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**2010**  
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**FRONTIERS**

A JOURNAL OF  
BCS (CUSTOMS & VAT)  
ASSOCIATION



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**2010**  
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**Fiscal Frontiers**  
Seventh Issue

## **Fiscal Frontiers**

international customs day special edition of the journal of  
BCS (Customs & VAT) Association  
26 January 2010

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### Editorial Note

Bangladesh Customs has come a long way since the publication of the first issue of the *Fiscal Frontiers* in January 26, 1993 on the occasion of the 10<sup>th</sup> international customs day. After a few irregular intervals, the BCS (Customs and VAT) Association attempts to bring regularity in the publication of its flagship journal producing this issue within a year since the last one. The seventh issue, being published on the eve of the 27<sup>th</sup> international customs day, reinforces the Association's intense desire to contribute in encouraging research and analytical interest in economic principles and policies related to basic fiscal and trade issues, thereby enhancing knowledge and capacity in those areas.

The *Fiscal Frontiers* has, over the years, consistently attempted to produce quality research essays that offer valuable insights to policy makers, policy practitioners, and theoreticians and academics as well on economic issues, such as taxation policies, fiscal and revenue reforms, combating corruption and non-formal trade sectors, trade facilitation, and evolving international trade practices including globalization and preferential trade etc.

Conforming to its tradition, the current issue aims to present a collection of research papers and essays focusing on current concerns on various fiscal and trade issues. While the majority of the contributors hail from the

Customs and VAT service, articles from other civil servants, economists and fiscal policy experts have also been included in order to accommodate diverse opinions on tax and revenue policies and reform measures with a view to providing an all-encompassing, across-the-board grasp on the criticality of those matters and presenting valuable food for thought for both the researchers and policy makers. However, the Editorial Board would like to express in unequivocal terms that opinions offered in each of the articles are those of the contributors, and neither the Association nor the Board acting on its behalf share those views or take any responsibility for them.

The Board expresses its gratitude and sincere thanks to the Executive Committee of the Association for extending kind support and cooperation, and for fulfilling its promise of publishing the journal on a regular basis. The Board earnestly hopes and wishes that the *Fiscal Frontiers* will continue to serve its purpose, as in the past, by providing an intellectual platform to share in-depth knowledge and wider insights on key taxation and trade issues, and by enabling necessary professional development and capacity building of revenue personnel.

**Khairuzzaman Mozumder**  
On behalf of the Editorial Board

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# Factors Explaining Low Revenue Productivity in Bangladesh

Nasiruddin Ahmed, PhD\*

## 1. Introduction

The National Board of Revenue (NBR) is the central authority for revenue administration in Bangladesh. It was established by President's Order No. 76 of 1972. Administratively, it is under the Internal Resources Division (IRD) of the Ministry of Finance. It operates through three functional wings namely, income tax, customs and value added tax (VAT). The main responsibility of NBR is to mobilize domestic resources through collection of import duties, VAT and income tax for the government. Side by side with collection of taxes, facilitation of international trade through quick clearance of import and export cargoes has also emerged as a key role of the NBR. Other responsibilities include administration of matters related to taxes and other revenue related fees/charges and prevention of smuggling. Negotiating tax treaties with foreign governments and participating in inter-ministerial deliberations on economic issues having bearing on fiscal policies and tax administration are also the responsibilities of the NBR.

The NBR is responsible for formulation and enforcement of income tax, customs and VAT policies and laws. Over the years, the government has implemented a number of reform measures, mainly focusing revenue administration. As a result of these efforts, the revenue-GDP ratio increased modestly. Our tax-GDP ratio is about 9%, which is significantly low even amongst our South Asian neighbours. The lack of buoyancy in revenue may be attributable to fundamental structural problems in the tax system, including pervasive tax incentives and exemptions that have eroded the tax base. With this background in mind, this paper intends to explain the factors contributing to low revenue productivity<sup>1</sup> in Bangladesh and to examine the reform measures undertaken by the NBR to enhance that productivity.

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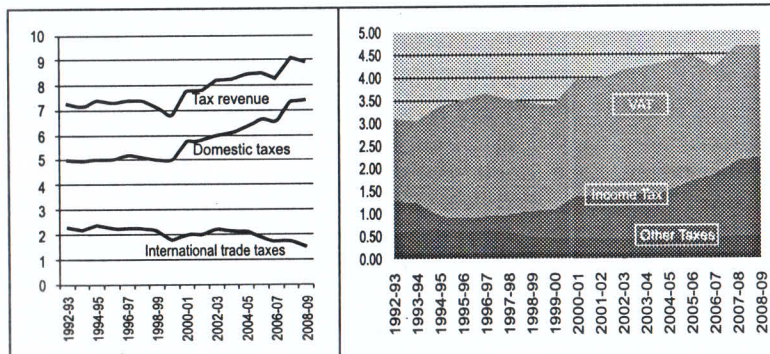
\*The author expresses his thanks and gratitude to Mr. Aminur Rahman, Dr. Khairuzzaman Mozumder and other colleagues at the NBR for their valuable assistance. The usual disclaimer applies.

<sup>1</sup> The revenue productivity refers to the tax-GDP ratio divided by the applicable nominal tax rate.

## 2. Revenue Scenario

Tax revenue in Bangladesh has recorded a gradual but modest increase, and the tax-GDP ratio has shown a small improvement over the last decade (Figure 1). Only in recent years has the tax revenue ratio exhibited some buoyancy due mainly to administrative efforts (most notably, an introduction of the large taxpayers' unit for income tax in 2004). One of the major tax policy changes in recent years has been to limit tax holidays to 18 industries starting from the FY2005-06 budget and to eliminate them entirely by end-June 2012, but its revenue impact has not yet been realized. The collection of international trade taxes has remained largely unchanged relative to GDP since the beginning of the 1990s, and it is expected to decline as the move toward trade and tariff liberalization continues. The reliance on international trade taxes is also pronounced because it accounts for more than 30 percent of the total tax revenue in Bangladesh, higher than in most of the comparator countries and significantly above the average for Asian countries. Bangladesh's relatively low tax-GDP ratio reflects mainly a low level of domestic taxes (income tax and value added tax).

**Figure 1. Government Tax Revenue (% of GDP)**  
Tax Revenue      Composition of Domestic Taxes

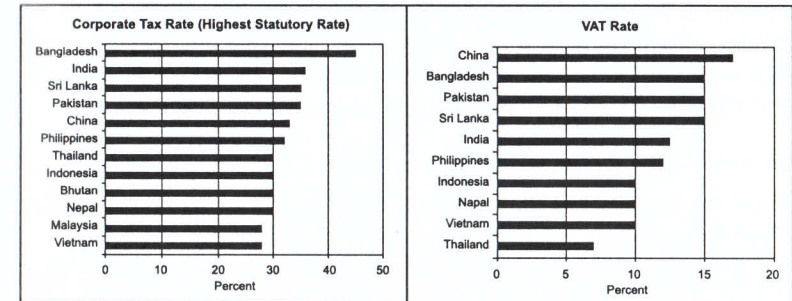


Source: Based on NBR data

While the level of tax collection is low, nominal tax rates in Bangladesh are generally high relative to the comparators (Figure 2). The corporate income tax (CIT) rate<sup>2</sup> in Bangladesh is significantly above that in the comparator countries. Among the Asian and Pacific comparators, China is the only country that has a higher VAT rate than Bangladesh.

<sup>2</sup> This rate applies to banks, financial institutions and insurance companies. In the budget for FY 2009-2010, their corporate income tax rate has been reduced to 42.5% from 45%.

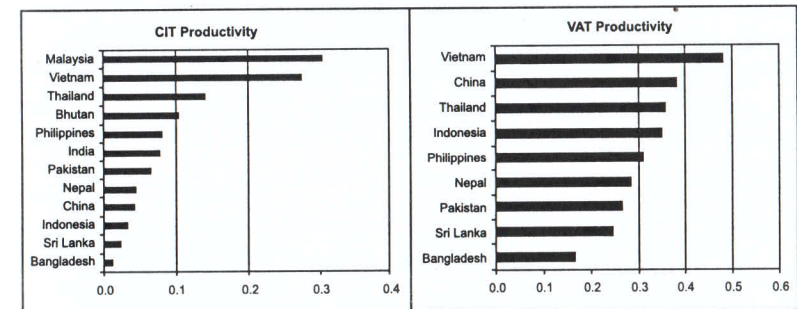
**Figure 2. Selected Asian Countries: Corporate Income Tax and VAT Rates**



Source: IMF, 2007a

With comparatively high nominal tax rates but low revenue yields, Bangladesh's revenue productivity for CIT and VAT is far behind the comparators (Figure 3). Relative productivity vis-à-vis comparators are much lower for CIT than for VAT.

**Figure 3. Selected Asian Countries: CIT and VAT Revenue Productivity**



Source: IMF, 2007a

## 3. Factors Responsible for Low Revenue Productivity

An examination of the low revenue productivity in Bangladesh reveals that three interrelated factors provide a highly plausible explanation for this dismal scenario: narrow tax base, low taxpayer compliance and weak tax management.

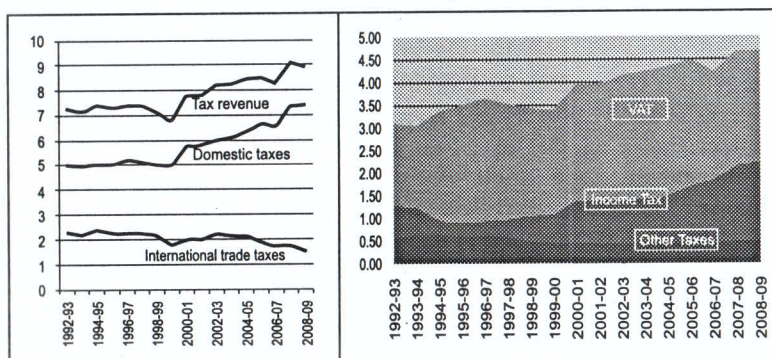
### 3.1 Narrow tax base

Various tax laws relating to income tax, customs and VAT offer a variety of *tax exemptions and incentives*, outlined below, and their continued and excessive use erodes the tax base and put strains on an already heavily challenged tax administration.

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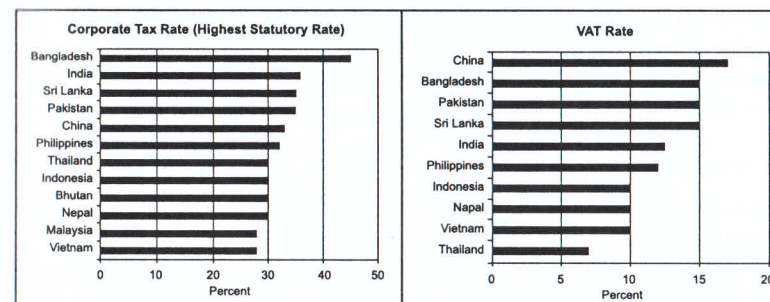


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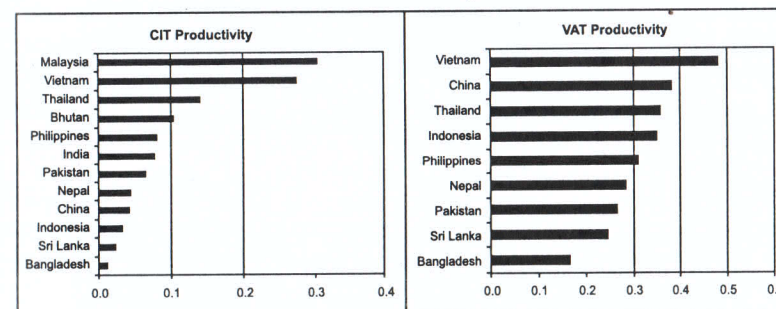
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### 3.1 Narrow tax base

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### 3.1.1 Income Tax

Incentives of all sorts are provided in tax acts, combined with a high degree of discretion, have created non-transparency with regard to exactly who benefits, by how much, and at what cost to the budget. Again, a culture of negotiated tax payments has developed in the country.

#### *Income Tax Exemptions*

There are a number of exemptions under Income Tax Ordinance, 1984. These exemptions can be broadly classified into three categories:

- There are incomes excluded from the computation of total income, thus remaining totally outside the ambit of taxation (Part A of the Sixth Schedule of the Ordinance).
- The second category relates to exemptions and allowances from the total income on investment and donation made, by way of a credit from the amount of tax payable on the income (Part B of the Sixth Schedule of the Ordinance).
- There are exemptions, reduction in rate or other modification in respect of tax in favour of any class of incomes or in regard to the income of any class of persons by the government by issuing Statutory Rules and Orders (SROs).

#### *Income Tax incentives*

In the realm of income tax, Bangladesh provides various incentives which have the effect of eroding the tax base. Such tax incentives take the following forms:

- Tax holiday
- Reduced corporate income tax rate
- Investment allowances and tax credits
- Setting up export processing zones with tax exemption
- Accelerated depreciation of assets

### 3.1.2 Customs

The present customs duty net has a number of loopholes created by concessions given in various areas and different sectors through which revenue slips. The existence of zero rate on too many items (i.e., 251 tariff lines in FY 2009-10) and concessionary rates have substantially narrowed down the duty base. This discriminatory treatment is meted out in the following ways:

- In the First Schedule of the Customs Act, 1969, user specific separate concessionary duty rates exist against many HS Codes. In addition, user specific exemptions are often accorded

under section 19 of the said act by notification to different sectors or general class of importers.

- User specific concession can also be granted under section 20 of the Customs Act, 1969 through 'special exemption' order(s) in the form of a letter(s) from NBR to specific or particular importer(s) or consignment(s) to the exclusion of others.

### 3.1.3 Value Added Tax

#### *Treatment of Goods: Tariff Values*

On a number of manufactured goods, the excise method of taxation, known as tariff values, is often applied in the form of specific rates per unit of output. Such tariff values are unrelated to actual prices and, again, no credit for tax on inputs is available. For such commodities, VAT is calculated on the basis of the aforesaid fixed value. While this practice was adopted for administrative convenience, it is obviously a deviation from standard VAT principles.

#### *Treatment of Services: Truncated Bases of Assessment*

Since the scope of document-based recorded transactions is quite limited in Bangladesh, many registered VAT units are unable to take input credit facility from sellers. As such VAT is applied on many services on a truncated basis. The number of such truncated bases currently applied in the country is four, and they include 1.5 percent, 2.25 percent, 4.5 percent and 9 percent.

#### *VAT on Retail Sales*

Even after 19 years of introduction of VAT in Bangladesh, a significant portion of retail sales has continued to remain outside its scope. Efforts should be made to bring more areas in retail sales under the VAT net.

#### *Estimates of Tax Expenditure*

Tax expenditure consists of revenue foregone due to provision of tax holidays, exemptions and deductions, reduction of the rate, deferrals, and tax credits. Estimated tax expenditures for FY05 are to the tune of 0.28 percent of GDP for direct taxes, 1.59 percent of GDP for domestic VAT, and 0.65 percent of GDP for other indirect taxes (Bangladesh Bank, 2006). Among the direct taxes, tax holidays account for a quarter of revenue losses. Exemptions and deductions of import VAT (mostly for capital machinery) account for the bulk of revenue losses in indirect taxes. As for domestic VAT, exemptions on services (in particular, mechanized road transport and bank credit) account for a larger share of revenue losses than exemptions on goods.



### 3.2 Low Taxpayer Compliance

Low taxpayer compliance seriously impedes revenue raising capability of the NBR. In addition to the general tendency among taxpayers not to pay taxes, the existing inadequacies within the revenue administration, which are outlined below, also account for such low compliance:

- Although the universal self-assessment system has been introduced with effect from the 1<sup>st</sup> July 2007, submission of returns has not increased as was expected. It, therefore, needs to be popularized through launching comprehensive taxpayers' awareness programs using the print and electronic media.
- Numerous amendments to the Income Tax Ordinance, 1984 have been made over the past two decades, making it complicated and hard to administer.
- Final settlement of tax liability in 18 items (under Section 82C of the Ordinance) is an impediment to collection of income tax.
- At present the VAT Act and VAT Rules of 1991, SROs and General Orders have a published interpretation containing about two thousand printed pages. There are examples where the operation of a single VAT-able service or activity is covered by a number of orders and SROs. This has created non-transparency in laws, orders and procedures of VAT.
- Lack of a proper audit program is also responsible for low taxpayer compliance.

Low taxpayer compliance is manifested in a large number of litigations (about 18,000 revenue cases) involving huge government revenue. For example, in 620 revenue cases pending with the Supreme Court, the revenue implication is about 8 thousand crore Taka. Low taxpayer compliance also takes the form of tax evasion.

### 3.3 Weak Tax Management

Even though some progress has been achieved in recent years, the tax management still continues to remain quite weak and is in need of modernization. Some of the problems that afflict the tax management are as follows:

- The acute shortage of manpower in all the functional wings of the NBR seriously affects its revenue collection efforts. About 40 percent of the positions of officers of various grades currently lie vacant. For example, the customs and VAT wings have not been able to recruit direct officers at the level of Inspector/Appraiser/Preventive Officer since 1981 due to legal complications.

- Human resource management at the NBR has also not been satisfactory, as demonstrated from the lack of need-based training and career planning.
- Considering the nature of jobs performed by the revenue officials at the NBR, the compensation package and incentives offered to them are very low, and can hardly provide them any motivation.
- While the customs assessment and clearance procedures have undergone significant improvement in terms of computerization and automation, the other two functional areas of the tax system, namely income tax and VAT, are still manually operated with little automation.

### 4. Reform Measures Undertaken by the NBR

This section examines the measures undertaken by the NBR to modernize its tax administration and to deal effectively with the factors outlined above that contribute to the low revenue productivity in the country.

First, the NBR has undertaken a large expansion and reorganization program involving all its three functional wings. Different facets of the said program involving income tax, customs and VAT wings are illustrated below:

- Restructuring of NBR and its various field offices are in process by increasing and upgrading different positions of its three wings, and recruiting officers and staff in these three wings.
- With a view to facilitating efficient bonded warehousing management of the export-oriented industries based in Chittagong areas, and of the industries in the export-processing zones in Chittagong and Comilla, a full-fledged Bond Commissionerate will be set up in Chittagong.
- In order to expedite quick settlement of customs and VAT cases originating from disputes emanating from the decisions given by Chittagong-based customs and VAT field offices, one bench of Customs Appellate Tribunal will be established in Chittagong.
- A National Tax Tribunal will be formed to dispose of cases related to income tax, customs and VAT.
- The government has decided to unify Custom House (Import) and Custom House (Export) in Chittagong in order to streamline export and import clearance process and to remove procedural delays and complications arising out of the presently divided set up of the two Custom Houses.

Secondly, process is also on to streamline tax acts and rules. Again, an initiative is now on to redraft the VAT Act in order to simplify the existing VAT system in the country. Redrafting of the First Schedule of the Customs Act is also in process. A Tax Information Management and Research Center will be established at the NBR.

Thirdly, the NBR has gone a long way towards modernizing and automating its customs administration through computerization of customs offices and automation of customs procedures. The process began with the automation of clearance procedures at the Chittagong Custom House, the biggest customs station in the country. Today the ASYCUDA System is being used by all the Custom Houses in Bangladesh- namely, Chittagong, Dhaka, Benapole and Mongla, and thus the automation now covers about 90% of the volume of trade (both import and export) of the country. Again, the customs authority has installed container scanners at the Chittagong Port, which allows quick examination of both in- and out-bound cargoes thereby facilitating faster clearance of goods. Automation of bonded warehousing procedures is also underway.

Fourthly, the NBR has recently undertaken a massive plan to create a 'Digital NBR' through bringing the income tax and VAT systems under similar automation. For example, with respect to the income tax department, online income tax return submission facilities have been introduced in the Large Taxpayers' Unit (LTU) (Tax) in July 2009 allowing large taxpayers to submit their return online. Progress has also been made in terms of introducing similar facilities in other tax zones. This implies that income tax return submission facilities will also be made available to individual and corporate taxpayers soon. Recently, the NBR has developed a software titled Management Information System of Taxation (MIST) in order to manage records electronically. With respect to the VAT department, efforts are underway to introduce online VAT registration and return submission facilities.

Fifthly, the pre-shipment inspection (PSI) system was introduced in February 2000 in order to prevent probable revenue leakage at the import stage when Bangladesh replaced the age-old normal value method with the new transaction value method following the WTO Agreement on Valuation. The idea behind the adoption of the PSI system was that it will act as a breathing space for a few years until customs officials acquire necessary capability to deal with the new valuation method. But the system continued for 10 years and serious concerns have now been raised over its efficacies. The government has, therefore, decided to phase the PSI system out by December 2010 and to build the capacity of customs officials by that time.

## 5. Conclusions

Tax-GDP ratio is very low in Bangladesh. Three factors responsible for this situation are narrow tax base, low taxpayer compliance and weak tax management. The following issues for enhancing tax-GDP ratio deserve close consideration:

- Implementing the reform agenda initiated at NBR
- Simplifying and fully automating tax collection system under a central data base for reducing the cost of compliance for taxpayers
- Augmenting revenue collection through broadening tax net (income tax and VAT) by launching continuous taxpayers' awareness programs
- Phasing out of tax exemptions and incentives
- Enhancing the capability of the NBR through recruiting the required manpower and conducting need-based training programs (local and foreign)
- Developing and launching a proper audit program in a phased manner
- Getting speedy disposal of revenue cases by forming dedicated benches of the High Court Division and developing the method of Alternative Dispute Resolution (ADR)
- Strengthening the Central Intelligence Cell (CIC) of NBR for combating tax evasion
- Monitoring the enforcement of tax laws continuously
- Undertaking research work on tax issues

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# The Spread of Solar Energy and Its Potential in Bangladesh<sup>1</sup>

Dr. M. Fouzul Kabir Khan<sup>2</sup>

## Energy resources of Bangladesh

Energy is considered as one of the prime movers for economic development. A positive correlation has been found between energy, especially electricity production (and its usage) and gross domestic product in different surveys. We all know that wars are being waged for energy across the world. The impact of volatility in petroleum products prices on macroeconomic stability is undeniable. For these reasons, Bangladesh, like many other developing countries, has identified energy security as a national priority.

The key energy resource in Bangladesh is natural gas. The stock of proven reserves of natural gas in Bangladesh is 21.3 tcf out of which 15.4 tcf is recoverable and 7.7 tcf of this has already been utilized/extracted. There is a remaining balance of 7.7 tcf of proven reserves. In addition, there is a high degree of probability of 5.5 tcf of recoverable reserves. Finally, there is 7.7 tcf of possible recoverable reserves. In a study, it has been forecasted that if the current pattern of natural gas consumption continues, there will be a severe gas crisis by 2011 and 2015 respectively based on proven, probable, and possible gas reserves. It is to be noted that currently there is a shortage of about 300 MMSCFD of gas relative to its demand. There is probability of getting more gas if exploration of new gas is conducted especially in the deep sea. However, to do this, Bangladesh will have to make its claim about maritime boundary in the United Nations under the United Nations Convention on Law of the Sea (UNCLOS). Bangladesh will have to settle the existing maritime boundary dispute with India and Myanmar.

Apart from natural gas, a significant quantity of coal deposit exists in Bangladesh. The coal reserves in 5 coal fields of Bangladesh are estimated to be 2.9 billion metric tons. Assuming a modest recovery rate of 30 percent of this stock, the available reserve will translate into about 20 tcf of natural gas equivalent. But, there is an ongoing debate as regards how to extract the coal from the mines. Moreover, the rehabilitation of adversely affected people due to the exploration of coal mines (open pit versus deep shaft mining) and the lack of transparency

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I express my gratitude to Mizanur Rahman Khan, Md. Enamul Karim Pavel, and Md. Abu Yusuf for their support in writing the essay

<sup>2</sup> Professor, North South University, Former Secretary, Power Division, Government of Bangladesh and CEO, Infrastructure Development Company Limited

in selecting the firms for coal mine exploration and coal extraction are big impediments. For these reasons, extraction from coal from mines other than Boropukuria could not be undertaken. In addition, an insignificant amount of condensate is also extracted in Bangladesh. Bangladesh imports approximately 3.2-3.7 million metric tons of petroleum products each year.

Domestic natural gas and coal are mainly used for electricity generation. In addition, natural gas is also used in fertilizer factory, various industries, commercial organizations, as CNG to run vehicles, and by households. Apart from meeting domestic energy demand, availability of natural gas and coal insulate Bangladesh economy from the adverse consequences of volatility of energy prices.

