses exist, and difficult legal recourse processes.

Mr. Ahmed reported finding for each of the issues as follows:

Administrative Process	Major Issues	Options for Reform
Duty Drawback	<ul style="list-style-type: none"> • Processing time • Low official, but very high unofficial and service provider fees 	<ul style="list-style-type: none"> • Streamline verification process • Streamline determination process • Duty exemption rather than drawback
Bonded Warehouse	<ul style="list-style-type: none"> • Processing time, particularly between BOI and CBC 	<ul style="list-style-type: none"> • Eliminate requirement for BOI recommendation • Require escrow accounts from license holders

<p>Capital Machinery Clearance</p>	<ul style="list-style-type: none"> • Complex rules and procedures leads to discretionary power and much room for unofficial payments (and complicit importers who pay for favorable classifications) • Processing time • Physical inspection process cumbersome 	<ul style="list-style-type: none"> • Better monitoring and enforcement of internal controls • Strengthening HR capacity • Institute risk-based physical inspections • Motivate service providers (C&F agents) in reform efforts
<p>Location and Environmental Clearances</p>	<ul style="list-style-type: none"> • Lack of capacity at DoE to perform physical inspections and submit reports in a timely matter • Focus on application process rather than results of environmental impacts • Unclear role of service providers 	<ul style="list-style-type: none"> • Results-based management • Outsource inspections • Increase manpower at DoE • Develop mater industrial plan for land use
<p>Foreign Loan Documentation</p>	<ul style="list-style-type: none"> • Extremely long processing time which affects a borrowers loan agreement with an international lender • Unclear role of GoB (BOI) when it is not a party to the transaction 	<ul style="list-style-type: none"> • Eliminate documentation process requiring approval from BOI and institute BOI registration of loan only • Delegate decision-making authority

Mr. Sobhan thanked Mr. Ahmed and explained that there would be one further presentation before discussion would begin on the ABR findings. **Peter Ladegaard**, Regulatory Governance Specialist with FIAS, would briefly explain the role of Regulatory Impact Assessment (another component of the PSDSP) in the reform process.

Mr. Ladegaard explained that Regulatory Impact Assessment (RIA) is integral to creating a good environment for business, because the tool can analyze existing laws and regulations that negatively affect private sector growth, as well as analyze any newly introduced legislation before it is considered. Additionally, RIA can support institutions to formalize the process within government. Fundamentally, RIA is about asking the right questions about a regulation to understand its intended purpose and what its impact will be. The analysis itself is a document communicating this information to decision-makers. In Bangladesh, the proposed plan for testing and instituting RIA focuses on a limited scope of laws and regulations, a pragmatic methodology with a clear division of labour. It will be important to build awareness and appreciation of the process among stakeholders and generate high-level political support by demonstrating quick-wins. Mr. Ladegaard explained the timeline from the present to summer 2007, when it is hoped an RIA system would be functional. Mr. Ladegaard also announced a RIA Pilot Workshop planned for February 13 at BEI.

Mr. Sobhan announced a short break after which an open discussion was held. Discussion was broken down into three sections: (1) ABR for NBR; (2) ABR for Department of Environment; and, (3) ABR for BOI/Bangladesh Bank.