## Energy Commodities of Bangladesh

Electricity is the main energy commodity in Bangladesh. At present, the installed and derated capacity of electricity generation of power plants are about 5700 and 5200 megawatt, respectively. On average, between 3000-4000 Megawatt of electricity is generated daily based on number of power plants in operation and demand for electricity on that date. It has been stated in Article 16 of the constitution of Bangladesh, 'The State shall adopt effective measures to bring about a radical transformation in the rural areas through the promotion of an agricultural revolution, the provision of rural electrification, the development of cottage and other industries, and the improvement of education, communications and public health, in those areas, so as progressively to remove the disparity in the standards of living between the urban and the rural areas.' About 45% of the population of Bangladesh has been brought under electricity coverage. It is not possible to extend electricity coverage to the rest of the population especially to the rural areas only through expansion of grid facilities. Expansion of grid is very expensive and time-consuming. Moreover, due to very small demand for electricity in remote rural areas, expansion of grid is not economically feasible. In addition, there is acute shortage of natural gas and coal. The derating of electricity generation capacity of power plants is also notable. And new power plants could not be installed in tandem with the ever increasing demand for electricity. Due to these reasons, supply of electricity is quite inadequate. As a result, domestic, industrial and commercial consumers have to suffer from load shedding, particularly during the summer. Against this backdrop, solar energy has become an attractive alternative for provision of electricity in remote rural areas where demand for electricity is modest.

### Energy Security of Bangladesh

Energy security of Bangladesh is a multidimensional concept. The challenges of energy security are:

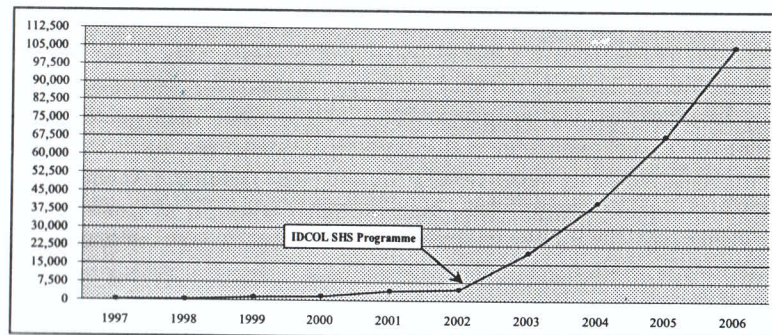
- To ensure most efficient utilization of gas and coal reserves keeping in view the energy demand of present and future generations;
- Gradual increase in use of renewable energy through reduction of use of fossil fuel; and
- To fulfil the constitutional pledge of supplying electricity to rural areas.

Realizing this, major political parties pledged that long term integrated comprehensive energy policies would be formulated to solve the power and energy problems and that economic use of every source of energy including oil, gas, coal, hydroelectricity, biogas, wind power and solar energy would be ensured.

### Expansion of solar energy in Bangladesh

Solar energy is the most promising among the renewable energy sources. The long-term average sunshine data indicates that the period of bright sunshine hours in the coastal region of Bangladesh vary from 3 to 11 hours daily. This time period is very useful to use solar thermal and photovoltaic. Although use of solar energy had started since the late 1990s, it could not expand much mainly due to lack of financial incentives. Solar energy related activities gained a new momentum since the beginning of 2003 when a public sector financial institution Infrastructure Development Company Limited (IDCOL), with support from donor agencies, began channeling both grant and low-interest loans to renewable energy projects through NGOs, micro finance institutions and private companies (IDCOL's partner organizations). The following figure shows the explosive growth of usage of solar home system in Bangladesh following IDCOL's initiative:

Figure 1: Expansion of solar home systems in Bangladesh 1997-2006



Solar Home been provided to nearly 450,000 families, farms and small enterprises under IDCOL's solar energy program till date. As a result, about 2.7 million rural people have been benefited.

The following table shows the division-wise installation of Solar Home System (SHS):

Division	Number of SHS
Dhaka	103,595
Chittagong	89,603
Rajshahi	61,624
Khulna	60,404
Barisal	67,293
Sylhet	55,326
Total	437,845

Before the introduction of IDCOL's solar energy project, Grameen Shakti installed a few thousands of solar home systems. In addition to IDCOL's program, Rural Electrification Board has installed 15,000 solar home systems under 'fee for service' program for which users will pay service fee for usage of the service.

### Reasons for recent success in solar energy expansion

- The use of solar energy is increasing day by day in Bangladesh. Nearly, 20,000 households are being provided electricity every month under IDCOL's solar program. The factors that played key role in the expansion of solar energy include: optimum utilization of resources, transparency and accountability in project implementation and close monitoring for prevention of financial irregularities. Donor agencies have highly appreciated the success of solar program. Following the success of IDCOL's solar program, the World Bank, German Development Bank (KfW), German Technical Cooperation (GTZ), Asian Development Bank (ADB) and Islamic Development Bank have been providing necessary financial support for further expansion of the program. IDCOL's partner organizations Grameen Shakti and Rahim Afroz were awarded the Ashden Awards for expansion of solar energy. In addition, Mr. Dipal Chandra Barua, Managing Director of Grameen Shakti has won the 'Abu Dhabi Future Energy Prize 2009' for his contribution in the expansion of solar energy in Bangladesh.
- Financial participation of all partner organizations has been ensured. The customers are required to pay, depending on the capacity of systems, Tk. 1200 to Tk.10,000 as down-payment

and they can repay the remaining amount through monthly installments in 2- 3 years. IDCOL finances 80% of the amount lent to the households. Partner Organizations (PO) pay the rest 20% from their own funds. Notably, the households gain the ownership of the SHS only after they had completed payment of the installments under the program.

- Financial grants of US\$ 40 and US\$10, per system, are given respectively for reduction in SHS price at household level and increase in efficiency of partner organizations
- This SHS program is being implemented through 15 partner organizations. Grameen Shakti, BRAC Foundation, Rural Services Foundation, SRIZONY Bangladesh, Coastal Electrification and Female Development Project, BRIDGE and Hilful Fuzul Social Welfare Organization have signed Participation Agreements (PA) with IDCOL to participate in the solar program. The role of the POs is to select the project areas and potential customers, install the systems and provide maintenance support. IDCOL provides grants and refinance, sets technical specification for solar equipment, develops publicity materials, provides training, and monitors PO's performance.
- IDCOL offers soft loans of 10-year maturity with 2-year grace period at 6% per annum interest to its partner organizations. Usually, IDCOL does not require any collateral or security for the loan, except for a lien created on the project accounts. Unless and until there is an event of default, POs are authorized to operate the project accounts of their own.
- Under the PA, the households are required to pay minimum ten percent of the system cost as down-payment. On receipt of the down-payment, the POs enter into a sale/lease agreement (provisions of which are approved by IDCOL), install the system (mostly on credit) and make electronic disbursement request to IDCOL for refinance and grants, as applicable. After in-house checking, IDCOL conducts physical verification of the SHSs installed. IDCOL releases grants and refinance money only if the inspection result is found satisfactory. IDCOL makes the disbursement within 21 days from the receipt of disbursement request.
- Two committees have been formed to coordinate the various aspects of implementation of the program: (i) Operations Committee and (ii) Technical Standards Committee. The Operations Committee (OC) meets each month to look after the operational aspects of the solar program, discuss progress of implementation, and helps to solve the problems faced by POs in implementing their activities. Technical Standards Committee

(TSC) on the other hand, (a) establishes and updates equipment and service standards, (b) designs a quality assurance program, and (c) reviews the product credentials submitted by dealers and approves the eligible equipment. Equipment that is not approved by TSC is ineligible for IDCOL grants and refinance.

- A SHS consists of three main parts: Solar panel, battery and charge controller. Under IDCOL's SHS program, 20, 5 and 3 years warranty are provided for solar panel, battery and charge controller, respectively.
- IDCOL appoints independent organizations to conduct two types of audit: (i) *Commercial audit* and (ii) *Technical audit*. The objective of the commercial audit is to ensure that the households' down payments are accounted properly and POs are utilizing the grants and refinancing for their intended purposes only. A technical audit is conducted to ensure that only TSC approved equipment with their committed quality are used under the program. Approval of products are cancelled or suspended if the product quality is found unsatisfactory.
- IDCOL also conducts training program to build awareness among the staff of the POs and the consumers. Training is provided to the staff of the POs on SHS configuration, positioning of SHS, installation procedure, maintenance and troubleshooting of SHS, guidelines for monitoring and inspection of SHS, market development, and micro-credit methods for marketing. Since SHS is entirely new to the households, consumer trainings are conducted regularly to educate them. They are trained on how to use the SHS and fix minor problems without the assistance of the technicians. Each PO is given a computer for efficient documentation related to SHS installation. They are provided with tool boxes, motorcycle, demonstration kit, hydrometers and battery chargers according to their requisition for rendering better service to customers. IDCOL sponsors major share of the costs.
- IDCOL has developed and distributed publicity materials to raise awareness and popularize the use of SHS in different parts of the country. Posters, leaflets, T-shirts, and billboards have been distributed. And more materials will be provided to the POs for wider publicity of solar energy. TV and radio spots have also been developed and aired.

#### **Development impact of the Program**

- Role in promoting socio-economic condition: SHS is a convenient mode of supplying power for small electrical loads

such as lights, radio/cassette players, black and white TV, and mobile charger. Although power is available for limited number of hours in a day, the supply is reliable and the system can be managed with a little training. The program has brought in positive changes in the rural economy. Now rural people are also using SHS in their income generating activities. For instance, small businessmen, weavers, tailors, hair dressers, and handicraft makers are reaping the benefits of this program through increased working hours. Students are also getting benefits through extended hour of studies at night. In addition, the use of TV and radio has enhanced rural people's access to the outer world. Many women have expressed their view that they were feeling more secured at night after installation of SHS.

- **Job creation in POs project areas:** A good number of job opportunities, both for skilled and unskilled manpower, have been created through the SHS program. Specially, each unit office hires a local youth who has good knowledge about the area. It has paved the way for creating job opportunity locally. In addition, a good number of diploma engineers have been employed by POs to look after the technical aspects of SHS. Till to date, some 6000 new jobs have been created by the program.
- **Promotion of indigenous technology.** Except for the PV module, other components of a SHS system namely battery, charge controller and solar lamp are produced locally.

#### Future program for expansion of solar energy

The initial target for solar program was to install 50,000 SHS in five and a half years which has been achieved in three years and at a much lower cost than budgeted amount. Later, a target for installation of 200,000 SHS was set which has also been achieved in the meantime. The current target of this project is to install 1 million SHS by 2012. This will bring more than 60 lakhs remote rural people, a population of more than 4% of the country under electricity coverage. Table 2 shows the yearly target for SHS installation:

Table 2: Target for SHS installation, 2009-2012

Year	Installed till 2008	Target			
		2009	2010	2011	2012
Number of SHS		132,000	162,000	198,000	240,000
Number of SHS accumulated	268,000	400,000	562,000	760,000	1,000,000
Equivalent megawatt	14.50	21.60	30.30	41.00	54.00

The average yearly growth of this program is about 56%. It is hoped that the set target will be achieved before 2012.

#### Future challenges in the expansion of solar energy

- Prime Minister Sheikh Hasina's recent declaration to exempt all solar equipment from duties and taxes is a timely and bold one, and is expected to play a key role in the expansion of renewable energy. Government's multidimensional supports played a vital role in expansion of renewable energy in the developed world. In order for continuous increase in the use of renewable energy in the country, the supports/ duty exemptions declared by the Prime Minister shall have to be maintained. There is no alternative of this support if we want to generate a significant portion of the consumed energy from renewable energy.
- At present, low capacity DC current is being supplied to households, shops and small enterprises through SHS, which is not versatile like power supplied from grids. With the use of SHS, no other electrical equipment can be operated other than small electrical loads such as lights, radio/cassette players, black and white TV and mobile chargers. It is possible to generate electricity through SHS which is similar to electricity supplied from grids. It requires installation of high- powered inverter and solar panel. But that will increase the cost of SHS, requiring a large portion of purchase price to be subsidized by the government to bring it within the purchasing power of rural people. This will allow the rural people to use solar power operated water pump in cultivation purpose thus significantly contributing to achieve self-sufficiency in food production. Agriculture Minister Begum Matia Chowdhury recently urged the local scientists to come forward in this regard.
- Of all the SHS equipment, only solar panel is imported from abroad. Other parts are now produced locally. The renewable energy is expanding across the world. This often results in shortage of solar panels in the world market. At times, abnormal price increase is observed in the international market. All these hinder the progress of solar power program. The uncertainty regarding the supply of solar panel can be largely reduced if we could establish plant to manufacture or assemble solar panel in the country. It will also help to supply solar panels to the households at a cost lower than international market price. Establishing a solar panel plant was not commercially profitable in the past due to the low rate of SHS installation. But the increase in SHS installation rate by manifolds has created the commercial viability of this type of

project. Government need to provide low-interest loans for setting up solar panel manufacturing plant.

- At present, use of solar energy is limited to solar photovoltaics in our country. But in developed country, use of the Sun's heat for production of energy has gained much popularity which is known as 'Concentrated Solar Plant.' In this process, sun heat is used to produce steam which then turned into power through turbine. Using this process, it is possible to generate few hundred kilowatts to few megawatt of electricity. Electricity generation is possible at a much lower cost than what photovoltaic model costs. Bangladesh needs to think about these new technologies.
- Lack of efficiency of solar panel is a prevailing weakness of SHS worldwide. At present, the efficacy of used solar cell ranges between 12-18 percent. A higher amount of power could be generated if the efficacy of solar cell can be increased to 40-50 percent. Different types of research including nanotechnology research are being conducted worldwide to increase the efficacy of solar cell. Bangladeshi universities need to come forward to do these sorts of research. We should keep in mind that countries like Bangladesh will have to play pioneering role in such research, the findings of which will benefit the people of southern hemisphere most.
- Solar energy program of Bangladesh is a successful and widely appreciated program worldwide. The scope of this program needs to be expanded for the sake of energy security of Bangladesh. At present, the use of solar power is limited to rural areas only. Solar power may be used to illuminate stairs, verandah, open spaces in front of houses and gates in urban areas. Solar power may also be used for water heating and this will save precious natural gas. Use of solar power may be made compulsory for the stated purposes in big apartment complex (5 apartments or more). Financial incentives may be provided to encourage use of solar power in these areas in apartment complexes, if necessary.
- Solar power is used mainly to lit houses or small businesses in Bangladesh. The massive change in rural economies as stipulated in the constitution will be realized if power can be generated through installation of high-powered solar panel and inverter and used in small industries and irrigation purposes.

### Conclusion

The Romans recognized a *right to light* as early as the 6th century. English courts accepted these judgments in 1832. It is not known to us

who thought about *right to light* and when in the Indian sub-continent. But a Bengali thought about the use of renewable energy ahead of others and much earlier, even before the division of the sub-continent. She is none but the front runner of Bengali women renaissance Begum Rokeya [1880-1932]. Her thoughts helped expansion of this concept:

"The kitchen was situated in a beautiful vegetable garden. Every creeper, every tomato plant was itself an ornament. I found no smoke, nor any chimney in the kitchen -- it was clean and bright; the windows were decorated with flower gardens. There was no sign of coal or fire. "How do you cook?" I asked. "With solar heat," she said, at the same time showing me the pipe, through which passed the concentrated sunlight and heat. And she cooked something then and showed me the process.'

This paragraph above has been quoted from Begum Rokeya's famous short story titled 'Sultana's Dream.' She was born at Pairabond village in Rangpur. Sultana's Dream was published in 1905 in a Madras-based feminist periodical 'The Indian Ladies' Magazine.' Around 100 years after publication of Sultana's Dream, all residents of silk-producing village Bisunnybaripalli situated in Tripoti of AndhraPradesh use solar power for their cooking. This village has definitely set up an example.

Although "solar box cooker" was first built by Swedish naturalist Horace in 1767, it was not popular in Europe before 1970s. We surrender with surprise after seeing the advanced scientific thinking power of a Bengali educated woman. We saw the reflection of severe satire towards male dominated society in the feminist novel *Her land*, a decade after Begum Rokeya narrated her story. The novel written by Sharlot Parkins Gilman was a unique addition to the environment and renewable solar energy based literature. This is because the novel contains concepts about how to protect and preserve natural resources and environment. Especially this novel details some useful scientific inventions such as solar energy, solar heat collector, the rainforest collection and hydrogen-operated vehicles!

We can contribute to realize Begum Rokeya's dream and give it more complete shape. What she thought of as inconceivable at that time has now become the inevitable energy potential for today and tomorrow. It is an inevitable challenge to see the successful implementation of solar energy program into a reality, in light of the demand for energy. The future of a sustainable, peaceful and more prosperous Bangladesh depends on the fulfillment of self-sufficiency in energy.

The world is marching ahead in using solar energy. What has been popularized as 'Hotpot' by the US NGO 'Solar Household Energy Incorporation' is basically the other form of solar ovens as conceived by Begum Rokeya. Underprivileged women of Lesotho have adopted the

solar cooking invented by German Michael Hones. They have established a community bakery using solar ovens. Food is being cooked on solar cookers in the relief camps of Darfur, Sudan. The popularity of solar cookers is on the rise in Palestine due to shortage of energy for cooking.

Begum Rokeya is the source of our inspiration. It is not difficult to think that Bangladesh could become one of the leading countries in making best use of renewable energy. The progress we have made so far in solar energy provides a promise of larges success. Our country can certainly set an inspiring example to be followed by the rest of the world. Bangladesh with its fifty six thousand square miles landmass on the mother earth is indeed lit with the same sunlight.

## **Reforming the Budget System for Lowering Corruption and Reducing Poverty**

**Sadiq Ahmed, PhD<sup>1</sup>**

### **A. Budget is a key institution for development**

Arguably, the government budget is probably the most powerful established order, principle or law that affects the functioning of the modern society. The budget provides the government legal authority to tax earnings of a private citizen. Budgetary principles and laws influence the functioning of the markets in ways that no other single institution can possibly do in today's modern economy. Formulation of the budget reflects the multitude of political interests and coalition that underlie the political governance of a society. Having a voice in budget formulation and implementation is perhaps the most effective way of giving voice to the civil society to affect its well-being. It is therefore hardly surprising that the government budget is perhaps the single most important public policy instrument for influencing growth and poverty outcomes in modern economies, especially in developing countries.

### **B. Impact of government budget on growth and poverty reduction**

The various ways through which the budget affects growth and poverty reduction are well recognized in the economic literature. For example, budgetary decisions through taxation, borrowing and spending affect incentives for business and household decisions in such key areas as savings, investments, exports and imports that have implications for employment and growth. Budgetary spending can also affect poverty through the direct provision or funding of core services and targeted poverty reduction programs. There is a rich body of empirical research that one can draw upon to illustrate the role of the budget in affecting growth and poverty reduction across the globe.

Management of the government budget has been an important challenge in Bangladesh. There are a number of positive aspects that are areas of strength, but there are many aspects where further progress is needed. The major positive aspect is a generally prudent budgetary stance from a macro-economic perspective. Key areas where progress is needed concern resource mobilization and strengthening of expenditure management.

While there have been periodic slip ups, on the whole Bangladesh has maintained generally prudent budget management, financing fiscal deficits through concessional foreign assistance and avoiding major build up of expensive foreign and domestic debt. This has served Bangladesh well by

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helping contain inflationary pressures and avoiding a crowding out of private investment. A stable macroeconomic environment has been a positive factor for supporting growth in Bangladesh. Nevertheless, the rising cost of the public debt needs to be watched and managed to avoid problems in the future.

Regarding the structure of the budget, Bangladesh has done reasonably well in setting up its broad expenditure priorities with emphasis on human development and agriculture, but spending levels for human development and especially on infrastructure are woefully inadequate. For example, as compared with education and health spending levels of 5-6 percent of GDP in East Asian economies, Bangladesh spends only 3 percent of GDP. Low public spending is an important constraint on the progress with human development, especially in terms of quality of education and training. Similarly, spending on infrastructure is much below the level required to support the growing demand for such infrastructure services as electricity and efficient transport network. Along with low public spending, the government's ability to mobilize private investment in infrastructure has also been very limited. It is now well recognized that poor infrastructure services is a major constraint to achieving rapid growth in Bangladesh.

Low public spending is a direct outcome of the fact that public resource mobilization, especially tax resource mobilization, has been chronically weak. Bangladesh has among the lowest tax effort, measured in terms of tax to GDP ratio, in the developing world. This, coupled with poor non-tax revenue performance, has resulted in very low total revenue for the government. This has constrained the ability of the government to adequately fund many of the core public services in health, education, water and infrastructure.

At the same time, there is considerable scope to enhance the effectiveness of public spending. Expenditure management is weak in terms of public procurement, assignment of responsibilities by levels of government, expenditure tracking, monitoring and evaluation, and financial controls and accountability.

#### **C. Link between weaknesses in budgetary management and corruption**

Poor tax administration, especially income tax, controversial public procurement decisions, and weak monitoring of public spending can provide huge sources of rent. The scope for damage to the economy is enormously large. On the tax front, Bangladesh collects only 9 percent of GDP as taxes as compared with 17 percent in Sri Lanka and 18 percent in India. Even allowing for its lower level of per capita income, the true tax potential in Bangladesh is likely to be in the range of 14-15 percent of GDP at the present time. The gap between this potential and

actual collection is an indication of poor tax administration. Much of this loss is from income taxes, which is below 3 percent of GDP. The collusive behavior between the income tax payer and tax administration officials is widely discussed.

Regarding expenditure management, Bangladesh spends some 16 percent of GDP through the government budget. Excluding wages, interest and other transfer payments, an estimated 10 percent of GDP passes through public procurement. Sound procurement decision is essential to ensure that this money is well spent. There is substantial controversy about many procurement decisions irrespective of the government in power. The potential for corruption, especially in large procurement decisions, is large. Related to that is the limited ability to trace where the public money goes in order to ensure that the money is spent well and on the intended purpose. Similarly, despite improvement in financial management, follow up to reports of financial irregularities is inadequate.

#### **D. The Way Forward**

Clearly, among the highest priority for better Budget Management is to sharply accelerate the revenue mobilization effort through a well-thought out and comprehensive tax reform program. The recent effort to raise revenues and modernize the tax department is welcome, but much more bold reforms are needed. Careful thought needs to be given to the idea of an autonomous tax department in order to substantially strengthen tax collection and protect it from adverse political influence. Over the longer-term much of the tax collection should come from consumption (VAT) and income taxes and the reliance on trade taxes needs to be reduced to a minimum to avoid distortion of production and investment decisions and to promote export diversification. Within the tax department, highest priority needs to be given to the modernization of income taxes. The incentive for corruption will be vastly reduced if the direct interface between tax payer and tax collector is eliminated through a system of self assessment, automated tax payments and rigorous audits.

Procurement problems have been recognized by successive governments and a new Procurement Law was enacted in 2006 to streamline procurement procedures and install better safeguards. But implementation has been a problem. There is a controversy whether the focus on safeguards conflicts with flexible and timely implementation of procurement decisions. With careful management, there need not be any trade-off between these key aspects of a sound procurement policy. The key issue here is the government's commitment to ensure that every taka it spends is spent well. A good procurement decision is a critical element of this commitment and the issues of flexible and timely procurement can be reconciled with this commitment.

Ensuring better accountability for public spending and stronger relationship with outcomes requires efforts to strengthen local governments and to assign them the responsibility for such services as basic health, education, water and sanitation. Related reforms include ensuring their financial solvency, ensuring that these governments have adequate capacity, establishing a system of accountability between beneficiaries, service providers and local governments, establishing performance monitoring and evaluation system, and oversight by the higher levels of government. This is a major challenge for Bangladesh as the conflict of interest between the parliamentarians and local government members is a serious political constraint to effective decentralization.

Regarding public expenditure management, efforts underway to prepare a Medium-Term Expenditure Framework is a welcome development. The strategic content of the MTEF needs to be properly aligned to the government's poverty reduction strategy (PRS). The implementation of the MTEF, however, has a long way to go. International experience suggests that this can be a powerful tool to improve the effectiveness of public spending provided it is well implemented. This requires a serious effort, including enhancing the capacity of the Ministry of Finance and other line ministries to undertake this exercise, especially regarding ability to link the MTEF to the PRS, and update this as necessary. The underlying data needs (e.g. costing of sectoral programs) are quite substantial.

The effort to improve monitoring and evaluation (M&E) as a part of the PRS is a positive development, although progress is very slow. M&E needs are substantial and required for all government departments. Finally, despite recent progress with financial management, there remains a long-term agenda for strengthening financial management and accountability, especially at the local levels. Establishing adequate oversight of parliamentary committees and follow-up to the recommended actions are particularly important.

To conclude, a well managed national budget is a key institutional development challenge in Bangladesh. Ongoing reforms in taxation and expenditure management are welcome, but there is a long way to go. Bold reforms are needed to put this core institution on a truly sound footing.

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## Revenue impact of Tariff Liberalization: Examining the Experience of Bangladesh

Khairuzzaman Mozumder, PhD

Fiscal liberalization in the form of removal of mostly tariff barriers has long been pursued by developing and least developed countries alike not only as part of their own overall trade liberalization strategies, but also as a consequence of their somewhat forced adoption of trade reform measures prescribed by multilateral lending agencies. The dismal performance of highly protectionist import substitution industrialization strategies that were popular in the post-World War II period led to the growing disillusionment among them of the usefulness of protectionism. This in turn gave way to the resurgence of free trade principles through greater emphasis on export-oriented industrialization strategies<sup>1</sup>, especially since the early 1980s. However, with the breakdown of the communist world showcasing the failure of socialist principles in the late 1980s, the developments in World Trade Organization (WTO) in the mid-1990s and the growing popularity of preferential trade agreements, their half-hearted efforts at tariff liberalization have been transformed into accentuated fervors, resulting in deep and meaningful tariff and trade reforms.

The need to comply with specific WTO agreements and cope up with the plethora of bilateral or multilateral trade agreements or the pressure from the international lending agencies have all contributed to the departure of highly protectionist tariff regimes and structures in those countries, and Bangladesh was no exception. A remarkable transformation in the country's tariff structure has occurred during the last one decade and a half. The highest tariff rate which was as high as 350 percent in 1992 has declined gradually over the years to come down to only 25 percent in 2005. The number of tariff slabs has also come down from 24 in the 1980s to only 4 (Razzaque & Raihan, 2007).

While there has been wider appreciation among liberal economists that trade liberalization leads to a better or more efficient allocation of resources, greater productivity, and higher economic growth<sup>2</sup>, they are not equally confident of the argument that tariff, rather than trade, liberalization results in higher growth in revenue earnings than that earned in an environment of high tariff barriers. Considering the mixed outcomes across countries in terms of gains in revenue as a result of the withdrawal of tariff protections, a definitive conclusion that tariff liberalization leads to gains in revenue becomes a hard choice.

The purpose of this paper is neither to attempt an empirical proof of the above argument nor to reach a definitive conclusion, as the mixed results mentioned above make any efforts aimed at generalization or cross-country comparison dauntingly difficult. It will instead focus on examining a single country case analyzing Bangladesh's efforts to liberalize its fiscal regime throughout the last 15 years through gradual removal of its tariff barriers to trade, and investigating the outcome of such efforts in terms of augmenting or decreasing revenue collection of the government or in terms of measuring the gains from resultant trade generation, if any.

The paper will progress through a number of sections. The first will highlight the theoretical focus of tariff and trade liberalization issues and revenue impact of ensuing gains from trade. The second section will try to chronicle the efforts made by Bangladesh to liberalize its tariff regime. The third will analyse the impact of such efforts on its tax revenue earnings. The paper will then try to conclude through synthesizing the arguments made in earlier sections.

#### **01. Tariff liberalization and gains from trade:**

The signs of growing popularity of tariff liberalizations efforts do not imply that the world is fast approaching a zero or no tariff scenario very soon. Protection of domestic industries was not the only reason for trade restrictions during the protectionist era, for such high tariff structures also acted as significantly important tools for acquisition of revenue. Even today, many developing and least developed countries, including Bangladesh, have continued to rely heavily on trade revenue earnings as a source of government resources. Further tariff liberalization in such cases tends to get bogged down due to associated concerns of potential impact on trade tax revenues<sup>3</sup>. As these countries are dependent on trade taxes, tariff liberalization may entail clear fiscal consequences, and the revenue concern will act as a potentially significant obstacle to further tariff reductions (Zafar, 2005; Baunsgaard & Keen, 2005). The skeptics of trade opening point to that concern, and admonish against deeper tariff cuts. For example, Rodrik argues, "an excessive emphasis on trade liberalization can backfire if it diverts scarce energies and political resources of government leaders from the growth fundamentals" (cf Zafar, 2005).

However, trade theorists offer a number of arguments in favour of opening up of domestic markets to foreign competition. One argument of trade liberalization emphasizes the welfare gains that would inevitably result from tariff cuts and trade opening, offering the consumers a wider choice in their purchases in terms of price, variety or quality. Another argument stresses the corrective aspect of tariff cuts. As Pritchett & Sethi (1994) contend, the existence of higher tariffs

creates an incentive for importers to evade tariff and entices them to resort to under-invoicing, misdeclaration or smuggling, and thus affects the productivity of the tax system. On the other hand, reduction of tariffs to reasonable rates tend to eliminate that incentive by lowering the marginal benefit to avoid taxation, and results in the increase of revenue through a broadened tax base as a consequence of increased imports through formal channels and proper means.

Third, Matlanyane & Harmse (2002) emphasize the substitution and income effects that follow changes in the price of imports as a result of lower tariffs as an important determinant of the direction of change in revenue. As domestic markets become open to foreign competition due to the reduction in trade restrictions, given the residents have a preference for foreign commodities to domestic commodities, trade tax revenue will inevitably soar due to increased volume of imports.

Fourthly, Ebrill et al. (1999) advocate a gradual approach towards trade liberalization, and argue that revenue implications of such liberalization depend significantly on its form and on the circumstances under which it occurs. In a similar vein, Tanzi & Zee suggest a gradual three-part process for developing countries (cf Zafar, 2005), beginning with the reduction or narrowing of the scope of tariff exemptions in the existing system, then compensating for the tariff reductions on excisable imports by a commensurate increase in their excise rates<sup>4</sup>, and finishing with the adjustment of the rate of the general consumption tax (e.g. valued added tax) to meet remaining revenue needs. Keen and Ligthart (2001) also maintain that any tariff cut with a simultaneous price-neutral non-cascading consumption tax will enhance both welfare and revenue.

However, as Baunsgaard & Keen (2005) contend, while the above tariff liberalization formula seems straightforward in principle, its implementation is not always that easy. Unlike the developed societies, the tax culture in the developing and emerging economies is still dismally poor, meaning that adequate replacement of trade tariff revenues with domestic taxes (e.g. excise or VAT) as envisaged by trade theorists will remain a daunting task without significant reform of wider tax practices and development of a tax compliant culture. Rajaraman (2004) also takes issue with the argument of such alternative tax imposition, as she identifies three problems with the approach, namely, (a) VATs compensating for trade reform do not in general target price neutrality; (b) international evidence do not show revenue enhancement from introduction of VAT in low income countries; and (c) in federal type countries, share of income tax collection is generally much higher than that of domestic indirect taxes<sup>5</sup>.

The work of Ebrill et al (1999), conducted under the auspices of the International Monetary Fund (IMF), is considered seminal in the sense

that the phased or staged approach advocated allows valuable breathing space to developing countries to develop or improve other forms of taxation and to institute modernizing reforms in their taxation systems. The IMF study concluded that if trade liberalization is tailored to avoid adverse consequences, it allows implementing countries to meet their revenue objectives, as reductions in tariffs are accompanied by improved customs administration and reductions in exemptions, special regimes, nontariff barriers, and regulations.

After laying down the theoretical focus on the linkages between tariff liberalization issues and their potential impact on governmental revenue earnings, the paper will now move on to explore various measures taken by Bangladesh in order to liberalize its trade tariff structure.

## 02. Bangladesh's efforts to liberalize its tariff regime:

As illustrated elsewhere by this author (Mozumder, 2009), as part of its import substitution industrialization strategies, Bangladesh followed highly restrictive trade practices during the first 15 years after it achieved independence in 1971. Domestic industries were given excessive protection through the imposition of high customs duty on imported products, and were supported by numerous non-tariff barriers to imports by means of prohibitions and restrictions and by an overvalued exchange rate system. However, a shift towards the strategy of outward-oriented or export-led growth began to appear since the mid-1980s when Bangladesh started liberalizing its trade as part of the overall economic reform programme. Initially, the multilateral donor agencies, such as the World Bank and the IMF, played an import role, through their policy prescriptions, in motivating the government to adopt such policies. However, large-scale liberalization of trade began from the mid-1990s as the dominance of liberal economists in economic policy planning within the government, the recognition of the growing force of the globalization process, the development of the WTO, and an intense desire to catch up with some developing countries, such as the Tiger economies, that have demonstrated a superior performance in achieving spectacular growth influenced Bangladesh to pursue meaningful trade liberalization measures.

In the early 1990s, Bangladesh's trade policy represented one of the highest protection levels in South Asia. But the policy of tariff reductions has changed the scenario over the last decade or so. In order to keep up with the pace of worldwide liberalization of tariff structures following the successful conclusion of the Uruguay Round of Trade Negotiations in 1994, and the eventual emergence of World Trade Organization in January 1995, Bangladesh has gradually reduced its import tariffs. While the highest customs duty slab has been lowered from 50 percent (in 1994) to 25 percent (since 2005), the number of

slabs has also been reduced from more than 18 in 1991 and 10 in 1994 to only 4 (0 percent, 5 percent, 12 percent and 25 percent) in 2009-10, with only 251 items attracting 0 percent duty. Until FY 1999-2000, Bangladesh kept both effective and statutory tariff rates, which enabled the government to maneuver tariffs for particular products between low (effective) to high (statutory) rates. But these have been made equal since FY 2000-01 in order to simplify the tariff structure.

Such simplification has made the tariff structure more transparent and reduced the administrative burdens on the part of the country's customs administration in dealing with a complex and high number of tariff slabs (Razzaque & Raihan, 2007). On the other hand, the country does not charge any customs duty on the exportation of any goods. Export duty has been maintained at a nil rate for quite some time with a view to encouraging the export of domestic products.

**Table 1: Bangladesh's tariff structure since 1991-92**

Fiscal Year (1)	Number of Tariff Slabs (2)	Maximum (Top) Tariff Rate (%) (3)	Unweighted Tariff Rate (%) (4)
1991-92	18	350.0	70.0
1993-94	12	300.0	36.0
1994-95	6	60.0	25.9
1995-96	7	50.0	22.3
1996-97	7	45.0	21.5
1997-98	7	42.5	20.7
1998-99	7	40.0	20.3
1999-00	5	37.5	19.5
2000-01	5	37.5	17.2
2001-02	5	37.5	17.13
2002-03	5	32.5	16.5
2003-04	5	30.0	15.69
2004-05	4	25.0	13.54
2005-06	4	25.0	13.41
2006-07	4	25.0	12.21
2007-08	4	25.0	13.44

Source: 1. National Board of Revenue statistics

2. Bangladesh Economic Review (2004, 2008)

3. Razzaque & Raihan (2007)

Instead of going for all-out, deep or drastic tariff cuts, Bangladesh wisely followed a graduated approach while pursuing its policy of tariff liberalization. The evolving pattern of that liberalization will become evident from the tariff structure of the country since FY 1991-92 as

illustrated in Table 1. The table shows that Bangladesh has made significant tariff cuts in FY 1994-95 both in terms of the tariff bands and the maximum rate. During the budget of FY 1994-95, tariff bands were slashed from as high as 300% to merely 60%, while the un-weighted tariff rate came down from 36 percent to 25.9 percent. Since then, the National Board of Revenue (NBR) has continued to cut tariffs on a slow and gradual pace, as reflected from the percentage changes shown in both columns (3) and (4) in the table on a year-on-year basis since 1994-95.

As a result of these well-meaning tariff cuts, the average tariff protection in Bangladesh has been reduced significantly. As shown in Table 1, the average un-weighted tariff rate was only 13.44 percent in 2007-08. Tariff liberalizations in the last one decade and a half have also contributed to lowering the import-weighted tariff average rates. The reduction in un-weighted tariff rates has also contributed in lowering the import-weighted average tariff rates. As illustrated in Table 2, while the weighted average rate was 42.1 percent in FY 1990-91, the huge cuts in FY 1994-95 brought it down to 20.9 percent. Since then, this import-weighted rate has continued its downward slide and stood at only 7.59 percent in FY 2007-08. Similarly, the un-weighted total protection rate, after adjusting MFN rates for all tariff exemptions or concessions, has also been reduced from 21.39 percent in FY 2000-01 to 17.26 percent in 2007-08.

**Table 2: Impact of tariff reforms on average rate of tariff**

	1990-91	1994-95	1998-99	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08
Import-weighted tariff (%)	42.1	20.9	14.7	13.8	12.29	9.73	12.42	9.84	9.59	8.44	6.95	7.59
MFN un-weighted tariff (%)	-	-	-	-	21.39	21.01	19.88	18.85	16.53	16.39	14.87	17.26

Source: Raihan (2008) & Bangladesh Economic Review (2008).

Table 3 illustrates the impact of tariff reforms on average rate of customs tariff by type of commodities, namely primary, intermediate, capital and final consumer goods. It also reveals that in the un-weighted average category, tariff cuts were deeper in the case of final consumer goods than on other types of commodities. On the other hand, in the weighted average category, tariff cuts were higher in the case of primary and intermediate goods, while such reduction has almost stagnated in the case of final consumer goods.

**Table 3: Impact of tariff reforms on average rate of customs duty by type of commodities**

Fiscal year	2002-03		2003-04		2004-05		2005-06		2006-07		2007-08	
	UW AV	W AV	UW AV	W AV	UW AV	W AV	UW AV	W AV	UW AV	W AV	UW AV	W AV
Primary goods	20.98	11.92	19.90	11.28	17.61	8.99	17.83	6.93	16.58	4.36	17.72	3.59
Intermediate goods	14.89	15.86	14.44	15.12	12.46	12.72	12.24	9.33	10.55	8.55	12.23	8.85
Capital goods	8.03	7.97	7.85	6.42	7.28	5.22	7.45	5.16	6.21	4.48	7.72	7.33
Final consumer goods	22.94	11.72	21.27	10.68	18.22	15.08	18.13	13.44	17.20	12.80	17.78	13.95

Source: Bangladesh Economic Review (2008).

Note: UW AV = Un-weighted average,  
W AV = Weighted average

In addition to tariff cuts, Bangladesh has also continued its liberalization efforts by attempting to remove various para-tariff and non-tariff barriers. License fee, which was applicable at a rate of 4 percent, was withdrawn in FY 2002-03. Infrastructure development surcharge (IDSC), another para-tariff that was applicable at a rate of 4 percent on all imported goods, was also withdrawn in FY 2007-08. In terms of removing non-tariff barriers, Bangladesh has also sought to restrict the category of goods that carry various prohibitions and restrictions. For example, the Import and Export Policies of the country have continuously been simplified by way of minimizing prohibitions and restrictions to the greatest possible extent so as to be in line with international efforts aimed at liberalization of trade. For example, the current 2007-2009 Import Policy Order has removed quantitative restrictions from all but 26 products, and retained complete restrictions on two items only, namely eggs and poultry<sup>6</sup>.

The current import tariff and tax structure in Bangladesh includes customs duty, regulatory duty, supplementary duty, value added tax (VAT), advanced income tax and advanced trade VAT. Among them advanced income tax and advanced trade VAT are collected at source which can be adjusted by the importers with the local level income tax and VAT authorities, and therefore, their collection at the import stage does not pose any problem and need not be considered as barriers. On the other hand, supplementary duty and VAT are supposed to be trade-neutral, but in most cases of supplementary duty and few cases of VAT, in the absence of equivalent taxes on domestic production, they have actually provided for extra protection for domestic industries and therefore, serve as para-tariffs.

The provision of regulatory duty allows the authority to temporarily impose a certain amount of duty on the import of a particular product for a particular period in a given financial year and is supposed to be rescinded at the end of that year. However, the NBR has used this provision in FY 2009-10 across-the-board and imposed regulatory duty at the rate of 5 percent on almost all the finished products that carry the top tariff rate (25%) and on a few intermediate products as an addition to customs duty. If continued, this may very well be treated as another para-tariff, and its protective impact could affect the country's attempt to lower its overall protection rate.

Therefore, while the tariffs were gradually reduced in Bangladesh, a growing tendency to raise para-tariffs in one form or another was also evident. Table 4 shows that in spite of the sizeable reduction in tariffs, the total protection rate has remained above the reasonable level due to the presence of para-tariffs. It also reveals that as the tariff protection rate gradually went down since the mid-1990s, the rate of para-tariff protection has shown an upward trend almost on an equal scale.

**Table 4: Average rate of tariffs and para-tariffs in Bangladesh**

Year	All Tariff Lines			Industrial Tariff Lines			Agriculture Tariff Lines		
	Tariff	Para-Tariffs	Total protection rate	Tariff	Para-Tariffs	Total protection rate	Tariff	Para-Tariffs	Total protection rate
1991-1992	70.64	2.98	73.62	69.72	3.44	73.16	76.64	-0.01	76.63
1994-1995	34.24	3.30	37.55	33.52	3.54	37.06	37.49	2.23	39.72
1998-1999	26.59	5.82	32.41	26.23	5.92	32.15	28.19	5.37	33.56
1999-2000	22.40	6.99	29.39	21.86	7.33	29.19	24.87	5.41	30.28
2000-2001	21.10	7.43	28.54	20.39	7.84	28.23	24.53	5.46	30.00
2001-2002	21.02	8.41	29.43	20.28	8.47	28.75	24.60	8.15	32.74
2002-2003	19.91	6.51	26.42	19.08	6.74	25.82	23.85	5.44	29.29
2003-2004	18.82	10.29	29.11	18.02	8.81	26.82	22.56	17.22	39.77
2004-2005	16.3	-	26.5	15.6	-	25.4	19.6	-	32.1
2005-2006	15.5	-	26.5	14.7	-	25.3	19.4	-	32.4
2006-2007	14.9	-	24.3	14.0	-	22.4	19.1	-	31.3

Source: World Bank (2007), Raihan (2008).

After highlighting various measures adopted by Bangladesh for liberalizing its trade tariff structure, the next section will aim at identifying the impact these have on the revenue collection efforts of the government.

### 03. Impact on revenue earnings:

Examining the implications of trade liberalization for revenue, Zafar (2005) found that large reduction in tariffs during the 1990s and 1990s had adverse effects on trade tax revenue in the African countries, such as Niger. Baunsgaard & Keen (2005) also found that recovery in terms of tax revenue from the shocks of tariff cuts has been 'far from complete' in low income countries in Africa.

However, conducting similar study, Ebril et al. (1999) found that many developing countries which have implemented trade reforms have been able to avoid significant revenue loss. They also conclude that revenue increase in some cases has been the direct outcome of increased imports generated as a result of a country's reduction of tariff and non-tariff barriers. Examining the cases in Mexico and Chile, a WTO (2003) study concluded that implementation of trade liberalization programmes in the 1980s resulted in growth in revenue earnings at least in the short term.

Bangladesh, like other developing countries, has historically depended on import tariffs as the principal sources of its internal resource collection. Hence, any reform measure aiming to rationalize its tariff structure with the ultimate aim of cutting down the tariff rates must take into consideration the probable impact it may have on the collection of revenue. However, data provided in Tables 5 and 6 amply illustrate that conforming to the general argument of the trade liberalization theorists, gradual tariff reforms in Bangladesh did not have any measurable negative impact on the revenue collection situation, and instead contributed to a positive growth in revenue.

**Table 5: Import growth during tariff liberalization (in million US dollar)**

Year	1995-96	1998-99	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08
Total Import	5,834	8,006	8,374	9,335	8,540	9,658	10,903	13,147	14,746	17,157	21,629
% change	-	6.5	4.6	11.50	-8.5	13.1	12.9	20.6	12.2	16.4	26.1
Primary commodities	-	1448	980	1046	812	1133	1339	1676	1854	2069	3455
Intermed. products	-	1037	1204	1380	1311	1548	1910	2662	3001	3569	4844
Capital machinery	-	294	314	482	554	548	729	1115	1458	1929	1664
Other (inc. Finished goods)	-	5227	5876	6427	5863	6429	6925	7694	8434	9590	11666

Source: Bangladesh Economic Review (2004, 2008).

Table 5 shows that tariff liberalization since the last one decade and a half has led to surges in imports into Bangladesh. While the total imports stood at \$5,834 million in FY1995-96, it rose to \$9,335 million in FY2000-01. It rose further to \$13,147 million in FY2004-05, reaching \$21,629 million in FY2007-08. In terms of growth on a year-on-year basis, it shows that except temporary shocks (e.g. in FY 2001-02 on the aftermath of September 11, 2001 attack on Twin Towers), imports grew at an accelerated pace since tariff liberalization began in the mid-1990s achieving a very high rate of 26.1 percent growth in FY 2007-08.

**Table 6: Revenue growth during tariff liberalization (in crore taka)<sup>7</sup>**

Year	1995-96	1998-99	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08
Customs Duty (CD)	3772	4739	4254	5101	5395	6677	7088	7912	7825	8155	9601
Import duty-tax (inc. CD)	6688	8553	8265	10036	10485	12068	13171	15113	15274	15663	19847
Total NBR taxes	11370	14869	15123	18774	20207	23651	26194	29904	34002	37219	47435
CD as % of NBR total	33.18	31.87	28.13	27.17	26.70	28.23	27.06	26.46	23.01	21.91	20.24
Import duty-tax as % of NBR total	58.82	57.52	54.65	53.46	51.89	51.03	50.28	50.53	44.92	42.08	41.84

Source: National Board of Revenue statistics.

There is no denying that in the absence of a tax compliant culture in the country, collection of direct taxes (e.g. income tax) and effort-based indirect taxes (e.g. value added tax) is still low, and for that reason, the government depends heavily on the collection of revenue at the import stage, since it is easier to administer and chances of leakage are slim. Therefore, skeptics of tariff liberalization in Bangladesh would often argue that reduction in tariffs would contribute to reducing the ability of the government to generate revenue. However, statistics presented in Table 6 illustrates that this has not been the case.

Customs duty or trade tax revenue was Tk. 3,772 crore in FY1995-96, which was 33.18 percent of total revenue collected by the NBR. This rose to Tk. 5,101 crore in FY2000-01 and reaching at Tk. 9,601 crore in FY2007-08. Secondly, examining statistics of all duty and taxes (including Customs duty) at the import stage also reveals that import revenue<sup>8</sup> continued to grow from Tk. 6,688 crore in FY1995-96 to Tk. 10,036 crore in FY2000-01, and rose further to Tk. 19,847 in FY2007-08. However, while total NBR revenue showed spectacular growth as overall collection more than quadrupled from Tk. 11,370 crore in FY1995-96 to Tk. 47,435 crore in FY2007-08, the share of both categories of import revenue (a. Customs duty and b. total import revenue) have continued to decline. For example, trade tax revenue

(Customs duty) as a percentage of total NBR revenue declined from a high 33.18 percent in FY1995-96 to a low 20.24 percent in FY 2007-08. Similarly, total import duty-taxes (including Customs duty) as a percentage of total NBR revenue also declined from a staggering 58.82 percent in FY1995-96 to a mere 41.84 percent in FY 2007-08.

The data presented above lead us to a number of findings. First, the fiscal liberalization in the form of tariff cuts actually resulted in a surge of imports<sup>9</sup> in all categories of products, thereby contributing to continued growth in trade tax revenue (Customs duty). Secondly, while continuing with the gradual approach towards tariff reduction, the NBR has been able to shift its traditional emphasis from trade tax revenue to other forms of taxes, both indirect (import and local) and direct (on income), as evidenced from the high growth in total NBR revenue and the corresponding decline in the share of trade tax revenue in it.

#### 04. Conclusions:

While sharing the view of many that the customs revenue has made immense contribution to the economy over the years and still continues to do so in terms of internal resources collection for financing the country's expenditure, this author has made a humble attempt in this paper to illustrate that, if accompanied by appropriate strategies, tariff reduction does not necessarily hamper revenue collection. The experience in Bangladesh during the last one decade and a half as delineated above will bear ample proof of that position. The revenue earning scenario at the NBR clearly demonstrates that due to the adoption of a slow and graduated approach towards unilateral tariff liberalization and at the same time keeping a constant focus on raising non-trade tax revenue, the NBR has been able to offset the possibility of any potential loss in revenue and instead customs or trade tax revenue has always shown a consistent pattern of impressive growth throughout the period. The graduated approach also enabled the NBR to place an equal emphasis on raising non-trade import taxes and domestic taxes as well, and the strategy did pay off posting a higher rate of growth in non-trade taxes (both direct and indirect), such as income tax and VAT.

The current world economic recession and the accompanying protectionist tendency around the world might have a dampening effect on the spirit of the liberalizing nations. The amount of policy space left by WTO legal tariff bindings allows for an increase in MFN tariffs (Foletti et al.). The policy space, or the manoeuvrability of a country of moving between the bounded tariff rate and the MFN tariff rate, is even higher in Bangladesh as the country, being an LDC, enjoys the benefits of unbounded tariff rates for all the products except the agricultural goods<sup>10</sup>, leaving enough scope for Bangladesh to tinker with its tariff rates.

However, continuation with its current emphasis on gradual tariff cuts is highly warranted not only because of the success story illustrated above in terms of gaining higher revenue earnings, but also because such gradual tariff reduction and rationalization measures have allowed Bangladesh to achieve export competitiveness. As argued in Mozumder (2009), tariff rationalization has reduced the anti-export bias, and also encouraged both backward and forward linkages related to the export sector, and the resultant gain in international competitiveness led to a robust growth in its export.

#### End Notes:

1. Strategies of import substitution and export-oriented industrializations have been dealt at length in Mozumder (2009).
2. In Mozumder (2009), this author argued that trade liberalization measures undertaken in Bangladesh since the early 1990s made significant contribution in reducing the disincentives to exports and ensuring efficient allocation of resources, and thus contributed to economic growth in the country.
3. Trade tax revenue implies taxes collected as import and export duties. As no export duties are charged on the exportable in Bangladesh, trade tax revenue implies import duties, regulatory duties, and infrastructural development surcharges imposed at the import stage. But it does not include taxes such as VAT and supplementary duty collected at the import stage.
4. In countries, such as Bangladesh where value added tax has replaced excise duty or sales tax, this implies increasing VAT rate at the import stage. The problem with this approach is that the same rate will have to be applied on domestic product too so as to maintain product-specific trade-neutrality. Otherwise, it will be treated exactly as an equivalent to a tariff.
5. Bangladesh is not a federal type country, and the share of income tax in total NBR revenue is always lower compared to that of domestic indirect taxes.
6. Initially, the IPO, 2006-09 contained complete ban on import of three products, namely eggs, poultry and salt. However, restrictions on import of salt were later withdrawn.
7. As the tariff liberalization in Bangladesh began in earnest in the mid-1990s, Table 6 attempts to illustrate changes in revenue collection in the following years so as to illustrate the impact of that gradual tariff cuts over the years since then.
8. Import revenue includes not only trade tax revenue, but also trade-neutral taxes, such as VAT and supplementary duty, collected at the import stage.
9. It has been illustrated in Mozumder (2009) that the trade reforms and liberalization measures undertaken in Bangladesh have also contributed to an expansion in exports.
10. Even for agricultural goods, the bound rate is as high as 200% for Bangladesh.

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# Trade facilitation, WTO provisions and Bangladesh Customs

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*Abstract: This paper provides a brief description of trade facilitation and the WTO provisions relating to trade facilitation. It presents a brief account of trade facilitation measures taken across the globe. The efforts of the Government of Bangladesh (i.e., Ministry of finance and the National Board of Revenue) in facilitating trade through automation and administrative reforms in the customs administration are also highlighted. The paper provides some policy prescriptions for trade facilitation.*

## Introduction

In international trade, trade facilitation (TF) is a widely discussed concept. The globalisation of production and market in recent years has resulted in immense increase in the volume of goods traded internationally. This has significantly increased the role of customs as the increased volumes of goods are to be cleared by customs. Due to the growing complexity in trade and the increase in customs-related documentation and procedures<sup>1</sup>, the need for quick and efficient clearance of goods is highly emphasized. For instance, containers that used to be carrying goods of one party and cleared as one transaction now often contain a number to smaller shipments of different importers and need separate documents and clearing procedures for customs clearance (Bolhofer, 2008). The emergence of e-commerce also changed the business scenario. These changes in business environment requires customs department to be equipped with new skills (such as IT skills) to adapt.

The complexity in business environment, outdated systems, lack of staff in customs administration, lack of adequate infrastructure such as container scanner, weighing bridge and lack of right attitudes are the main hindrances to trade facilitation. These inadequacies also at times, adversely affects the legitimate interests of stakeholders/parties involved in trade. Although noticeable improvement took place in customs clearance and expedition of procedures in international trade due to the development of information technology in many countries, problems

<sup>1</sup> In the last 50 years, technical regulations related to trade of goods have increased considerably. In a similar vein, a boom in customs procedures has happened for a variety of reasons ranging from the need to create tariff codes for products for products subject to anti dumping duties, new classification codes for products that are emerging due to IT development and more detailed rules of origin. This evolution is common to most WTO members and has resulted in a multiplication of duplicative requirements imposed at customs points. These requirements take the form of barriers to international trade (Messerlin and Zarrouk, 2000).

still exist in the customs and port formalities due to lack of interoperability of different national systems (Bolhofer,2008).

The problems and delay existent in customs formalities hinders international trade and national development of countries dependent on trade. On the other hand, timely and quick clearance of goods saves time, cost and promotes development. Djankov, Freund and Pham Cong (2006) found that on average, each additional day that a product is delayed prior to being shipped reduces trade by at least one per cent.

In order to help national development through removal and minimisation of the problems and inadequacies in the clearance procedure of international trade, different organizations advocated for and provided support to implement trade facilitation measures. An APEC study estimated that 'trade facilitation measures would generate gains of about 0.26% of real GDP to APEC and the savings in import prices would be between 1-2% of import prices for developing countries in the region' (Buyonge and Kireeva, 2008, p.42). Over the last few decades organisations such as the United Nations Conference on Trade and Development (UNCTAD), the United Nations Economic Commission for Europe (UNECE) and the World Customs Organization (WCO) have carried out a lot of work on trade facilitation. The steps taken by national customs organizations under the auspices of these organizations include: simplification of customs procedures, doing away with number of documentations, reduction of number of layers/steps involved in customs clearance, update of customs laws/procedures, minimisation of discretionary powers of officials and initiatives to introduce paperless international trade (Laryea, 2005).

## Trade facilitation

Trade facilitation is the simplification, harmonisation, standardisation and modernisation of trade procedures (Grainger, 2008). The OECD defines trade facilitation as 'a simplification and standardisation of procedures and associated information flows required to move good internationally from seller to buyer and to pass payments in the order direction' (OECD in Bolhofer, 2008). Trade facilitation also includes the transparency and professionalism of customs authorities, harmonisation of various standards and conformity to international or regional regulations (Buyonge and Kireeva, 2008). WTO defines trade facilitation as the 'simplification and harmonization of international trade procedures, including activities, practices, and formalities involved in collecting, presenting, communicating, and processing data required for the movement of goods in international trade' (WTO, 2001/2009). Simplification is the 'process of doing away with all unnecessary elements and duplication in formalities, process and procedures while Harmonization is the alignment of national formalities, procedures,

operations and documents with international conventions, standards and practices' (UN/CEFACT 1974). Butterly (2003) sees trade facilitation at once a political, economic, business, administrative and technological issue. The four factors (also called 'four indicators of trade facilitation'): port efficiency, customs environment, regulatory environment and the use of e-commerce have far reaching effects on international trade of individual country. An increase in efficiency in these areas is presumed to have significant positive effects on the movement of goods across the globe. According to a World Bank study, it has been estimated that adherence to the provisions of Article V GATT (freedom of transit, represented by the indicator port efficiency), and to the provisions of Article VIII of GATT (fees and formalities, represented by the customs environment), would lead to an increase in trade in finished goods amounting to USD 107 billion (Article V) and USD 33 billion (Article VIII). Trade is expected to increase by USD 83 billion if countries were to publish and apply trade regulations as prescribed by GATT article X (Transparency and availability of information) (World Bank, 2004 in Wilson, Mann & Otsuki 2004). Trade facilitation is necessary to ensure quick and smooth clearance of goods, protect interest of all concerned and contribute to increased trade and investment.

The potential gains from trade facilitation measures have motivated many countries to initiate and implement trade facilitation projects (Wilson, Mann & Otsuki 2004). The main objective of trade facilitation is to improve trade environment with a view to reducing or eliminating any transaction costs between business and government

#### **Trade Facilitation Measures**

Trade facilitation is an important agenda in international, regional and national level. In the International level, WCO, WTO, ICC (International Chamber of Commerce), ISO (international Organisation for Standardisation), UNCTAD, UNECE, IMO, and many other organisations are involved in trade facilitation. It is also an important agenda in the regional level

In the international arena, WCO adopted numerous provisions and recommendations including development and implementation of harmonized commodity description and coding system (HS system) Kyoto convention of 1974 followed by revised Kyoto convention on the simplification and harmonisation of customs procedures adopted in 2006 are the two most notable examples of WCO initiatives to facilitate trade.

WCO is the home for HS system and helps ensure consistency in the technical interpretation of valuation rules and non-preferential rules of origin (Grainger 2008).

In the regional level, trade facilitation is also an important agenda. For example, the European Union has largely removed the internal borders between its 27 Members and turned the union into a customs union having a common external tariff. Furthermore, additional reform is currently under way to achieve interoperability among member state customs procedures (TAXUD/477/2004, 2007). Chinese Taipei has been using the automated customs clearance system since 1990s. It has also enacted an Electronic Signature Law in 2001 to facilitate paperless trade. Electronic Signature enhances the legal validity of electronic documents. In Hong Kong, declaration by importers and exporters to Customs are paperless; although certain documents such as quarantine and health certificates remain paper based (Laryea, 2005).

The commonly applied trade facilitation measures include: Entire concepts (Single Window), IT solutions (EDI), standardisation (electronic or paper-based), simplified procedures such as introduction of Authorized Economic Operator [AEO] and risk analysis. An AEO is an economic operator who by virtue of satisfying certain criteria, is considered to be reliable in their customs-related operations. AEO's are entitled to certain facilitations from customs security and safety controls, or both such as a lower risk score for AEO. This lower score are incorporated into Customs risk management systems to determine the frequency of physical and documentary checks (Tweddle, 2008). The objective of introducing AEOs is to extend facilitation 'rewards' to compliant traders so that customs administrations can deploy their resources to focus on high-risk traders and goods (Gordhan, 2007 p. 53).

#### **WTO provisions on trade facilitation**

Within the WTO, Trade facilitation provisions fall under three provisions of GATT: Articles V (freedom of transit), VIII (fees and formalities connected with importation and exportation) and X publication and administration of trade regulations. Furthermore, a number of specific agreements have been negotiated that are related to trade facilitation. These agreements include: Customs Valuation Agreement, Agreement on Pre-Shipment Inspection (PSI) to avoid delays and resolve disputes, Agreement on Technical Barriers to Trade (TBT), Agreement on Import licensing (ILP), Agreement on Rules of Origin and Agreement on the application of Sanitary and Phytosanitary (SPS) measures. The TBT provides that product standards should be based on scientific information and evidence and should not be so applied as to cause unnecessary barriers to trade (Taneja, 2004 p.2-3). The Agreement on Rules of Origin aims mainly to harmonise non-preferential rules of origin among Members (Bolhofer, 2008).

Article V of GATT sets out the basic requirement of freedom of transit. It also calls on parties not to discriminate on the basis of flag of vessel, place of origin, ownership of goods and entry or destination.

Article VIII GATT establishes certain obligations regarding fees and charges. It explicitly limits fees and charges connected with importation and exportation to be limited to the approximate cost of services rendered. It also prohibits fees and charges aimed at protecting domestic goods or having the effect of an import/export tax. Furthermore, Article VIII requires Members not to impose penalties on traders that are out of proportion to the degree of the violation of customs regulations. The recommendations made by the WCO relating to GATT article VIII requires necessary periodic review and measurement of fees charged and incurred cost of services delivered, capacity building and legal reforms.

Article X, GATT 1994 requires publication of trade-related laws, regulations, judicial decisions, administrative rulings and agreements. This article does not require the parties to disclose confidential information.

Trade facilitation measures stipulated under these GATT articles are pertinent to the customs world for discharging its duties efficiently. World customs organisation provides principles/guidelines for simple, effective and modern procedures that are compatible with and complementary to the GATT provisions on trade facilitation. The revised Kyoto Convention (1999), through various provisions and implementation guidelines provide the basis for principles set out in the three GATT articles (Taneja,2004).Considering WTO trade facilitation measures important for customs administration, WCO recommended trade facilitation measures in line with GATTs provisions such as:

Trade facilitation measures under article V

- Accept commercial documents (invoiced, BL) instead of mandating formal regulatory declarations
- Set simple and clear procedures for identifying consignments
- Ensure non-discrimination of goods

Trade facilitation recommendations under Article VIII:

- Regulatory fees should not exceed expenses
- Simplification and standardization of customs and trade documents

- The Single Window Concept<sup>2</sup>
- Use of risk management techniques
- Use of Information technology
- Adherence to international customs conventions
- Time guidelines for border clearance

Trade facilitation recommendations under Article X:

- Accessible publication of procedures and requirements
- Active provision of information
- Procedures for advance and binding rulings
- Fair and efficient appeal and tribunal procedures
- Procedures for advance and binding rulings
- Use of Memoranda of Understandings between regulatory bodies and traders

(Grainger, 2008)

Bangladesh has not been a party to any disputes on violation of Article V (freedom of transit) because of non-existence of movement of such goods. Article X is focused on establishing transparency in Member's administration. Numerous disputes are found around Article X GATT (WTO Secretariat 2002, G/C/W/374). The publication requirement extends to administrative rulings in individual cases where such rulings establish/revise principles applicable in future cases. It would, therefore, be necessary to publish laws, regulations and administrative rulings (through web site or annual publication) to ensure transparency. In this regard, it is important to mention that in one dispute, it has been found that 'no time limit or delay between publication and entry into force was specified by paragraph 1, but that prohibits the use of backdated quotas' (Belofer, 2008:36).

Though Customs Acts and VAT Acts are published regularly, these are mostly done in private initiative. Customs wing and VAT wing however published compilation of Customs and VAT regulations and Orders in the last few years but with irregular intervals. Major changes in Customs and VAT regulations are usually published through official gazettes along with each year budget documents. Though some improvements happened in publication of customs laws, regulations and judicial decisions, provisions of Article X, GATT are still far from being observed in Bangladesh.

<sup>2</sup> A single window is defined as a facility that allows parties involved in trade and transport to lodge standardized documentation and /or data with a single entry point to fulfil all import, export, and transit-related regulatory requirements (UN/CEFACT Recommendation No. 33 as stated in TN/TF/W/43/Rev.15 date- 9 July 2008). Under the Single Window Concept, a trader submits the required information once to a single designated authority (preferably Customs) for multiple purposes. This reduces of duplication of functions and wastage of resources (both time and money) (Kafeero, 2008).

The following Table (Table 1) shows summary of some proposals/submission on trade facilitation issues by WTO Members and their compliance level in Bangladesh.

Table 1 Summary of proposals on trade facilitation by WTO Members and the compliance state of Bangladesh Customs

WTO Provisions regarding trade facilitation (and some TF measures proposed by Members)	Current status	Compliance level	GATT articles concerned
Publication and notification of trade regulation and of penalty issues	1.Trade regulations are published either through official gazettes or administrative orders/notices 2. No officially designated source where all the publications are available.	Partially complied with	Article X
Appeal	Necessary judicial and arbitral tribunals namely Tax appellate tribunal and customs and VAT appellate tribunal are in place	Full compliant	Article X
Disciplines on Fees and Charges connected with importation and exportation	No assessment has been done till date to determine if fees and charges imposed on or in connection with importation or exportation are in line with approximate cost of services rendered.	PARTIALLY COMPLIANT (fees and charges are not based on an <i>ad valorem</i> as stipulated in GATT)	Article VIII
Risk Management/Risk Analysis (to reduce physical inspection of goods)	Consignments are often selected for physical examination on the basis of risk assessment. Apart from this, consignments against which complaints of mis-declaration are found are also physically examined.	PARTIALLY COMPLIANT	Article VIII
Authorised Traders/AEO	Simplified clearance procedures for "authorized traders" (garments exporters) have been introduced recently in a small scale.	PARTIALLY COMPLIANT	Article VIII/ WCO's SAFE framework
Single window/one-time submission	Not implemented	NON COMPLIANT	Article VIII
Interval between Publication and Entry into Force (i.e. publication of proposed laws, regulations, administrative ruling prior to their entry into force in order to allow trades to become acquainted with and prepared for the compliance with them).	Bangladesh does not follow this practice perhaps because publication in advance may distort market conditions or might have an adverse impact on general well being.	NON-COMPLIANT (except a single budget year recently where a number of Customs notifications including tariff rates and new procedures were published before their entry into force)	Articles VIII and X
Establishment and Publication of Average Release and Clearance Times (proposed by some WTO Members)	A study on average time required from the 'submission of declaration to assessment made' and 'submission to payment done' is conducted at regular intervals at customs stations run by automated system only to measure its performance; This is not made public.	NON COMPLIANT	Articles VIII and X
Prior consultation and commenting on new and amended rules	Prior consultation with concerned trade bodies and stakeholders are conducted before introducing new laws and regulations in relation to	PARTIALLY COMPLIANT	Article X

	customs (with limited exceptions). Recently it has been extended to publish draft regulations on web for their comments.		
Elimination of pre-shipment inspection (PSI). Use of PSI practices, which are considered to be redundant where customs authorities are capable of performing their role effectively. It also adds to the cost of doing business.	Bangladesh is having mandatory PSI which is still continuing (2010).	NON COMPLIANT	Agreement on PSI
Phasing out mandatory use of customs brokers (Members shall not require the mandatory use of customs brokers)	Willing traders can and have options to clear their own consignments on fulfillment of necessary formalities from customs port using their self-clearance license. They need to take a self clearance license from the customs authorities.	COMPLIANT	Article VIII
Advance rulings (to provide the international community with greater commercial predictability and certainty on tariff classification and applicable duties); The advance ruling shall [remain in force for a reasonable period of time after its issuance unless the facts or circumstances (relating to)]the original advance ruling have changed	Not yet introduced	NON COMPLIANT	Article X
Establishment of enquiry points/trade desks(diskas) for providing trade-related information	At present, no such contact point is in place.	Not compliant	Article X
Minimization of import and export formalities and simplification & reduction of documentation requirements	Documentation requirements and decision layers have been reduced to some extent in the last decade. A joint committee comprising officials from the NBR, Ministry of commerce, Bangladesh Bank and Port authority may examine the existing formalities and documentations to determine if there are scope for further reduction of formalities/documentations to ensure that trade-related formalities and documentation requirements are not administratively burdensome or trade-restrictive than is necessary to achieve its legitimate objectives.	Partial compliant	Article VIII of GATT

(Source: Sultana, 2008; WTO, 2008; 2009)

The above table contains a few trade facilitation measures relating to GATT Articles V, VIII, X and Agreement on PSI proposed by different WTO members. It also highlights the current state of measures on these areas. Trade facilitation measures so far implemented by Bangladesh seem to be at a moderate level considering the socio-economic condition and LDC status of the country. At its present state, Bangladesh is not in a position to undertake TF commitments on measures proposed by other

Members. It needs Technical assistance first to build necessary infrastructure, procure necessary office/technical equipment, set up laboratory, and provide skills training. It, however can implement some proposed measures such as phasing out of mandatory PSI, publication of documents and regulations, establishment of an officially designated inquiry point for traders, and advance ruling to remain valid of a particular time period, (at least for foreign investors) in the short term if the customs administration is provided with necessary funding/technical assistance and adequate manpower including posting of customs officials in important foreign missions from where Bangladesh imports most of its needed goods. Bangladesh, can therefore, consider accept these recommendations on best endeavour basis. India set up advance ruling mechanism and made it operational from 2004 through necessary amendments in the Customs Act, 1962 and Central Excise Act, 1944 for foreign firms willing to invest in India or Indian who have teamed up with foreign firms to form Joint Ventur (Taneja, 2004). Capacity building and formation of a valuation database is necessary to phase out mandatory PSI agencies. In creating valuation database, values certified by PSI agencies of identical or similar goods imported from the same country of exportation in the last few years may be considered. These values may provide an indication about the approximate value of identical/similar goods. However, as prices are changeable in international markets, current price catalogues, price information from other sources, web, commercial wing of foreign missions, international publications must be consulted.

#### **Bangladesh status in implementing GATT provisions**

'Trade facilitation'(TF) is a relatively new issue that forms one of the 'Singapore Issues' in Doha Round of the WTO. Along with other Singapore issues (investment, competition policy and government procurement) included in the Doha Round of negotiations, it caused a stalemate at the Ministerial meeting in Cancun. Of the four Singapore issues, WTO members have least reservations about 'trade facilitation' issue because there is consensus among the Members that this issue is related to trade.

There is a consensus among WTO Members that trade facilitation would reduce transaction costs of trade and lead to increased trade and investment. But, opposite negotiation positions were taken by developed and developing countries on trade facilitation issues. Developing countries and LDCs refused to take mandatory TF obligations upon themselves under WTO which bore the risk of becoming defendant in a dispute settlement procedure. Most developing countries are committed to undertake trade facilitation measures as part of their reform agenda. The breakthrough was achieved a year later, on 1 August 2004, when

the 'July Package' was adopted. While other Singapore Issues were dropped, Members took note of the trade facilitation work done so far and agreed to begin negotiations on the basis of modalities set forth in the he package (Bolhofer, 2008). Despite the differing negotiating positions, it appears that here remains a strong potential that the successful conclusion of Doha Round of Multilateral Trade Negotiations on 'trade facilitation' will result in trade rules with respect to Customs (Holloway, 2009).

#### **Measures undertaken to facilitate trade in Bangladesh Customs**

The government of Bangladesh has implemented different measures to modernise and automate customs procedures with a view to facilitating trade. The measures so far undertaken includes

1. Mandatory PSI system: The PSI agencies are involved in the certification of customs classification and verification of price, quantity, and quality of imported goods. PSI system was optional during 1995-Feb 2000. Mandatory PSI system was introduced in 2000 with a view to expediting quick customs clearance thus facilitating trade. PSI system was adopted, as it is argued, to help customs administration discharge its functions effectively by reducing the customs related malpractices particularly mis-declaration of imported consignments (Farid Uddin, 2008). The PSI program opened up trade facilitation facilities by waiving the need for physical inspection, and setting forth an explicit time limit for the issuance of the report (or written explanation for non-issuance) but it could not live up to expectations.

There are allegations that the PSI agencies have abetted in mis-declaration with regard to quantity, quality, classification and pricing of goods. For different types of malpractices, cases are lodged against the four PSI agencies. The malpractices that were seen before the introduction of PSI system are still continuing despite certification by PSI agencies. A significant section of the business community, especially those involved in manufacturing operations, media and civil society view that PSI system in Bangladesh is adversely affecting Bangladesh economy by conniving with the unscrupulous importers and thus evading revenues (Farid Uddin, 2008). Small businesses are also not in favour of PSI system as they hold the view that PSI is not feasible for small businesses and it is the large businesses that are mostly benefited from these agencies' services. This creates unfair competition between industry players.

2. Automation initiatives (ASYCUDA++): With the adoption of ASYCUDA ++ in major customs ports, the automation of customs

process is making progress. However, all its modules are not implemented i.e., this system has been partially implemented and at its existing state, it only process documents and calculates duties. ASYCUDA++ supports risk assessment and selectivity, thus contributing to a substantial increase of customs control and a reduction in clearance times (Wolf and Sokol, 2004).

3. Significant reforms in customs HS (Harmonisation system) codes have been undertaken to curtail discretionary power of the customs officials and enhance trade facilitation. For instance, in the 2009 national budget, a separate HS code for DOP of pharmaceutical grade (2917.32.10) was created to facilitate classification and to reduce duty on the industrial input. Similarly, a new HS code (8481.80.91) for 'other taps, cocks and valves having a diameter of one inch or less' (used for household purposes) was created to differentiate these from the ones exclusively used for industrial purposes and maintain concessional rates on industrial items. Furthermore, to avoid complications in customs assessment and prevent attempts to evade duties, the HS Code 3921.90.30 of multilayer extruded sheet was deleted (Source: Budget Speech, 2009-10). Similarly, HS code 6813.20.00 for raw materials to produce brake lining of asbestos has been split into two HS lines as 'finished' and 'unfinished' (HS codes 6813.20.10 and 6813.20.90) with a view to rationalizing tariff structure and offer protection to local industries.

However, there is room for further refinement in HS codes. Although, WCO determines HS codes, they do it up to 6- digits beyond which national governments enjoy discretion to introduce additional sub-divisions<sup>3</sup>. Addition of more HS sub-divisions beyond the 6-digit level on the HS code of the WCO would ease customs classification.

4. Automation of Customs Clearance in Chittagong Customs House with Chittagong chamber of Commerce through public-private partnership; Automation of customs processes in Dhaka Customs House and some other customs stations are in process

5. Green channel facility for select garment manufacturers (similar to AEO, but not the AEO facility) in clearing their raw materials from Chittagong customs has been agreed upon by the National Board of Revenue. But the facility is yet to be availed by targeted

<sup>3</sup> Multi item HS codes create more discretion for customs officials. For example, a chemical item can be treated under a number of HS codes, creating complexity for trade. It has been reported that HS code of 200 items were adjusted by Mid 2004 to facilitate easy and quick clearance of imported consignments (The Daily Star, June 09, 2004)

firms due to the non-completion of formalities between customs and concerned traders.

6. Simplification of Baggage Rules, and use of Green Channel facility for air passengers in international airports. At present, around 95% passengers enjoy this facility.

7. Introduction of electronic port clearance (EPC) scheme. Singapore implemented such scheme where users of EPC can apply for the port clearance certificate for departing vessels electronically (Laryea, 2005).

8. Improve intelligence capacity, including exchange of information (on container and baggage contents) with other national and international agencies

Although reform process has started about a decade ago, there is still a considerable unfinished agenda such as automation of customs procedures in all customs houses and customs stations. The automation initiatives took place in Dhaka, Chittagong, Benapole and Inland Container Depot (ICD), Kamalapur are partial and incomplete. Land customs stations are yet to be brought under automation scheme.

#### **Impediments in the implementation of trade facilitation measures**

The implementation of trade facilitation measures are riddled with many constraints. Most of these constraints are associated with conflict of interest, lack of skills and resources and institutional limitations. Institutional limitations include lack of adequate staff, container scanners for physical inspection of goods, weighing bridge, lack of fork lift, container handling equipment, lack of testing/chemical laboratories etc.

The sources of conflicting interests may be found between government and business stakeholders, government departments such as between customs and veterinary inspectors and between liberal and protectionist policy makers. The opposing view of government departments and business such as businesses argue that trade facilitation is about reducing cost of doing business while customs world often sees trade facilitation as losing control, is another significant source of conflict of interest (Grainger, 2008). Conflicting industry interests also add to the difficulty of implementing trade facilitation measures. These types of conflicting stands were found between Bangladesh Textiles Mills Association (BTMA) and BKMEA on Yarn importation through Benapole customs house.

### Other Agencies' role in trade facilitation

Other agencies involved in export and import clearance process such as Port authority, Ministry of commerce, CCIE, Quarantine department, LC issuing Banks, freight forwarders, standards institutes, insurers, plant inspectors and customs brokers/C & F agents also needs to go along with the modernisation program. To facilitate trade, countries are implementing modernisation projects in ports, customs, and other departments relating to international trade. For instance, in Singapore, all import and export permits are declared and approved electronically via Trade-Net™, a one stop processing system involving 15 agencies. Since 1999, the shipping community has been using the MARINET system to electronically declare a vessel's arrival and departure in/from port (Laryea, 2005). Similarly, the Philippine Port Authority launched the Electronic Port (e-port). This web-based facility allows ship owners, shipping lines and shipping agents to submit mandatory documents for vessel and cargo processing electronically. Japan Electronic Open Network Trade Control System- JETRAS) allows stakeholders in to apply for import and export permits electronically. Malaysia has established a national electronic payment system (Laryea, 2005).

Delay in customs clearance happens not only by customs authorities, but due to untrue declaration, incomplete documentation, delay in issuance of PSI certifications, inefficiency and negligence by customs brokers and shipping agents. Furthermore, customs have no control over the activities of other agencies responsible for checking goods standards, phytosanitary and health inspection, radiation certification. Skills and capacity building of these organizations and the efficiency of port authority would certainly contribute to trade facilitation.

Enough storage facilities in ports (both sea and) and airports for perishable and dangerous goods may also facilitate trade.

### Policy Implications

Customs need to be equipped with necessary manpower, infrastructure (including modern office buildings for computerization), office equipment and skills to facilitate trade. At the moment, the department is facing acute shortage of personnel, particularly at inspector and superintendent level and is. Adequate fund is needed to fund and support stated facilities. The following are some areas where improvements are necessary:

- Reforms of customs procedures: The automation of customs procedures (a key component of customs reform and modernisation) is a key component of customs reforms. The ongoing challenge for customs administration is the balancing of trade facilitation with border security and control in an

environment of increased trade and static (or even) decreasing resources. Full automation of customs procedures is essential for striking a balance between trade facilitation and border security and control. The automation which has been started a few years ago are half done. Existing ASYCUDA ++ system is capable of capturing and processing data for assessment and collection of duties and taxes (i.e. declaration processing). It needs to be fully implemented by adoption of Valuation module, Risk Management Module, and Manifest module. Automation helps uniform application of laws, and increases cargo clearance for example by enabling the required information to be sent in advance of the arrival of the goods and even after office hours (Holloway, 2009). Automation is also important to efficiently and effectively handle increased trade volumes without many increases in human resources. The importance of modernisation of customs procedures for trade facilitation has been emphasised among others, by the WCO, WTO, World Bank, and the UNCTAD (Holloway, 2009).

- Electronic documents submission: Automation should facilitate shift from a manual (paper-based) system to an electronic (paperless) system. Importers should be able to submit documents electronically.
- Strengthening the valuation commissionerate to enable it to gather information about the value of imports. Sponsoring of price catalogues, full automation, and posting of customs officials in commercially important Bangladesh foreign missions (i.e., major import sourcing countries) could help valuation commissionerate.
- Procure necessary inspection equipment such as fixed and mobile x-ray machines capable of detecting prohibited drugs, firearms, other controlled items as well as high value goods. Deployment of inspection equipment would not only facilitate trade, it would also strengthen counter measures for smuggling and terrorism
- Setting up of multi-agency testing laboratories at major Customs houses /stations (Zakia Sultana, 2008).
- Advance screening of cargo manifests for suspicious and high-risk shipments. Advance ruling on classification.
- Enforcement (preventive) resources should be concentrated on high risk items and frequent flyers to risky zones for (for import and surreptitious carrying of) gold, currency and drugs

- A task force is needed to be formed to implement WCO Framework of Standards (FoS) to Secure and Facilitate Trade<sup>4</sup> (SAFE). Implementation of SAFE framework will promote seamless movement of goods. Especially, the AEO concept of SAFE program can be introduced initially in a very limited scale for honest and secure exporters and importers. Later, it could be introduced for warehouse operators, shippers, customs brokers and freight forwarders etc) subject to risk assessment and fulfillment of specific conditions. Initially, Japan customs has introduced AEO program for importers in 2001. Later, it expanded the AEO facility for compliant importers, exporters and warehouse operators (Aoyama, 2008). Amendment to the Customs Act, 1969 is required to provide a legal basis to introduce AEO program. Mutual recognition of AEO status is a prime long term goal of SAFE FoS.
- Customs department should be adequately staffed and resourced to efficiently and effectively perform classification, valuation and assessment functions on its own which are now mostly outsourced to PSI agencies. PSI services should not be a long-term measure and it should be phased-out as soon as possible. The overall aim of the PSI system is to phase out pre-shipment inspections (Bolhofer, 2008 p.37) as reflected in the preamble of Agreement on PSI: 'Recognizing the need of developing countries to do so for as long and in so far as it is necessary...'. Kenya phased-out pre-shipment inspection for customs purposes in July 2005. There is no such requirement for PSI services in Uganda (Buyonge and Kireeva, 2008). Enhancement of the skills and capacity of the customs department is necessary to phase out PSI system. A comprehensive valuation database and necessary infrastructure facilities need to be created to phase out PSI System (Sultana, 2008).

<sup>4</sup> The SAFE Framework is a non-binding instrument that contains supply chain security and facilitation standards for goods being traded internationally. It strengthens networking arrangements between customs administrations to improve their capacity to detect high-risk consignments, promotes cooperation between customs and the business community through the Authorized Economic Operator (AEO) concept, and champions the seamless movement of goods through secure international trade supply chains. The main elements of SAFE FoS include: advanced electronic cargo information, targeting and communication, customs to customs and customs to business partnership, inspection of high risk-cargo at port of origin (export controls), enhanced trade facilitation for secure trader (reliable trading partner/AEO concept), employee integrity etc. The SAFE framework is based on two 'pillars', namely Customs-to-Customs cooperation and Customs-to-Business partnerships. It consists of a further four core elements, all of which involve the use of ICT (Holloway, 2009 p.20).

- Better working conditions and physical facilities need to be created in customs houses, and land customs stations. In the Philippines, the reform process targeted the improvement of customs offices not only to provide better working conditions but also to provide physical infrastructure commensurate with automated and computerised work processes. The renovated customs offices took better shape than other government offices and became as good as or better than private sector offices. In the modernisation and renovation of customs offices, the private sector supplemented resources needed to renovate revenue building (Parayno, Jr.2004).
- Provision for internet publication of customs related information and office orders, SROs, web development and hyper links of trade bodies and related government departments is a necessity for trade facilitation. Technical assistance is required for making development in these areas.
- Effective partnership between customs department, and the stakeholders, particularly with business needs to be developed and maintained for ensuring effective cooperation in implementing automation and exchange customs-related information. Regular interaction between NBR and/or customs authority and business can help resolve disputes (if any) between customs authority and business and facilitate trade
- A positive attitude to trade facilitation at all levels of customs administration could further expedite clearance procedures. *Control burden should be kept in proportion to control objectives.* Officials need to assume that the majority of traders have legitimate intentions while trade people will have to improve their integrity especially in submitting customs declaration and supporting documents. Fake documents and untrue declarations are often liable for delayed customs clearance. A section of customs officials' negligence and lack of integrity are also blamed for delay in customs clearance by traders.
- Customs officials will have little to facilitate trade in an environment where fabricated/tampered and locally made documents (especially invoices, packing lists) are submitted for clearance of consignments.

Customs administration in Bangladesh has many institutional limitations including acute shortage of officials especially at lower levels and lack of ICT facilities and skills in field offices. The NBR is striving to implement reforms in customs administration for trade facilitation that includes modernisation and automation (gradual shift-from manual to electronic clearance system) as well as regulatory reforms. The government has been emphasizing automation in revenue administration



for trade facilitation. The importance of more investment in customs and port infrastructure for trade facilitation (The Daily Star, June 09, 2004) has been recognised. While investments in infrastructure can be expensive and need some time, trade facilitation through quick clearance can be made through cooperation between customs, business and other governmental agencies. Private-Public partnership in infrastructure and capacity building could be an important option.

A comprehensive reform program and integrated+ coordinated approach in all government departments related to trade is necessary for increased customs processing speed. Automation (the fourth element of the Revised Arusha Declaration, 2003) and reforms of customs administration and clearance procedure is a necessity for trade facilitation in the digitised world. It needs heavy invest in new technology. It is hoped that the Government will continue to invest heavily in new technology (IT systems, non-intrusive scanners, electronic monitoring systems, staff development and where necessary the engagement of technical experts). In this regard, it is to be noted that customs reforms cannot be imposed; it needs to be an organic process (Kerswell, 2008) and customs department will have to own and equipped to sustain the reforms. In implementing automation and reforms for expedited clearance, care should be made so that increased customs clearance does not undermine revenue collection border security. This is because, 'increasing customs processing speed and efficiency can compromise border security in a range of ways that may increase the risk of having smuggling, fraud and terrorism go undetected' (Feaver and Wilson, 2007: 54).

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## Can tax alone raise price and curve tobacco consumption?

Dr. Golam Md. Munir

*As a re-pricing objective of taxation, taxing tobacco product is considered as the most effective price measure on the demand side interventions, that curves tobacco consumption. This paper tries to answer a couple of questions that arise often in establishing tobacco free environment. First, how supply side intervention is closely linked with that of demand-side in controlling tobacco consumption? And second, is curbing tobacco consumption through taxation mutually exclusive, or collectively exhaustive?*

### The Tobacco Industry, Bangladesh

Bangladesh is one of the most profitable tobacco markets in the world, with annual sales of around \$1bn. According to the industry figure, prevalence of tobacco use has been increasing among women. 36% of the total adult population (15+ years) smokes, while 19.7% use tobacco. Although prevalence of smoking is higher in adult male (46.8%) than adult female (25.4%), yet the prevalence in adult women is much larger

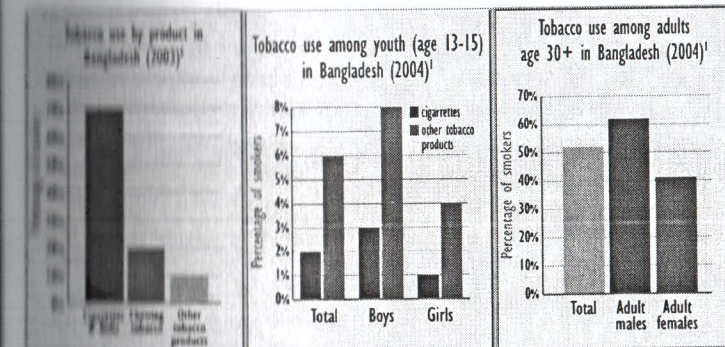


Figure 1

than Asia count (9%). Surprisingly, prevalence of smokeless tobacco (24.4%) in adult women is far larger than adult men (14.8%). 6.9% of youth (13-15 years) use tobacco products and 2% of them smoke<sup>1</sup>. Recent increase in prevalence among women is attributed to rampant growth of marketing tactics of the tobacco industry. The 1 billion dollar industry sees women as the key potential underserved market.

The industry is characterized by an oligopoly and vertically integrated market. The fragmented structure of this market endows the producers with a commanding power. Producers here enjoy most of the potential industrial earning. BATB, the market leader, made a net profit of TK 1637 million with EPS of 27.28 TK in first three quarter of 2009 as

compared to Tk. 1,125.91 million and Tk. 18.77 respectively for the same period of previous year. This may be compared to pretax profits in 1998 of US\$15.4 million – a 140% increase in just 10 years<sup>2</sup>! AKij Group is the volume leader in the tobacco industry. It became serious challenger to the BAT early this decade. Dhaka Tobacco, one of the sister of Akiz Group made an annual sales that is more than Tk 18.00 billion in 2008<sup>12</sup>.

Cigarette constitutes only 30% of the total tobacco industry. The majority of the industry is driven by non-filter smoke tobacco like Biri and smokeless tobacco like Gul, and Jorda etc. This 70% market covers poor users and is mainly driven by Dhaka tobacco industry and AKTC with their Biri products. These producers run many distribution points in local hubs. Bidi -- cheaper handmade cigarettes, are popular among the poor and account for 75% by volume of the smoke tobacco sold. The cigarette industry has been enjoying an inconsistent growth of 3% yearly at present. The industry comprises of products that vary with different tastes and price. A little amount of tobacco is exported by Akij Group tobacco to the Gulf and South East Asia where huge number of expatriate Bangladeshis live and work<sup>12</sup>.

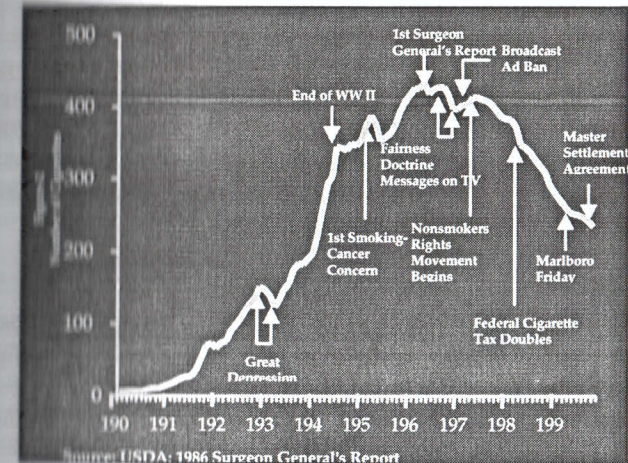
Although a significant number of farmers are employed in growing and curing tobacco, yet their voice is very low. Tobacco companies offer lucrative amount of money as loans to trap farmers. Sometimes the companies provide them with bank loans for agriculture along with tobacco seeds, fertilizer, polythene bags and high-powered pesticides<sup>3</sup>. Tobacco is a cash crop. Farmers are often attracted by ready markets and ready cash, only a few of them calculates actual production costs and the margin. Further, tobacco companies encourage them to grow the leaf until their soil degrades, then they move on to remaining fertile areas where crop yields will be higher and wood will be available for curing the leaves. The crop is grown on roughly 61,000 hectares of land and takes up 0.7% of the country's arable land. More than 200,000 farmers and 10 million laborers are engaged in producing the crop<sup>11</sup>. In addition, farm families, including women and children, are exposed to fertilizers and pesticides during planting and growing, toxic tar from green leaves during harvest, and fumes from kilns during curing. 57000 people die every year out of health hazards due to tobacco use and handling. An indirect cost of tobacco is estimated at \$652.86 million USD (loss of income from death or disability due to tobacco-related illnesses). Tobacco's further toll includes health care costs, lost productivity, and suffering among smokers, passive smokers, and their families.

By a close examination of both supply and demand side of the industry, one can realize that tax measure alone cannot be taken as mutually

exclusive anti-tobacco measure to curve down tobacco consumption. It took approximately 25 years to curve consumption of tobacco 35% down for a developed country like the U.S (From 1965 to 1998). They did so with doubling federal tobacco tax through a span of 20 years together with other moves like broadcast ban, activist move, and master settlement agreement (see figure -2, USDA 1986 Surgeon General's Report)).

### Do tobacco consumers always respond to price increase?

Statistics worldwide shows that tobacco usage is more prevalent in poor, uneducated and relatively high - income segments of population. Among the poor segment, younger population responds more to price measures. The impact of price on consumption often, is measured by the price elasticity of demand, where the elasticity is defined as the percentage change in the quantity consumed resulting from a one-percent increase in price. As age increases, tobacco users however, become more price-inelastic whether they are poor and/or uneducated or not (Becker, Grossman and Murphy, 1994). A research confirmed an inverse relationship between price elasticity and age, with estimates for youth price elasticity of demand up to three times those obtained for adults (Gruber, 2000, Ross and Chaloupka, 2001, Harris and Chan, 1999)<sup>4</sup>. And if young adult of today becomes price-inelastic with aging, it becomes very difficult to make them give up tobacco only through raising price by tax measures.



"Young people and the poor are the most price-responsive"- a report shows so. The report also indicated that as real price decreases, consumption increases. This was evident in a study on from South Africa (1970-1988). Also, as price rises, consumption falls, but by less than the percentage rise in price (as overall demand is price-inelastic and it falls in a continuum of -.2 to -.8). Further, as incomes rises, so does consumption - and total revenue (as the income elasticity of demand is greater than one)<sup>4</sup>. For example, studies show that a higher income smoker would not be willing to reduce consumption by \$1 today in exchange for becoming the richest person in the world in ten years! Therefore, it appears that lower-income individuals are much more price elastic than higher income individuals. This apparently tends to decrease the regressivity of tobacco taxation relative to standard measures.<sup>5</sup> Moreover, while the overall price elasticity of demand of tobacco product is much less than one, the elasticity of demand for the lowest-income consumers is much higher than for high-income consumers<sup>5,6</sup>.

Therefore, price elasticity of demand falls with rising age and income<sup>7,8</sup>. The reasons that price elasticity falls with age and it becomes more inelastic in late adult can be attributed to the action of nicotine. Nicotine is a neuro-adaptor or addictive substance that while taken with tobacco, releases dopamine, serotonin and nor epinephrine - three chemical or hormone from the brain. These chemicals make adults more tolerant to tobacco. As a result, adults become more or less physically dependent on tobacco. Physically dependent tobacco users become more price-inelastic, which means s/he is more unlikely to respond to price increase. On the other hand, teens who smoke may not account for the long-run implications of addiction (Gruber and Koszegi 2001)<sup>5</sup>. A young adult while starts tobacco use does it because s/he is influenced by heavy promotion tactics by a mighty force -- the tobacco industry which makes them psychologically dependent on tobacco. But as they do not earn much, they easily respond to higher post-tax price.

### What to do?

Finding a suitable mix of or trade-off between both supply and demand side interventions can effectively curve tobacco consumption. "Comprehensive tobacco control helps countries to reduce the rising number of heart attacks, strokes, cancers and other non-communicable diseases"; "Slowly but inexorably, WHO and its Member States are making progress in controlling the epidemic of tobacco," - says Dr Douglas Bettcher, Director of the WHO Tobacco Free Initiative. With efforts to implement the WHO introduced a package of evidence-based demand reduction interventions to control tobacco called **MPOWER** in 2008, to help countries implement some of the demand reduction

measures in the WHO Framework Convention and its guidelines<sup>1</sup>. These are:

1. Monitor tobacco use and the policies to prevent it
2. Protect people from tobacco smoke
3. Offer people help to quite tobacco use
4. Warn about the dangers of tobacco
5. Enforce bans on tobacco advertising, promotion and sponsorship
6. Raise taxes on tobacco. Less than 10% of the world's population is covered by any one measure.

### The crux of demand side intervention

On the demand side, focusing more on preventing young adults from starting and using tobacco appears important. This prevention can be done in a holistic approach by a combination of total ban on promotion, help young adults ceasing consumption through bringing the real price out of their reach through effective taxation measures and cessation support. The effective taxation measure however, depends on a broad based tobacco tax that should optimally increase switching cost from higher to cheaper brand of tobacco products rather than reducing consumption<sup>5</sup>. In addition, an effective tax should create an environment where the producers find no way other than passing the tax burden/incidence forward on to consumers. But ensuring such environment appears difficult because of the nature of Value Added Tax which however, leaves incentive for producers to absorb or pass a portion of tax backwards. This is why most of the countries prescribe an excise or like specific tax on tobacco products. But implementing specific tax on points of sales on the other hand, is resource intensive. That means it needs intense monitoring that relies on ICT, technology, labor and other infrastructural support. Therefore, specific tax is very difficult to implement in a situation where infrastructure is weak.

### The knit between demand side and supply side intervention

Producers pass tax burden forwards only when they have fewer surpluses than ever. Producers will have fewer surpluses when they cannot absorb any part of the tax burden in a situation where they have narrow profit cushion. But unfortunately, tobacco producers in a developing country like Bangladesh have more of a surplus and wider profit cushion than developed countries for many reasons.

First, labor and material cost is the lowest in this region. Growing tobacco is not prohibited because; a significant percentage of poor population is employed in this cash crop industry. At present, 61,000 hectares of land is under tobacco cultivation. 33,775 million tons of

tobacco is produced every year<sup>9</sup>. Moreover, producers pull women and children from homework and school respectively to grow and cure tobacco and manufacture smoke and smokeless tobacco with ease. So, producers get handsome variable margin or gross profit by gaining resource through lower wage and material cost than other parts of the world.

Second, when tax rises, it remains easier to pass the tax burden backwards on factors of production for many reasons. "*When the imperialists were here, we were forced to grow indigo. Now we are tricked into growing tobacco*"- said a tobacco farmer<sup>10</sup>. For example, poor tobacco growers are entrapped in loan guaranteed by manufactures, because they cannot repay loan in time. Therefore, growers cannot negotiate with much power. Moreover, the labour forces in tobacco manufacturing industry is perfectly immobile and have high switching cost because, agro-based industry where they can fit in, appears not adequate and/or flourished. High switching cost makes the labours' voice very low. Therefore, when tax rate rises, producers keep their surplus intact by passing the tax burden backward to suppliers, i.e., growers and the labour force. Producers naturally and for obvious reasons try not to pass tax burden on to consumers because, most of them are poor and/or young adult and quickly respond to slight price increase.

Third, the tobacco producers can absorb a substantial portion of the tax burden when they face difficulty in passing it backwards to keep volume of sales intact in a situation where price increases gradually.

Last, the producers find incentives to start evading tax in a situation where tax is raised abruptly and when they do not have wider surplus or profit cushion. In this situation, they neither can pass extra tax burden both backwards and forwards, nor can they absorb it. Therefore, they take more risk of being heavily punished under lax law by evading tax to keep sales volume intact.

#### **The need for simultaneous supply side intervention**

It appears that tax should be increased gradually with other anti-tobacco measures in a holistic multi-disciplinary approach. Among others, the approach to pulling tobacco growers and labour force out of tobacco industry and putting them in agro-based industry appears very appealing in economic and social sense. The approach needs interdepartmental attention that involves ministry of finance, agriculture, labour, health, food and women and social affairs, etc. Attracting more investment in agro-based industry is one of the attractive ways of reducing the tobacco producers' surplus in two interrelated ways. First, agro-based industry

can create more employment opportunity that in turn however, will lower switching cost of labour force and tobacco growers. Second, lower switching cost surely can enhance negotiating power of the supply side, stop backward shifting of tax burden and reduce producers' surplus and gross profit.

Therefore, supply side interventions look very important for effective taxation and reducing real price of tobacco. In other words, taxation appears most effective measure to take real price of tobacco out of reach of consumers among the demand side interventions only when it is taken as collectively exhaustive with supply side interventions and other demand side measures. These interventions together decreases producers' surplus and leaves a number of narrow options for tobacco producers. First, lower surplus compels producers either to pass tax burden on consumers or to absorb it. If they absorb the burden, it further lowers the surplus/profit. Second, it leaves incentives to evade tax which however, should bear stiff penalty. And final, it compels them to exit from tobacco business or shift to other location of the world where holistic measure like these are absent or at least appears inadequate.

#### **Tackling smuggling – a bi-product of Holistic approach to tobacco control**

Smuggling may ensue, when both supply and demand side interventions work effectively. Differences between taxes and prices and corruption within across countries suggest a motive for smuggling (Merriman, Yurekli and Chaloupka, 2000). Smuggling of tobacco currently estimates an equivalent of 6 – 8% of global consumption (Merriman, Yurekli and Chaloupka, 2000). Therefore, one of the key interventions on the supply side should be the control of cigarette smuggling in addition to effective tax measures. Aggressive enforcement of anti-smuggling laws, and stronger penalties for those caught violating these laws (Joossens et al, 2000) should be in place, for example, provision of band roll or stamp, warning labels in local languages, better methods for tracking cigarettes through the distribution chain etc.<sup>8</sup>.

In this situation, it needs cross-functional, multi-disciplinary taskforce and collaborative culture where knowledge, experience and evidence based best practices can effectively be shared within and across national boundaries. Collaborative culture acts as multidimensional hub that is required to combat transnational organized economic crime like, money laundering which however, is needed for smuggling. However, multi-lateral agreements ratified by all the parties concerned across the borders are also important among others though.

### **The type and amount of tax that can make tobacco less affordable**

Taxation is the most effective measure - higher taxes induce quitting and prevent starting. A 10% price increase reduces demand by 4% in high-income countries and 8% in low or middle-income countries. Excise tax if implemented successfully, can effectively pass tax burden on to consumers and make tobacco product less affordable. But this is too good to be true. Price by itself is a misleading indicator of affordability, since it does not take income into account. When income rises more than the increase in tobacco price through taxation, tax become ineffective to contain or reduce affordability of tobacco products. To the extent that tobacco control is a priority area for government and policy makers, tobacco prices and taxes should be adjusted against some standard of affordability, not against a standard of a real price or a real tax only. "Tax (or price) should be increased such that cigarettes become increasingly less affordable." This recommendation implies that the nominal price of cigarettes should increase by at least the sum of the inflation rate, the real per capita income growth rate and a small interaction effect<sup>6</sup>.

### **Other Comprehensive Programs to Reduce Tobacco Use**

A portion of the tobacco tax may be earmarked to support programs on the electronic and printed media to comprehensively inform people about the active and/or passive cost of using tobacco products. Comprehensive programs to reduce tobacco use are based on an assumption that there is a synergy among various anti-smoking policies improving their individual effectiveness. In general, these programs have one or more of four key components:

- National and community interventions,
- Counter marketing campaigns,
- Antismoking policy and regulation, and
- Surveillance and evaluation (USDHHS, 2000).

In recent years, several governments, mostly in high-income countries, have adopted comprehensive programs to reduce tobacco use, often funded by earmarked tobacco tax revenues<sup>7</sup>.

The government may:

- Impose a comprehensive ban on all forms of promotion including advertising and sponsorship of tobacco products,
- Ban use of the products in public places and public transports to protect the health and rights of the non-users,
- Integrate activities of NGOs and civil society to the issue. and;
- Crack down the "safe haven" of 'foreign cigarettes' -prevent smuggling<sup>7</sup>

- in order to lower 50 consumption of tobacco products and hence increase the amount of money to be spent on food and other basic necessities of life.

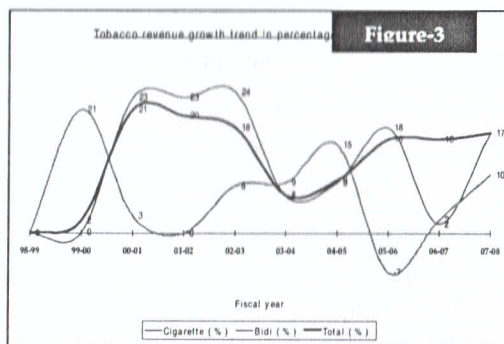
### **Tobacco taxation in Bangladesh – does it work?**

In Bangladesh, over 10.5 million people who are currently malnourished could have an adequate diet if money spent on tobacco were spent on food instead, saving the lives of 350 million children under age five each day. The average household in which at least one member smokes spends 2.8% of total expenditures on tobacco products. This figure ranges from 1.5% for the poorest households to 4.5% for those with the highest incomes.

At present, 31% of local revenue raised comes from tobacco tax (2008-09). 63% of the retail price of a pack of tobacco is collected as tax. Enduring tax evasion in Bidi is partly attributed to socio-economic structure. Women and street boys are taken into Bidi industry as a source of low cost labour. Moreover, the industry is located in the remotest places in villages where physical infrastructure is hardly present. As a result, law enforcing becomes very difficult on revenue defaulters. In addition, the remote firms do not brand their products. As a result, it becomes difficult to trace non-compliant firms out who evade taxes.

For health and revenue reasons, National Board of Revenue has a policy to switch users from cheaper to higher or premium brands of tobacco products. For this reason, government tries to close price gap that exists between hand made bidi and different price bands of cigarettes. There are strong lobbyist / advocacy groups in favour of bidi users. They often argue that poor population cannot afford to by low brand cigarettes if the price point difference between bidi and low brand are kept considerably wider. But the gap could not be closed rapidly through price measure because, rapid growth of price in lower brands and bidi ensues tax evasion which for obvious reasons, appears difficult to prevent. Possibility of smuggling moreover, cannot be overlooked as it was prevalent before 1998.

The historical tax line on bidi and cigarette shows that there is a negative correlation between cigarettes and Bidi tax revenue, which eventually proves that taxing lower brand or bidi more should have extensive switching effect (Figure-3).



In last ten years, National Board of Revenue tried to aggressively contain and reduce tobacco affordability. After introduction of 555 and Benson & hedges, smuggling stopped in late 1990s. From 2000, NBR gradually increased excise duty on bidi from 25 taka per thousand to 30 taka. In 2004, it introduced 15% VAT on Bidi in place of excise tax and implemented 17.5% supplementary duty. In 2008, rate of Bidi supplementary duty was increased from 17.5% to 20%. As a result, total tax on per thousand Bidi reached 48 taka—a almost 100% increase in just eight years! Simultaneously, NBR has been withdrawing supplementary tax gradually from lower brand cigarettes to keep switching cost low from Bidi to lower brand. Moreover, NBR has successfully implemented 15% VAT and 10% supplementary duty on widely used chewing tobacco from 1998.

With passage of time, NBR inherited many challenges however, to take tobacco users out of tobacco affordability. It needs simultaneous and adequate structural, administrative and legal reforms to combat tax evasion and smuggling when comprehensive measures will continue to decrease the customer base of tobacco industry. So, the comparative impact of excise tax on all forms of tobacco and other socially and economically undesirable products can be re-examined and implemented. As effective tobacco tax measures appear regressive, the poor tobacco users could be compensated in two ways. Firstly, a portion of tobacco tax may be earmarked to support poor tobacco users to quit, for example, treating illness due to tobacco curing, handling and other directly related diseases. Secondly, the earmarked fund can be used to support users who want to quit.

The possibility of impact of a comparative larger increase in the marginal rate of corporate/income tax on tobacco industry on reducing producers surplus should be studied and implemented if appears feasible.

### The Bottom-line

In a demand-driven market like tobacco we have to focus more on containing distribution, promotion and sales in short and medium term, then on production in long term.

1.3 billion people smoke cigarettes or other tobacco products. The figure could raise 1.6 billion by 2025. Among 1.3 billion smokers, 80% are in low- and middle income countries (1 in 3 adults). Tobacco use continues to be the leading preventable cause of death, killing more than 5 million people per year. If the current consumption patterns continue, and unless urgent action is taken to control the tobacco epidemic, the annual death toll could rise to 8 million by 2030<sup>1</sup> and one billion people in the 21st century. Smoking is increasing in the developing world. 2.5 million die in developing countries annually; but by 2030, mortality in developing countries will be more than doubled than that of developed countries. Harm of second-hand smoke causes about 600,000 premature deaths per year, countless crippling and disfiguring illnesses and economic losses in the tens of billions of dollars per year<sup>1</sup>.

There is strong evidence that tobacco tax increases, the dissemination of information about the health risks from smoking, restrictions on smoking in public places and workplaces, comprehensive bans on advertising and promotion, and increased access to cessation therapies are effective in reducing tobacco use. Only 5.4% of the world's population was covered by comprehensive smoke-free laws in 2008, up from 3.1% in 2007. This means that 154 million more people are no longer exposed to the harms of tobacco smoke in work places, restaurants, bars and other indoor public places<sup>1</sup>. 94% of people however, remain unprotected by comprehensive smoke-free laws shows that much more work needs to be done.

Tobacco consumption can be powerfully intervened if a holistic approach in administering a mix of demand and supply side measure in short, medium and long run is chosen and implemented in a cross-functional and multi-disciplinary environment. Price measure in demand side through taxation can play very powerful role being resident in this mix.

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## Trade Liberalisation and its Impact on Bangladesh Economy and Female Workers

Md. Al-Amin Pramanik

*Abstract: Bangladesh has been liberalising her trade policy since after liberation. As a newly independent country, Bangladesh initially adopted import-substituting trade policy and gradually moved to forward export-oriented policy. Industrial, import, export and tariff policies have been continuously reformed to make them commensurate with international standard, more trade and investment friendly, export oriented, beneficent to workers, investors, trades and the need of the country. Continuous trade liberalisation did not only increased trade volumes, generate more internal revenues, and it also increased the opportunities for workers, especially female workers.*

**Key Worlds:** Trade liberalisation, Gender, Bangladesh

### Introduction:

Over the last decade, there have been an increase in the number of developing countries that have adopted trade liberalisation as part of their approach towards globalisation and participation in world markets. Nonetheless, there have also been concerns that trade openness will increase poverty and widen the distribution of income. Dollar and Kraay's (2001) study of the relationship between growth and poverty reduction emphasizes two important findings. First, it argues that economic growth increases income inequality, it does benefit the poor (growth is pro-poor). Second, the authors claim that openness to international trade benefits the poor as much as it does the non-poor. There have been many interesting debates about these findings and the empirical research on the question of whether globalisation reduces or worsens income inequality remains inconclusive. Internationalisation may cause a global division of labour between developed and developing countries and this should warrant an examination of its effects on specific groups, particularly women as vulnerable group in developing countries. By constructing a theoretical model, Ertuck and Darity (2000) study the effects of trade liberalisation and find that changes in the gender composition of employment resulting from this global division of labour may impede the gains from trade liberalisation. The authors focus on two channels of the growth effects of gender relations; the role of unpaid female household labour in shouldering the social cost of labour power reproduction in the economy and the participation of women in the labour force (paid labour).

More participation of women in the labour force implies a negative effect through the first channel and a positive impact through the second channel. The analysis in Ertuck and Darity (2000) is based on two differential equations and phase diagrams, and on the assumption that trade liberalisation promotes growth in both the developed and the



developing countries, that there is conditional convergence, and that the long-term growth effects of demand are negligible. Ertuck and Darity also show that developing countries (the South) may be faced with divergent paths; increasing feminisation rates with falling per-capita income, or rising per-capita income with decreasing feminisation rates. The authors conclude that 'the long-run impact of trade liberalisation in the South does not have effective implications for growth and female labour force participation simultaneously, even under the most favourable assumptions about the immediate impact of the policy change'. Ertuck and Cagatay (1995) used a dynamic Keynesian growth cycle model to study the macroeconomic effects of the feminisation of the labour force and the impact of the intensification of female household labour during economic crisis, as well as the macroeconomic implications of secular changes in the feminisation of the labour force. The authors assume that an increase in the labour force feminisation promotes investment whereas higher intensity of female household labour is assumed to lead to higher savings, and identify conditions under which a gender-based recovery is successful.

Ertuck and Cagatay (1995) also show that for such recovery to succeed the positive impact of feminisation of the labour force on investment must be stronger than the impact of the higher intensity of women's reproductive labour on savings. Based on the results of their theoretical analysis of the different macroeconomic impacts, the authors conclude that 'high and high middle-income countries are more likely to benefit from feminization processes'. The implications of this conclusion are quite significant as it suggests that recovery from an economic contraction will be slower (or weaker) in low-income countries where the intensity of female household labour tends to rise faster than the feminisation of the labour force.

#### **Trade and Growth:**

There are number of empirical studies to examine the relationship between trade and growth (Coe and Helpman (1995); Edwards (1998); Harrison and Hanson, 1999; Rodriguez and Rodrik, 2001; Balamoune, 2002; Yanikaya, 2003). The findings in the empirical literature are inconclusive. Some authors have shown that trade liberalisation is not significantly associated with growth or that trade liberalisation may have a negative impact on growth. Rodriguez and Rodrik (2001) undertook a thorough analysis of the effects of open trade policies (lower tariff and non-tariff barriers) and reviewed several previous works by influential scholars but found 'little evidence' that such policies had a major impact on growth. Moreover, in a research Rigobon and Rodrik (2004) use an identification-through-heteroscedasticity technique and cross-sectional data from a large group of developed and

developing countries, and show that openness (defined as the ratio of trade to GDP) has a negative effect on income and democracy, whereas income has a positive effect on openness. Mukhopadhyay(1999) also uses five years (1986, 1987, 1989, 1991, and 1993) data from nine SSA countries (Ghana, Guinea-Bissau, Kenya, Madagascar, Malawi, Mauritania, Senegal, Togo, and Zambia) and concludes that the liberalisation of imports for some SSA countries has led to a decline in growth in the late 1980s and early 1990s. Similarly, Balamoune (2002) examines the dynamics of time series cross-sectional data from Africa and reports that increased openness to trade has led to income divergence, rather than convergence, within the continent; with openness causing income in poorer countries to grow slower relative to higher income countries. This finding stands in sharp contrast to the conclusion in Sachs and Warner (1997); that openness increases the speed of convergence. Thus, the effect of openness to trade on growth is ambiguous.

#### **Background of trade and gender study:**

The role of gender in development began to increasingly attract attention in the late 1980s and early 1990s. In 1995, the United Nations Development Programme (UNDP) introduced two new indices to capture gender related development and women's empowerment; the Gender-related Globalisation and Gender Inequality Development Index (GDI) and the Gender Empowerment Index (GEM). The GEM tries to capture gender inequalities based on women's empowerment in terms of power over economic resources (shares of women and men in earned income), economic participation and decision-making power (female and male shares of jobs classified as professional and technical, and administrative and managerial), and political decision-making and power (female and male shares in parliamentary seats). The GDI is 'an overall well-being indicator that simply adjusts the Human Development Index (HDI) downward by existing gender inequalities in longevity, education, and incomes' (Klasen, 2004). It is not a measure of inequality but rather it measures the aggregate loss in well-being (human development) as a result of gender inequality; in other words it imposes a penalty for gender inequality.

The above mentioned two indices have been criticised by many scholars. Bardhan and Klasen (1999) contend that the usefulness of these indices is limited as a result of the method and the assumptions underlying their construction, and that they could lead to misleading international comparisons. It turns out that because the differences between HDI and GDI are driven mainly by large gender gaps in earned income, whereas gaps in longevity and education have only negligible contribution, some parts of the world end up with odd rankings.

Bardhan and Klasen (1999) conclude that 'the concentration of gender inequality penalty in the Middle East and North Africa, largely driven by the problematic earned-income component, is questionable, given the size and importance of gender gaps in longevity and education in other parts of the world, most notably South Asia. There is reason to doubt that the impact of gender inequality on human development in Saudi Arabia is, in absolute terms, 15 times larger than in China, seven times larger than in India, and eight times larger than in Bangladesh. It is also doubtful that the impact of gender inequality on human development in Ireland is three times larger than in Nepal and six times larger than in China'. Similarly, Pillarisetti and McGillivray (1998) argue that the GEM does not take into account several cultural and societal differences in different countries (particularly industrial versus traditional societies), including differences in aversion to gender inequality resulting from cultural and historical factors.

#### **Trade and Gender:**

Research on the relationship between trade liberalisation (or globalisation) and gender inequality is fairly recent, perhaps with the exception of Becker (1957). In his seminal work on discrimination, Becker (1957) argues that there is a negative relationship between employer discrimination and the degree of competition in the product market. So, increased competition that results from higher openness to international trade tends to reduce discrimination, including gender-based discrimination. The relationship between gender inequality, trade and growth is also complex, and involves direct and indirect transmission mechanisms. The direct transmission channels between trade and gender inequality follow from Becker's argument that trade liberalisation causes more competition and more competition leads to less discrimination (Becker, 1957). Trade liberalisation is often expected to cause exports in unskilled-labour intensive sectors in developing countries to rise and that would lead to higher demand for unskilled labour so that the skilled-unskilled wage gap falls. This proposition is tested by Black and Brainerd (2002) in their empirical study of the impact of globalisation on gender discrimination. Using data from US manufacturing industries, the authors show that higher competition, as a result of trade, contributes to reducing the ability to discriminate against women in concentrated industries. It appears that trade shocks (increased competition) have contributed to improving women's wages in those industries relative to competitive industries. However, in many developing countries, and particularly Sub Saharan Africa (SSA), women work mainly in the agricultural sector which tends to benefit less, if at all, from trade liberalisation. In the SSA countries women, as food crop producers, play an important role in food security.

Cagatay (2001) argues that 'international trade reform tends to advantage large and medium scale producers, since small farmers, especially women, often lack access to credit, new technologies, marketing know-how and the like needed to take advantage of new markets'. In addition, Cagatay and Ertuck (2004) emphasise the positive association between trade and gender inequality in the labour market in semi-industrialised economies. However, the authors also stress a negative relationship between other types of gender inequalities, and growth and integration as they conclude that 'in some instances, gender inequalities (such as in labour markets) have been used as an instrument of international competition and are associated with higher growth rates in the case of semi-industrialised economies. They have induced governments to be complacent about such inequalities, even though they are well recognised. In other cases, gender inequalities (in asset ownership, access to credit, education) have dampened growth rates and successful integration in the world economy' (Cagatay and Ertuck, 2004).

Many case studies show that there are negative effects of globalisation on women in developing countries. Such as, Tauli-Corpuz (2001) examines globalisation and its impact on indigenous women in the Philippines and discusses important issues including the feminisation and flexibilisation of labour in industry and services, the liberalisation of agriculture, and the social, health, environmental and economic impacts of globalisation on indigenous women. The author reports that there are several negative effects such as indigenous women's inability to compete with imported crops, the increased threat to food security and increased health hazards, and the erosion of small-scale home-based handicraft industry (traditionally run by indigenous women). Similarly, using 1997 data on female workers in export-processing industries in the Dominican Republic, Safa (2002) finds that globalisation may hurt low-income women. Several studies have focused on the effect of Structural Adjustment Programs (SAPs) on women's welfare. For example, Collier (1990, 1993), and Cagatay and Ozler (1995) have examined the impact of SAPs on women's participation in the labour force. Elson (1995) has made a convincing case that 'the macroeconomic models underpinning the design of structural adjustment programs are gender-blind'. However, Haddad et al. (1995) have argued that gender inequality can impair economic adjustment policies. Thus, there may be bi-directional causality between economic adjustment policies and gender inequality.

Using summarised data (from the post-World War II period) on GDP growth, labour force growth, labour force participation by gender in OECD countries, and trends in growth in developing countries, Howes and Singh (1995) studied the long-term world economy and the gender dimension, and found that women in the South (developing countries)

have been increasingly supplying labour to export-oriented manufacturing sectors. These sectors have traditionally been labour-intensive. Thus, we would expect countries that have increased their integration in world markets by becoming more export-oriented to have higher gender inequality in education but not in employment, as women may leave school early to join the labour force (Balioune-Lutz, 2005). Since many developing countries that are export oriented tend to have a large share of female employment in export sectors that produce price-elastic goods gender-wage inequality, by enhancing export growth, may actually have a positive impact on economic growth. Women's weaker bargaining power renders them less likely to object to lower wages, thus constituting a 'docile' labour force (Elson and Pearson, 1981). Seguino (2000) uses cross-sectional data (using averages over the period 1975-95) and panel data (of five-year averages over the period 1975-95) from a group of semi-industrialised export oriented countries and shows that gender inequality reflected in lower wages for women (relative to men) contributed to higher growth through its positive effect on exports. In fact, particularly in export-oriented semi-industrialised countries, trade may constitute a major mechanism through which gender inequality contributes to higher growth.

#### **Trade liberalisation in Bangladesh:**

After emerging as an independent country, Bangladesh had been pursuing an import-substituting industrialisation strategy since mid 80s. The key objectives of which were to: (i) creating employment opportunities and reduce poverty, (ii) protect the country's infant industries, (iii) reduce the balance of payments (BOP) deficit, (iv) efficient use of the scarce foreign exchanges, (v) ward off international capital market and exchange rate shocks, (vi) minimise fiscal imbalance, and (vii) to achieve higher economic growth and self-sufficiency of the nation. The basic policy tools used under this policy regime included high import tariffs, quantitative restrictions, foreign exchange rationing and overvalued exchange rate. In the face of the failure of such an inward-looking strategy's delivering the desire outcomes along with rising internal and external imbalances, trade policy reforms were introduced in the early 1980s. Since then trade liberalisation has become an integral part of Bangladesh's trade policy. The major administrative instruments employed to implement the import policy during this period were the foreign exchange allocation system and the Import Policy Orders (IPOs). Under the IPOs, items were classified into categories as to whether their importation were allowed, prohibited or required special authorisation. With the exception of a few cases, licenses were required for all other imports. The argument behind the import-licensing system was that such a system would ensure the allocation of foreign exchange to priority areas and protect vulnerable local industries from

import competition, create employment opportunities and reduce different disparities. However, the system was subject to criticism for not being sufficiently flexible to ensure its smooth functioning under changing circumstances. Moreover, it was characterised by complexity, deficiency in administration, cumbersome foreign exchange budgeting procedures, poor inter-agency coordination, rigid allocation of licenses and time-consuming procedures (Bhuyan and Rashid, 1993).

#### **Import liberalisation:**

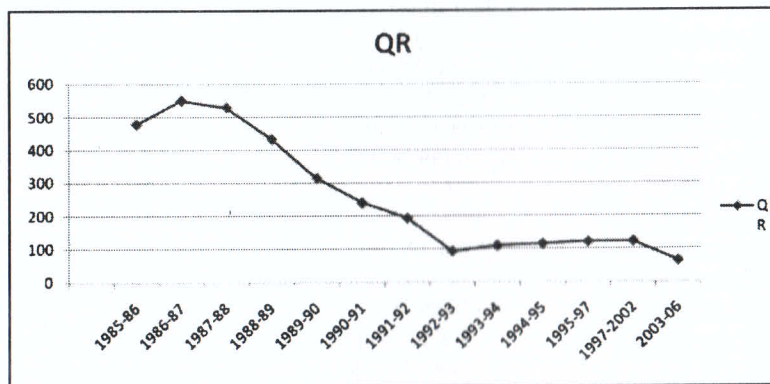
During 1980s, a moderate import liberalisation has been taken place. In 1984, a major change was made in the import policy regime with the abolition of the import-licensing system, and imports were permitted against letters of credit (L/C). There had been significant changes in the import procedures and in the IPOs with respect to their contents and structure in 1986. Prior to 1986, the IPOs contained a lengthy *Positive List* of importable items, in 1986 the *Positive List* was replaced by two lists, namely the *Negative List* (for banned items) and the *Restricted List* (for items importable on fulfilment of certain prescribed conditions). Imports of any items outside the lists were allowed. These changes might be considered as significant moves towards import liberalisation, since no restrictions were then imposed on the import of items that did not appear in the IPOs. With the aim to increase the elements of stability and certainty of trade policy, IPOs with relatively longer periods replaced the previous practice of issuing import policy annually. Since 1990, the Negative and Restricted Lists of importable items had been consolidated into one list, namely the 'Consolidated List' (Ahmed, 2001).

The range of products subject to import ban or restriction has been curtailed substantially from as high as 752 in 1985-86 to only 63 in 2003-06. Import restrictions have been imposed on two grounds: either for trade related reasons (i.e., to provide protection to domestic industries) or for non-trade reasons (e.g., to protect environment, public health and safety, and security). Therefore, only the trade-related restrictions should be of interest to policy reforms and liberalisation. The evolution of import restrictions in Bangladesh at the HS 4-digit level, where it is found that over the past two decades the number of trade-related banned items has declined from 275 to 5. In a similar fashion, other restricted and mixed (a combination of ban and restriction) import categories fell quite rapidly. In 1987-88 about 40 percent of all import lines at the HS-4 digit level was subject to trade-related quantitative restrictions (QRs), but these restrictions had drastically been reduced to less than 2 percent. Number of goods subject to banned or restricted for different reasons summarised below in graph and table:

### Removal of Quantitative Restrictions (QR) at 4-digit HS Classification Level

Year	Restricted for trade reason			Restricted for non-trade reasons	Total
	Banned	Restricted	Mixed		
1985-86	275	138	16	49	478
1986-87	252	151	86	61	550
1987-88	257	133	79	60	529
1988-89	165	89	101	78	433
1989-90	135	66	52	62	315
1990-91	93	47	39	60	239
1991-92	78	34	25	56	193
1992-93	13	12	14	54	93
1993-94	7	19	14	69	109
1994-95	5	6	12	92	114
1995-97	5	6	16	93	120
1997-2002	5	6	16	95	122
2003-06	5	8	10	40	63

(Razzaque, Abdur and Raihan, Selim, 2007)

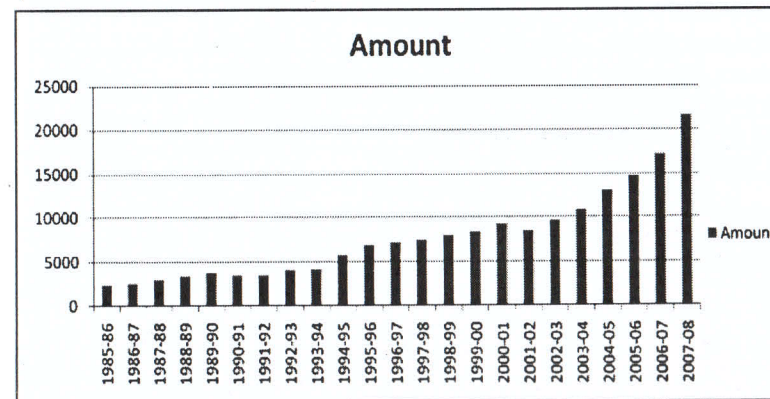


(Razzaque, Abdur and Raihan, Selim, 2007)

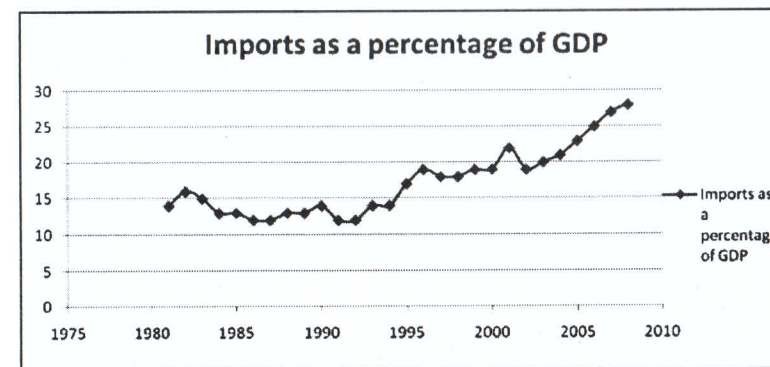
### Imports into Bangladesh

After the elimination of quantitative and other restrictions, imports into Bangladesh have been increased significantly. During 1985-86 financial year total import was 1,356 million US\$ and it reached to 21,629 million in 2007-08 which is about 15 times higher. Imports and growth of imports are graphically present below.

(Value in million US Dollar)



Bangladesh Economic Review 2008)



(Bangladesh Economic Review 2008)

The latest Import Policy Order, 2006-2009, also reiterates government's commitment for continued liberalisation of the import regime in Bangladesh. These commitments are manifested in the stated objectives of this import policy order, which are to:

- make the Import Policy Order further liberalised to keep pace with the gradual development of globalisation and free market economy under the WTO;
- provide facility for import of technology for international competition;
- provide facility for easy import for the export support industries for the purpose of placing export industries on a sound base, and with this end in view, co-ordinate the import policy of the country with the industrial policy, export policy and other development programs;

- make easier the availability of industrial raw materials for increasing competition and efficiency by gradual removal of restrictions on import of finished goods;
- ensure the supply of quality and hygienic goods; and
- procure the import of goods, on an emergency basis, in crisis times with the aim of ensuring the supply of basic staple goods while fulfilling the interests of the people of the country.

#### Tariff reforms in Bangladesh:

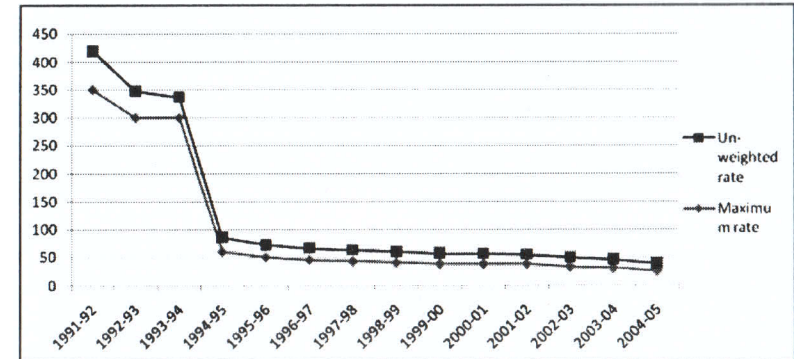
From the late 1980s the tariff regime of Bangladesh has become increasingly liberalised. Much of this reduced protection was achieved through the reduction in the maximum rate. In 1991-92, maximum tariff rate was 350 percent, which came down to only 25 percent in 2009-10. The number of tariff bands was 24 in the 1980s, 18 in the early 1990s and only 4 in 2009-10. The percentage of duty free tariff lines has more than doubled between 1992-93 and 1999-2000 (from 3.4 percent to 8.4 percent). Bangladesh has no tariff quotas, seasonal tariffs and variable import levies (WTO, 2000). All these measures have greatly simplified the tariff regime and helped streamline customs administration procedures.

One important aspect of the tariff structure in Bangladesh relates to the use of import taxes which have protective effects (also known as para-tariffs) over and above the protection provided by customs duties (World Bank, 2004). These taxes have been the infrastructure development surcharge (IDSC), supplementary duties (SD), Regulatory duties (RD). Although these taxes have been primarily imposed for generating additional revenues, in the absence of equivalent taxes on domestic production they have provide extra protection to local industries. Similarly, while the Value Added Tax (VAT) is supposed to be trade-neutral, exemptions for specified domestic products have also resulted in its having some protective content. Some of these para-tariffs, such as the IDSC, are applied across-the-board to all or practically all imports, and can be considered as general or normally applied protective taxes which affect all or nearly all tariff lines. Others are selective and protective taxes in that they are only applied to selected products, for example the 'supplementary' duties. The para-tariffs employed during the 1990s and early 2000s in Bangladesh are summarised in It appears that, despite the lowering of customs duties, the presence of para-tariffs did not significantly lower the total protection rate.

Reforms in tariff structure:

Fiscal year	No. Of tariff bands	Maximum rate	Un-weighted rate
1991-92	18	350	70.0
1992-93	15	300	47.4
1993-94	12	300	36.4
1994-95	6	60	25.9
1995-96	7	50	22.3
1996-97	7	45	21.5
1997-98	7	42.5	20.7
1998-99	7	40	20.3
1999-00	5	37.5	19.5
2000-01	5	37.5	18.6
2001-02	5	37.5	17.1
2002-03	5	32.5	16.5
2003-04	5	30	15.6
2004-05	4	25	13.5

(Razzaque, Abdur and Raihan, Selim, 2007)



(Razzaque, Abdur and Raihan, Selim, 2007)

#### Export Liberalisation:

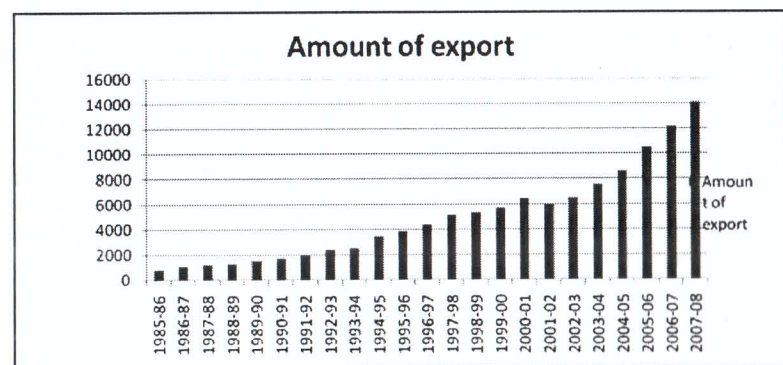
An important element of trade policy reform has been the use of a set of generous support and promotional measures for exports. While the import liberalisation was meant to correct the domestic incentive structure in the form of reduced protection for import-substituting sectors, export promotion schemes were undertaken to provide the exporters with an environment where the previous bias against export-oriented investment could be reduced significantly. Important export incentive schemes available in Bangladesh include, amongst others, subsidised rates of interest on bank loans, duty free import of machinery and intermediate inputs, cash subsidy, and exemption from value-added tax and excise duties. The following table summarises some of the most

important incentive schemes that have been put in place in the country. A few sectors, especially the ready-made garments (RMG), have been major beneficiaries of these reforms. Different export promotional programmes in different Export Policy Orders are summarised in the following table:

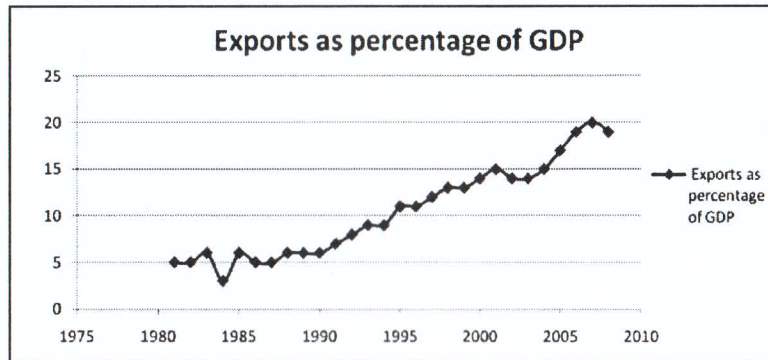
Programme	Nature of activities
Retention of Earnings in Foreign Currency	Exporters are now allowed to retain a portion of their export earnings in foreign currency. The entitlement varies in accordance with the local value addition in exportable. The maximum limit is 40 percent of total earnings although for low value added products such as RMG the current ceiling is only at 7.5 percent.
Export Credit Guarantee Scheme	Introduced in 1978 to insure loans in respect of export finance, it provides pre-shipment and post-shipment (and both) guarantee schemes
Special Facilities for Export Processing Zones (EPZs)	To promote exports, currently a number of EPZs are in operation. The export units located in EPZs enjoy various other incentives such as tax holiday for 10 years, duty free imports of spare parts, exemption from value added taxes and other duties.
Export Performance Benefit (XPB)	This scheme was in operation from mid-1970s to 1992. It allowed the exporters of non-traditional items to cash a certain proportion of their earnings (known as entitlements) at a higher exchange rate of WES. In 1992 with the unification of the exchange rate system, the XPB scheme ceased.
Bonded Warehouse	Exporters of manufactured goods are able to import raw materials and inputs without payment of duties and taxes. The raw materials and inputs are kept in the bonded warehouse. On the submission of evidence of production for exports, required amount of inputs is released from the warehouse. This facility is extended to exporters of RMG, specialized textiles such as towels and socks, leather, ceramic, printed matter and packaging materials, who are required to export at least 70 percent of their produce.
Duty Drawback	Exporters of manufactured products are given a refund of customs duties and sales taxes paid on the imported raw materials that are used in the production of goods exported. Exporters can also

	obtain drawbacks on the value added tax on local inputs going into production.
Duty Free Import of Machinery	Import of machineries without payment of any duties for production in the export sectors.
Cash Subsidy	The scheme was introduced in 1986. This facility is available mainly to exporters of textiles and clothing who choose not to use bonded warehouse or duty drawback facilities. Currently, the cash subsidy is 25 percent of the free on board export value. In recent times, cash subsidies have been offered to agro products exporters.
Interest Rate Subsidy	It allows the exporters to borrow from the banks at lower bands of interest rates of 8-10 percent against 14-16 percent of normal charge.
Tax Holiday	First introduced under the Industrial Policy of 1991-93, this incentive allows a tax holiday for exporter for 5-12 years depending on various conditions

Like imports, export earnings also increased at accelerating rate. In 1985-86 financial year total export volume was US\$ 819.21, in 1991-92 1993.92 and 2007-08 it reached to US\$ 14,110.80 million. Now export earnings are about 20% GDP but in 1985-86 it was only 5 percent.



(Source: Bangladesh Economic Review 2008)



(Source: Bangladesh Economic Review 2008)

Apart from supporting the main items, non-traditional sectors with high export potentials have also been identified as privileged activities, for which special facilities are offered through export policies. For example, in the Export Policy of 2009-12 software and ICT products, agro products (including agro-processed goods), light engineering goods (including auto parts and bicycles), leather goods, and high value readymade garments were identified as 'thrust sectors' and several incentives such as the provision of project loan with low interest rate on a priority basis, income tax rebate, cash support with other financial facilities, export credit under relaxed conditions and with subsidized interest rate, concessions on air freight, support for marketing, etc.

Government has also provided generous institutional support to the exporters in excess of the above incentive schemes. Various institutions such as the Duty Exemption and Drawback Offices (DEDO), and the Export Promotion Bureau (EPB) provide promotional, directional, and marketing assistance and particularly the activities of the latter are worth pointing out that include, amongst others, providing input to Government's trade policy, assisting DEDO, disseminating trade information, undertaking national export training programmes, organizing and participating trade fairs, and managing quota allocations for RMG units. The commitment of Bangladesh's government in providing continued support to an export-oriented trade regime is further manifested in the current export policy in Bangladesh (the Export Policy 2009-2012). The objectives of the current Export Policy are:

- To achieve optimum national growth through increase of export in regional and international market;
- To narrow down the gap between the country's export earning and import payment through achievement of the export targets ;
- To undertake timely steps for production of exportable goods at a competitive price with a view to exporting and

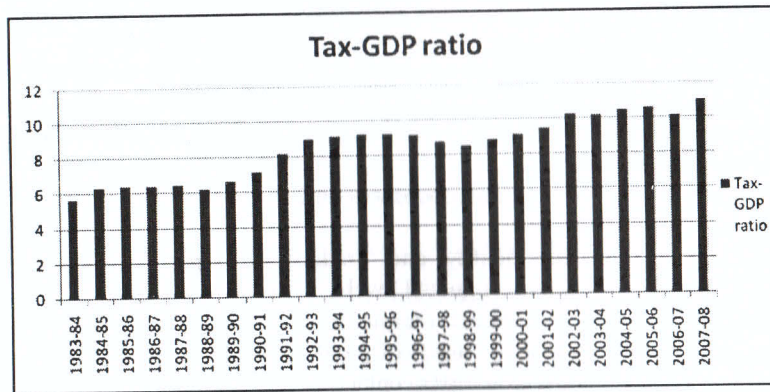
strengthening existing export markets and making dent in new markets;

- To take the highest advantage of entering into the post Uruguay liberalized and globalized international market;
- To make our exportable items more attractive to the market through product diversification and quality improvement;
- To establish backward linkage industries and services with a view to using more indigenous raw materials, expand the product base and identify and export higher value added products;
- To simplify export procedures and to rationalize and solidify export incentives;
- To raise the quality and grading of export products to internationally recognized levels.
- To make the export regime more liberal and up to date consistent with the needs of globalisation, WTO rules and bilateral trade negotiations contact;
- To encourage the export of labour intensive (especially female labour intensive) commodities;
- To ensure easy availability of raw materials for the production of exportable items;
- To increase productivity, value addition and enhance product diversification;
- To develop product quality, encourage the use of developed, appropriate and environment-friendly technologies, improve the design and increase the production of high value added products;
- To adopt new strategies for expanding export products; ensure good use of IT or computer technology, E-commerce and other technologies;
- To develop necessary infrastructures and in required cases backward and forward linkage industries to ensure production of maximum volume of exportable items;
- To create new markets, find exporters and provide all assistance to existing exporters;
- To develop expert manpower on international trade through appropriate training; and
- To equip trade bodies, businessmen and concerned people with necessary knowledge on systems of world trading.

#### Domestic revenue:

Elimination of quantitative restrictions, reduction of tariff bands, tariff rates and other non-tariff restrictions significantly contribute to domestic revenue generation. In FY1972-73, total revenue income was BDT

1,712.30 million which includes taxes revenue BDT 1,698.00 million and which is only 3.43 percent to GDP. In financial year 2007-08 total revenue collection reached to BDT 598,346.60 million and it is 11.04 percent of GDP.



(Source: Annual Report 2008, National Board Revenue)

#### Trade liberalisation and Bangladeshi female workers:

Female workers in Bangladesh were traditionally linked to global markets through export of tea and raw jute. It is only with the emergence of the Ready Made Garments (RMG) sector in the late 1980s as Bangladesh's leading export industry that the country's female labour force was integrated into international markets in a more direct and intense way. The transition from traditional to non-traditional export-oriented activities is of considerable significance, because it brings out some critical dimensions of the evolving pattern of female employment in Bangladesh. First, export-oriented RMG, as a manufacturing activity, differs from the previous agro-based exports. Second, RMG units are concentrated mostly in urban areas, whereas earlier female-intensive processing activities were located in rural areas. Third, the rapid growth of the apparel sector and its increasing share in the export basket testifies to the importance and potential of female employment in exports, as well as industrialization, in Bangladesh. These three distinguishing features, *inter alia*, have important implications from a gender perspective, particularly in terms of employment opportunities, skill development and wage level. Female employment in manufacturing sectors of Bangladesh is still concentrated in one single activity, ready-made garments, while other textile subsectors are still predominantly male. In knitwear, for example, the sector with seemingly best prospects in the post-MFA phase, women constitute only 14 per cent of the labour force (Bhattarchaya, 1999, and Kabeer and Mahmud, 2004). Bhattarchaya (1999) in his writing suggests that, in Bangladesh, wage discrimination against women in the export textile

industry was lower than in any other manufacturing sector in the early stages, and has declined over time more than in other sectors. In Bangladesh, trends in female/male wage differentials in garments indicate a narrowing of the gap from 1983 to 1990, but a widening from 1990 to 1997. This change is attributed to a higher proportion of men taking up high skilled jobs and an increase in the number of temporary workers among women (Paul-Majumder and Begum, 2000).

Hewett and Amin (2000) find that female garment workers have a higher age at marriage and at first birth than women of similar socioeconomic background who do not work in the garment sector. Some of the garment workers can even take decisions on whom to marry and have fewer children. They are more likely to have better quality housing conditions and access to modern infrastructure. Women working in the garment sector have a higher propensity than other women to spend their money on jewellery, entertainment, cosmetics and gifts (controlling for income level). The nutritional intake of garment workers appears to be comparatively higher, but they are more likely than other women to suffer from a range of minor health problems. According to Hewitt and Amin (2001) additional health indicators show that female garments workers do not suffer from major health problems and that the cause of the minor problems might be urban living rather than factory conditions.

Many studies, such as (Kabeer, 2000; Hewett and Amin, 2000) appear to agree that women working in factories feel that their status has improved. Garments workers positively affected self-esteem and decision-making with benefits extended to other family members.

**Conclusion:** Trade liberalisation has improved the major economic activities and also improved social & economic standard of life of Bangladeshi female workers. Continuous reformed trade policies such as removal quantitative import restrictions, reduction of tariff rates, tariff bands, allowing tax holidays, duty drawbacks and other non-tariff facilities augmented economic activities and increased both imports and exports, tax GDP ratio. These create ample opportunities for female people to work as a paid employee in garment and other manufacturing sectors. They can play role in household decision making activities and lead better life.

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## An Analysis of the Recent Amendments in the Indirect Tax Laws of Bangladesh by the Finance Act 2009

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**Abstract:** This paper provides a highlight on the recent amendments made in the indirect tax laws in Bangladesh mainly by the Finance Act 2009. This has reflected the government's fiscal measures to achieve the budgetary provisions of the Annual Budget of 2009-10. Due to significant dependence on indirect taxes, the switching direction of revenue targets through expanding the tax-net or revising the rates of indirect taxes is always a challenging task to prevent the poorer section of the community from the regressive impact of these changes. The analysis reveals that the amendments would undoubtedly contribute a lot towards the national exchequer, but these would also maintain the socio-economic objectives of the fiscal policy by diminishing the import-dependency and targeting the collection of indirect taxes from the payers being in the high-income strata of the society.

**Keywords:** National Budget, Customs Duty, Value Added Tax, Excise Duty.

### 1.0 Introduction

Bangladesh is heavily dependent on indirect taxes in its public financing efforts. In the budget of financial year (FY) 2009-10, out of total tax target (Tk. 639,553 million), Tk. 446,860 million (i.e., around 70 percent) has been targeted from indirect taxes, which consist of value added tax (VAT), supplementary duty (SD), turnover taxes, and import duty. In the revised budget of FY 2008-09, the share of indirect taxes was more than 71 percent. Out of indirect taxes, the ratio of border taxes to domestic taxes is 52:48 in FY 2009-10 (which was 54:46 in the revised budget of 2008-09). This year indirect taxes are expected to grow at 12.7 percent over the last fiscal's revised budget (GOB, 2009c; see Table 1 below).

The fiscal statutes are amended at a regular interval normally at the time of passing the national budget due to implementation of various fiscal targets and measures adopted in the budget. In cases of the indirect tax laws, the changes are made through different means (the Finance Act, SRO, Orders, Letter of Explanation, and the circulars made containing all these). This paper covers mainly the recent changes made in the indirect tax laws by the Finance Act 2009 and other authorities of the National Board of Revenue (NBR) provided by the fiscal statutes themselves. These indirect tax laws include the Value Added Tax Laws, the Customs Act and the Excise and Salt Act.

### 2.0 Objectives and Methodology of the Study

The principal objective of the paper is to highlight the latest major changes in the indirect tax statutes at the time of budget of 2009-10,

with an analytical review of the same. The indirect tax laws that are covered here include the Customs Act 1969, the Value Added Tax Act 1991 and the Excise and Salt Act 1944. A brief analysis of the revenue projection of the indirect taxes has also been given in the paper. This is an exploratory study based mainly on the archival survey of budget documents including the budget speech, other publications on budget such as 'Budget in Brief', 'Annual Financial Statement', and 'Consolidated Fund Receipts', and the Finance Act 2009 (Act No. 36 of 2009), other dispersed Gazetted and non-Gazetted budget related documents which have amended the indirect tax laws. Since the VAT, SD and turnover tax are being collected under the VAT Act, these taxes have been discussed in one place.

### 3.0 Revenue Targets in the Budget and Key Fiscal Measures by the Finance Act 2009

With a continuing endeavour to enhance the tax-effort, the tax-GDP ratio has been targeted in the budget of 2009-10 at 9.3 percent over last year's target of 9.0 percent. Of all the individual taxes, now the most dominant tax is the value added tax, which is expected to yield 35.6 percent of total tax. Except income tax (which is targeted to raise 25.9 percent of total tax), the next important revenue-yielding tax is the supplementary duty, which will raise 16.4 percent of total tax and with a similar target, the next important tax is the customs duty (which is targeted to yield 16.3 percent of total tax). Other indirect taxes under the NBR administration are not so important from the context of revenue (turnover tax would yield only 0.01 percent and excise duty only 0.4 percent of total tax), but they contribute towards the dependency on indirect taxes. Table 1 has shown the revenue targets of budget 2009-10.

The Finance Bill 2009 has been placed in the Parliament by Finance Minister A M A Muhiit on 11 June 2009 after his Budget Speech to effect the fiscal changes proposed in the national budget. The Finance Bill was passed as the Finance Act 2009 on 30 June 2009 and published in the official Gazette on the same day. In the Finance Act (FA) 2009, there are 62 sections in total and except the first section on "Short title and commencement", out of remaining 61 sections, 01 section (section 2) has amended the Stamp Act 1899; 04 sections (sections 3-6) have amended the Customs Act 1969; 39 sections (sections 7-45) have amended the Income Tax Ordinance 1984; and 17 sections (sections 46-62) have amended the Value Added Tax (VAT) Act 1991. Thus, the major changes are in the Income Tax Laws and then the VAT Act has been amended significantly. Following sections of the paper state the implications of different amendments in the Customs Act 1969, the VAT Act 1991 and the Excise and Salt Act 1944.

**Table 1: Tax Revenue Target in the Budget**

(Amount in million Taka)

Tax Indicators	Budget 2009-10		Revised 2008-09		% Increase over Last year
	Amount	%	Amount	%	
<i>National Board of Revenue (NBR) Portion</i>					
Taxes on Income and Profit	165,600	25.9	135,380	24.4	22.3
Value Added Tax (VAT):	227,890	35.6	201,110	36.2	13.3
VAT on Imports	102,400	16.0	93,800	16.9	9.2
VAT on Domestic Goods and Services	125,490	19.6	107,310	19.3	16.9
Turnover Tax (TT)	60	0.01	50	0.01	20.0
Import Duty	104,300	16.3	95,700	17.2	9.0
Excise Duty	2,610	0.4	2,370	0.4	10.1
Supplementary Duty (SD):	104,850	16.4	91,210	16.4	15.0
SD on Imports	26,110	4.1	23,950	4.3	9.0
SD on Domestic Goods and Services	78,740	12.3	67,260	12.1	17.1
Other Taxes and Duties:	4,690	0.7	4,180	0.8	12.2
Travel Tax	4,678	0.7	4,170	0.8	12.2
Other Taxes & Duties	13	0.0	10	0.0	25.0
<i>Sub-Total: NBR Portion</i>	<i>610,000</i>	<i>95.4</i>	<i>530,000</i>	<i>95.5</i>	<i>15.1</i>
<i>Non-NBR Portion</i>	<i>29,553</i>	<i>4.6</i>	<i>25,256</i>	<i>4.5</i>	<i>17.0</i>
<b>Total Tax Revenue</b>	<b>639,553</b>	<b>100.0</b>	<b>555,256</b>	<b>100.0</b>	<b>15.2</b>
<b>Direct Tax</b>	<b>192,693</b>	<b>30.1</b>	<b>158,796</b>	<b>28.6</b>	<b>21.3</b>
<b>Indirect Tax</b>	<b>446,860</b>	<b>69.9</b>	<b>396,460</b>	<b>71.4</b>	<b>12.7</b>
<i>Border Taxes</i>	<i>232,810</i>	<i>36.4</i>	<i>213,450</i>	<i>38.4</i>	<i>9.1</i>
<i>Domestic Taxes</i>	<i>214,050</i>	<i>33.5</i>	<i>183,010</i>	<i>33.0</i>	<i>17.0</i>
Tax-GDP Ratio	9.3		9.0		

Source: GOB (2009c).

### 3.1 Changes in the Customs Act

Following are some of the key changes in the Customs Act:

- (1) *Changes in Customs Authority*: Previous customs authority under the designation of "a Director General (Inspection)" has been substituted as "a Director General (Audit, Intelligence and Investigation, Value Added Tax)", which is a common designation under the VAT Act also [clause (f) of section 3 substituted].
- (2) *Extended period of warehousing for export oriented ship building industry [new sub-section (2A) inserted in section 98]*: Normally under section 98(1), goods imported for and warehoused in any special bonded warehouse or in any hundred percent export oriented industry, may remain in such warehouse or industry for a period not exceeding 24 months from the date of warehousing and under section 98(2), this time period of warehousing may be extended by the Commissioner of Customs (Bond) or any other

Commissioner of Customs authorized by the NBR in this behalf for further period of 6 months if the goods are not likely to deteriorate. Thus, total period of warehousing may be of maximum 30 months. But according to new sub-section (2A) of section 98, notwithstanding anything contained in sub-section (1) and (2), goods imported and warehoused by a hundred percent export oriented ship building industry, may remain in such warehouse for a period not exceeding 48 months from the date of warehousing.

- (3) *Changes in Power of Adjudication [section 179]:* In case of "Adjudication of cases involving confiscation of goods or imposition of penalty or both", "Jurisdiction and powers" for "Value of goods exceeding Taka 15,00,000.00" can be exercised previously by the "Commissioner of Customs or Commissioner of Customs (Bond)". After amendment, now same "Jurisdiction and powers" can also be exercised by the Director General (Duty Exemption and Drawback) [Table under section 179 amended].
- (4) *Major changes in the Customs Duty rates:*
- The duty on basic raw materials has been reduced from 7% to 5% in order to make the local industries more competitive both in local and international market. However, other slabs of 3%, 12% and 25% would remain unchanged.
  - Regulatory duty at the rate of 5% is imposed on luxury items and products detrimental to public health against tariff lines with 25% customs duty. Also there is new 5% regulatory duty in addition to 12% customs duty on milk powder imported in bulk.
  - Customs duty @ 25% on mobile phone sets on an ad valorem basis has been imposed instead of existing specific duty of Tk. 300/set applied.
  - To redress the prevailing power crisis, the customs duty on solar panel has been reduced from existing 3% to 0% and fully exempt parts of energy saving lamps from the existing customs duty of 7% and VAT to facilitate industries producing energy saving lamps to be more competitive.
  - The duty rate on books other than text books has been reduced from existing 12% to 5%.

### 3.2 Amendments in the VAT Laws by the Finance Act 2009 and Other Legal Provisions

There are a lot of changes in the VAT laws.

**Amendments in the VAT Act by the Finance Act 2009:** There are 17 sections (sections 45-62) in the Finance Act 2009, which have amended the VAT Act in the following way:

- *New section inserted:* 1 section (section 72A);

- *Existing sections amended:* 14 sections (sections 2, 3, 5, 6, 7, 9, 19, 24A, 37, 38, 40, 42, 55, 72);
- *Existing Schedules substituted:* First Schedule and Third Schedule have been substituted under section 61 and section 62 of the Finance Act 2009 respectively.

Up to 30 June 2008, there were 81 sections in the Value Added Tax Act 1991. After insertion of one new section (section 72A) by the *Finance Act 2009*, now the VAT Act contains 82 sections (sections 1-8, 8D, 9-24, 24A, 25-26, 26A, 26B, 27-34, 34A, 35-48, 48A, 49-71, 71A, 71AA, 72, 72A and 73) as amended up to 30 June 2009.

**Amendments in the VAT Rules by SRO:** Up to 30 June 2008, the Value Added Tax Rules 1991 had 49 rules. After insertion of two new rules (rules 3AA and 31B) by SRO Nos. 103-Ain/2009/511-Musak (dated 11.6.2009) and 174-Ain/2009/527-Musak (dated 30.6.2009), now the VAT Rules 1991 (updated up to 30 June 2009) has 51 rules (rules 1-3, 3A, 3AA, 3B, 4-11, 12-17, 17A, 18-30, 31A, 31B, 32, 32A, 33-34, 34A, 35-41, 41A, and 42-43).

**Other Amendments in the VAT Laws by Other Provisions:** A good number of VAT-related SROs, Orders and Letters of Explanation have been prescribed to amend, repeal or substitute the existing provisions. New 25 SROs (SRO Nos. 511 to 526, dated 11.06.2009 and SRO Nos. 527 to 535, dated 30.06.2009) including two (SRO Nos. 511 and 527 for changing the VAT Rules 1991) have been prescribed; 5 VAT-related SROs of 2008 (SRO Nos. 490, 495, 493 and 499, dated 29.06.2008 and SRO No. 512, dated 11.06.2009) have been deleted and 11 VAT-related SROs of different years have been amended once or twice [4 SROs amended once in June 2009 (SRO No. 401 of 2004, No. 295 of 2000, No. 218 of 1999 and No. 161 of 1997), 4 SROs amended twice in June 2009 (SRO No. 491 of 2008, Nos. 443 and 444 of 2005, and No. 376 of 2003), 3 SROs prescribed and amended in June 2009 (SRO Nos. 522, 523 and 524 of 2009)]. The list of these amendments is given below.

VAT related	Total Prescribed	Repealed	Amended
SRO	25	5*	11**
Order	17	3	6
Letter of Explanation	01	1	—
<b>Total</b>	<b>43</b>	<b>6</b>	<b>14</b>

\* Including one prescribed on 11.6.2009 (SRO No. 512) and repealed on 30.06.2009 (by SRO No. 528).

\*\* Including three prescribed on 11.6.2009 (SRO Nos. 522, 523 and 524) and amended on 30.06.2009 (by SRO Nos. 532, 533 and 535 respectively) and 4 SROs amended twice in June 2009.

### 3.2.1 Amendments of the Value Added Tax Act, 1991

The Value Added Tax Act, 1991 have amended by the Finance Act 2009 as follows:

- (1) *The definition of 'Tax'*: It is included in the rules. But the word 'Tax' has been referred in the Act in different places. So the definition of 'Tax' has been included in the Act [sec. 2(dddd)] instead of the rules [rule 2(b)]. In the VAT Rules, the definition of 'tax' in the VAT Act has been referred.
- (2) *Correction of errors and erroneous correction*: The word "in exchange of goods" was wrongfully mentioned in the clause (qq) [definition of 'commercial importer'] and clause (qqqq) [definition of 'trader'] of section 2 under the Finance Act 2004. These have been replaced by the correct words "in exchange of consideration". The definition of 'Divisional Officer' [under clause (za) of section 2] has been shifted to a new clause [clause (qqqqq) of section 2] to rectify the incorrect order of Bengali letter. It is interesting to note that an erroneous correction was done in section 6 based on unsubstantiated publication of the VAT Act published by the NBR (National Board of Revenue), if any. The Bengali word "kartrik" (which means "by") has been replaced by Bengali word "kartan" (which means "deduction") in sub-section (4B) of section 6 [vide section 49 of the Finance Act 2009]. But in the Finance Act 1993 and the Finance Act 2000, by which sub-section (4B) was inserted and amended, there was no Bengali word "kartrik".
- (3) *Definition of 'supply' to include 'trade' along with the place of manufacturing or production*: VAT is currently applicable in all stages of the trade. So, in order to include the 'trade' under the definition of "supply", sub-clause (iv) of clause (y) of section 2 has been amended.
- (4) *Insertion of the definition of "export" and "deemed to be exported"*: Previously there were no such definitions, which were seriously demanded by the business community. These definitions have been inserted in clause (zb) and clause (zc)<sup>1</sup> respectively in section 2 of the Value Added Tax Act, 1991. According to these definitions, "export" means supply of any goods or services outside the geographical limit of Bangladesh including the sea areas under the country's jurisdiction [u/s 2(zb)]; and "deemed to be exported" means supply of raw materials, machinery, infrastructure or any other materials used in production, management, transport or marketing of such goods or services, which are not desirable for consumption or use inside

<sup>1</sup> Clause (zb) and clause (zc) are clause (la) and clause (ba) in Bangla respectively.

Bangladesh, in exchange of foreign currency out of investment in foreign currency or direct repatriation from foreign country and includes water, electricity, gas, telephone or any other service if supplied as raw materials in exchange of foreign currency [u/s 2(zc)].

- (5) *Expansion of the scope of 'deemed to be exported' for zero-rating*: Insertion of a provision in the Act [a new sub-clause (aa)<sup>2</sup> under sub-section (2) of section 3] to accommodate the decision of the Government to provide VAT exemption under international treaty or memorandum of understanding (MoU). However, a new sub-clause (ii)<sup>3</sup> has been inserted in the proviso to sub-section (2) of Section 3 to offset the claim of export for domestic use of goods and services delivered in foreign currency *except* provided under an international agreement or MoU as mentioned in sub-clause (aa) under sub-section (2) of section 3.
- (6) *Price fixed by the Government*: In order to keep the commodity price under control, the provision to accept the unit price of some goods and services fixed by any Government office or other agencies has been incorporated in the VAT Act [new sub-section (2C) in section 5]. The VAT and supplementary duty is collectible through back calculation from the unit price of the good or service.
- (7) *Base of import-stage supplementary duty (SD) redefined for clarity*: Previously import-stage SD was computed on the basis of "value on which the import duty is imposable under section 25 or section 25A of the Customs Act *plus* import duty" under section 7(2)(a) of the VAT Act. Under the amended provision, now the import-stage SD is to be imposed on "value on which the import duty is imposable under section 25 or section 25A of the Customs Act *plus* import duty and other duties and taxes (except advance income tax, supplementary duty and value added tax)" [clause (a) of sub-section (2) of section 7 amended].
- (8) *VAT and SD on the basis of minimum value in case of free service*: Insertion of a new provision in the Act to empower the Board (NBR) to fix and collect VAT and supplementary duty (if any) on a minimum value even if the service provider deliver service free of charge for its own business benefit [new proviso to sub-section (4) in section 5].
- (9) *New items in the negative list of input tax credit*: A new item ("rent or lease of vehicle, etc.") has been inserted in clause (e) of sub-section (1) of section 9 and hence VAT on this shall not be allowed as input tax credit [clause (e) of sub-section (1) of

<sup>2</sup> Clause (aa) is clause (kaka) in Bangla.

<sup>3</sup> Clause (ii) is clause (aa) in Bangla.

- section 9 amended]. Besides, previously under section 9(1)(gg)(i), “value added tax paid against such input which is not included in the taxable value base of goods mentioned in sub-section (2) of section 5” was also not allowed as input tax credit. After a small amendment, this item is now as “value added tax paid against such value or input which is not included in the taxable value base of goods mentioned in sub-section (2) of section 5”.
- (10) *Specific time limit for objection against disallowance of credit:* Insertion of a specific time limit in the Act for the aggrieved person regarding written objection against the decision of the value added tax officer to disallow the unlawful credit [new sub-section (2C) in section 9].
  - (11) *Cancellation of the Central registration:* Up to FY 2008-09, there was no clear-cut provision in the VAT Act regarding the cancellation of the Central registration. Since the order of central registration is issued by the Board (NBR), a new provision has been inserted in the Act that the cancellation of the Central registration should also be initiated from the NBR [new proviso inserted to sub-section (1) in section 19].
  - (12) *New default for penalty:* “Failure in submission of any files, books or any other documents relating to value added tax for the purpose of audit or inspection even after directed twice by the concerned VAT officer” is included in the list of defaults [new clause (cc) in sub-section (2) of section 37].
  - (13) *Enhanced penalty limit:* The provision of the existing fine penalty limit for tax evasion, i.e., minimum 25% to maximum 75% of the evaded tax has been re-fixed to minimum 100% to maximum 250% of the evaded tax [section 38 amended].
  - (14) *Clarity in adjudication:* The existing provisions of section 40 has been amended by replacing words “imposition of penalty relating to confiscation of goods and services and tax evasion” by “confiscation of goods and services and tax evasion or imposition of penalty relating to confiscation of goods and services and tax evasion” to deny the misinterpretation [section 40 amended].
  - (15) *Time limit for appeal in days instead of months:* To remove the ambiguity in calculation of time for appeal, the time limit for appeal under section 42 has been changed from 3 months to 90 days and the extended time limit of 2 months has been changed to 60 days [sub-sections (1) and (1A) of section 42 amended].
  - (16) *Conditional deposit for appeal clarified:* Clauses (a), (b) and (c)<sup>4</sup> of sub-section (2) of section 42 have been clarified by inserting the provision that, 10% of the tax evaded amount has to be

<sup>4</sup> Clauses (a) (b) and (c) are clauses (ka), (kha) and (ga) in Bangla respectively.

deposited to the appeal authority for tax evaded case and 10% of the penalty amount has to be deposited to the appeal authority for such cases where there is no evasion [in sub-section (2) of section 42, clause (a) substituted, clauses (b) and (c) amended].

- (17) *No time limit for reopening of a case on tax evasion:* A new provision has been inserted in section 55 to clarify that 3-year time limit to raise a demand by the Value Added Tax officer will not be applicable for the cases related to tax evasion [sub-section (1) of section 55 amended and a new proviso inserted thereto].
- (18) *Authentic English text of the VAT Act and VAT Rules:* Provisions have been included in the Act to prepare an authentic English text of the Value Added Tax Act, 1991 [new section 72A inserted] and the Value Added Tax Rules, 1991 [sub-section (1) of section 72A amended].

### 3.2.2 Amendment of the Value Added Tax Rules, 1991:

The Value Added Tax Rules, 1991 have amended by SRO Nos. 103-Ain/2009/511-Musak (dated 11.6.2009) and 174-Ain/2009/527-Musak (dated 30.6.2009) as follows:

- (1) *Inclusion of two new Musak forms, deletion of one irrelevant Musak form, and amendments in seven existing Musak forms:*
  - Two new forms Form “Musak-1Kha” [Declaration of Value-base by the Traders or Commercial Importers] and Form “Musak-1Ga” [Declaration of Input Price and Input-Output Relation or Coefficient of Goods Exempted or Exported or Deemed to Be Exported from Bangladesh] have been inserted this year.

*Form “Musak-1Kha”* is a 12-column form containing information on: (1) Serial No., (2) H.S. Code, (3) Name and Particulars of Goods (as per import document or purchase invoice), (4) Purchase Price of Goods (excluding Value Added Tax and Advance Income Tax), (5) Amount of Value Added Tax, (6) Supplementary Duty Imposable Value: Present, (7) Supplementary Duty Imposable Value: Proposed, (8) Imposable Supplementary Duty (if any), (9) Value Added Tax Imposable Value: Present, (10) Value Added Tax Imposable Value: Proposed, (11) Wholesale Price, and (12) Retail Price/Printed Price.

*Form “Musak-1Ga”* is a 7-column form containing information on: (1) Serial No., (2) H.S. Code, (3) Name and Particulars of Goods, (4) Unit of Supply or Sale, (5) Name and Particulars of Input/Raw

Material and Packing Material Usable in Producing Goods, (6) Quantity of Input/Raw Material and Packing Material including Wastage Usable in Producing One Unit of Goods (amount of wastage is to be mentioned separately in first bracket), and (7) Value of Inputs and Packing Materials stated in Column (6) (if imported, Assessable Value + Duty + Supplementary Duty + LC Fee + Infrastructure Development Surcharge<sup>5</sup>; if locally produced, Total Purchase Price including Supplementary Duty (excluding VAT paid); if excisable goods<sup>6</sup>, Total Price including Excise Duty; if VAT exempted, Total Purchase Price.

- One form "Musak-6Ka" (Application Form for Renewal of Registration) for commercial importers (which was irrelevant since FY 2007-08) has been deleted.
- Seven (7) existing forms [Musak-2Kha, Musak-4, Musak-6, Musak-8, Musak-10, Musak-11 and Musak-11Ka] have been amended as follows:

*Musak-2Kha [Annual Declaration relating to Turnover]:*

The words "(12) Turnover determined by the Turnover Tax Commission (in applicable case):" have been deleted. The 'Turnover Tax Commission' was created under section 8A (Turnover Tax Commission), section 8B (Power and responsibilities of the Commission) and section 8C (Application and appeal to the Commission) by the *Finance Act 1994* and these sections were deleted by the *Finance Act 2002*. After seven years this irrelevant item in Form "Musak-2Kha" has been deleted. Besides, the last words "Divisional Officer" have been replaced by "Superintendent" in the form.

<sup>5</sup> Infrastructure Development Surcharge (IDSC) was first imposed u/s 7 of the Finance Act 1997 and withdrawn from FY 2007-08 u/s 70 of the Finance Ordinance 2007. IDSC was imposed at import stage @ 2.5% on 'assessable value' from 1997-98 to FY 2001-02, @ 3.5% in FY 2002-03, @ 4% from FY 2003-04 to FY 2006-07 (vide the Finance Acts 1997 to 2006 and the Finance Ordinance 2007).

<sup>6</sup> Part-I (excisable goods) of the First Schedule of the Excise and Salt Act 1944 has been repealed by the Finance Act 2004 and hence there are no excisable goods from FY 2004-05. Part-II (excisable services) of the First Schedule has been substituted to incorporate two excisable services: (1) services rendered by banks through maintaining a deposit account; and (2) services rendered by airline through issuing a domestic 'Airline Ticket per seat' for single journey to ultimate airport of destination".

*Musak-4 [Turnover Tax Return]:* In line with the similar correction in Form "Musak-2Kha", the words "Turnover Tax Commission" in serial 2 have been deleted.

*Musak-6 [Application Form for Registration/Enlistment (VAT/Turnover Tax/Cottage Industry)]:* In the "Instruction for Applicants", in serial 9, against column 3, after the words "Import or Export" the word "Registration" has been inserted.

*Musak-8[Value Added Tax Registration Certificate/Turnover Tax Enlistment Certificate/Cottage Industry Enlistment Certificate]:* Due to changes in the timing of submission of the VAT/Turnover Tax (TT) return, the prescribed content in this form regarding the timing of submission of VAT/TT return has been amended. The words "within tenth date of month following the tax period" have been substituted by the words "within the time mentioned in sub-rule (5) of rule 4 and sub-rule (1) of rule 24 after the end of the tax period". Under rule 24(1), the time period for submission of VAT return has been given [which is "within working day of month following the tax period" but in case of insurance companies, "within twenty working day of month following the tax period"], and under rule 4(5), the time period for submission of TT return has been given [which is "within fifteen days after the end of each English month for monthly payment of TT, or within fifteen days after the end of each three English months for quarterly payment of TT"]. But there is a provision for annual payment of TT under rule 4(4), for which the submission of single TT return in 'Form Musak-4' along with the copy of Treasury Chalan as a proof of payment of TT is to be made once in a year. This is not incorporated into the Form Musak-8. Second correction has been made to substitute the word "Identification" by "Registration" mentioned twice in the Form Musak-8, by which "Taxpayer Identification/Enlistment Number" will be corrected wording of "Taxpayer Registration/Enlistment Number". The third correction is regarding the timing for informing about the changes in any information provided in the *Application Form for Registration/Enlistment*. The timing mentioned in this regard was "without

any delay” and hence subject to ambiguity. Now the timing has been mentioned as “within the time mentioned in sub-rule (1) of rule 12”. According to rule 12(1), if there is any change in place or condition of business, a declaration in *Form Musak-9 [Application for Changing Place or Condition of Business]* has to be submitted at least 14 days before the change to the Divisional Office(s), subject to the payment of taxes.

*Musak-10 [Application for Cancellation of Value Added Tax Registration]*: In the list of reasons of applying for cancellation of registration, reason (d) was: “Has been registered voluntarily even being exempted and his turnover for continuous two years has not crossed Taka twenty lakh” and now it has been changed to “Has been registered voluntarily even being exempted and his turnover for continuous one years has not crossed Taka forty lakh”. Reason (e) was: “Being the annual turnover less than Taka twenty lakh” and now it has been changed to “Being the annual turnover less than Taka forty lakh”.

*Musak-11 [Invoice (Challan Patra)]*: In this form, in serial number 1, the instruction was: “Only in case of supply of goods or provision of service to registered purchaser, Purchaser’s Name, Address, and Taxpayer’s Identification Number is to be mentioned.” Now the instruction is made compulsory by inserting the word “must” in place of “is to”.

*Musak-11Ka [Sales Cash Memo]*: The serial number of the form was originally written as “Musak-11(Ka)” in 1996; which has been corrected this year according to the serial number given in other cases as “Musak-11Ka”. Another correction has been made by deleting the words and signs “Taxpayer Identification Number (if any)”.

*Substitution of one existing form [vide SRO No. 298-Ain/2008/506-Musak, dated 06.11.2008]*: Existing *Form “Musak-22” [Application for Drawback of Duties and Taxes in case of Export]* has been substituted in November 2008. Although this amendment has been made earlier (5 months back), but this is a significant change for the exporters, particularly regarding the PRC (Proceed Realization Certificate), which was not categorically mentioned earlier.

The major changes are: (1) One additional question added for the taxpayer: “Is the taxpayer a hundred percent direct/hundred percent deemed/local or international tender/backward linkage/local producer/commercial exporter?”; (2) Annexures increased to new 8 items including the existing five items (a. Bill of export; b. Bill of lading/Airway bill/Postal document; c. Copy of L/C; d. Certificate of export examination; e. Copy of packing list) under new 4 items with added documents: a. Bill of export, Invoice, Packing list; b. Bill of lading/Airway bill/Postal document/Truck chalan; c. Copy of L/C and EXP; d. Certificate of export examination and shipment of goods; e. Copy of return submitted for the export-related month; f. P.R.C. certified by Bangladesh Bank; g. Import B/E, Invoice, Packing list, CRF etc. (in applicable cases); h. Other applicable documents demanded by the DEDO in writing; (3) new 10-column information in place of 8-column information: one column (“To be filled in by the Duty Exemption and Drawback Office”) has been redesigned into 3 columns (“Amount of taka per unit payable as drawback”, “Total amount of taka payable as drawback”, “Amount of taka paid as drawback (To be filled in by the Duty Exemption and Drawback Office)”); (4) Part on “For use by the Local Value Added Tax Office” in the “Instructions for Taxpayer” has been deleted.

- (2) *Price declaration by traders or commercial importers and changes therein [sub-rules (1), (2) and (3) of rule 3 and rule 3B]*: A new proviso has been inserted to sub-rule (1) rule 3 to submit a declaration of value-base by the traders or commercial importers in *Form “Musak-1Kha” [Declaration of Value-base by the Traders or Commercial Importers]* [proviso inserted to rule 3(1)]. In case of requiring any changes in the declaration of value-base, in sub-rule (2), and also for approval of the declaration in sub-rule (3), the reference of *Form “Musak-1Kha”* has also been inserted along with *Form “Musak-1”* [sub-rules (2) and (3) of rule 3 amended]. In case of supply of goods at uniform price u/r 3B, the reference of *Form “Musak-1Kha”* has also been inserted along with *Form “Musak-1”* [proviso to rule 3B(1) amended].
- (3) *New declaration by a VAT registered person [rule 3(1A)<sup>7</sup>]*: If a VAT registered person engaged in supply of taxable goods or

<sup>7</sup> Sub-rule (1A) has been inserted in rule 3 by SRO No. 103-Ain/2009/511-Musak, dated 11.06.2009 and further amended by SRO No. 174-Ain/2009/527-Musak, dated 30.06.2009].



services, along with the local supply of goods and services, supplies or exports any exempted or goods exported or deemed to be exported from Bangladesh, he has to submit a declaration regarding input price and input-output coefficient in *Form "Musak-1Ga"* [Declaration of Input Price and Input-Output Relation or Coefficient of Goods Exempted or Exported or Deemed to Be Exported from Bangladesh] to the Divisional Office before such supply or export. The Divisional Officer, after verification and if necessary, after correction, will approve the declaration within 15 working days. However, in case bringing any correction or amendment in the declaration of the registered person, the person shall have to be given a reasonable opportunity of being heard [new sub-rule (1A) inserted to rule 3(1); and existing sub-rule (1A) of rule 3 re-serialized as sub-rule (1B) and sub-rule (1B) re-serialized as sub-rule (1C)]. In case of requiring any changes in the declaration on input price and input-output coefficient in *Form "Musak-1Ga"*, under newly inserted sub-rule (2A), the registered person shall submit a new declaration or amendment to the previous declaration, whatsoever is applicable, to the Divisional Officer in the *Form "Musak-1Ga"* seven days before the execution of such change. The Divisional Officer will verify the changed declaration or if necessary, the previous declaration and will approve the declaration after correction, if necessary. However, in case bringing any correction or amendment in the declaration of the registered person, the person shall have to be given a reasonable opportunity of being heard [sub-rule (2A) of rule 3 inserted].

- (4) *Exemption from price declaration [new rule 3AA]:* A new rule (rule 3AA) has been inserted to exempt from submission of price declaration in cases of any prescribed goods or services for which price may be fixed by the Government under section 5(2C), applicable from FY 2009-10 and where the VAT and SD is collectible through back calculation from the unit price of the good or service.
- (5) *Changes regarding turnover tax [rule 4]:* Annual turnover threshold has been enhanced from Tk 24 lakh to Tk. 40 lakh [sub-rule (1) of rule 4 amended]. Under rule 4(19), previously each month the Superintendent had the responsibility to send a copy of information relating to number of enlistment and collection of turnover tax to the Divisional Officer. After amendment, now under rule 4(19), each month the Superintendent has the responsibility to send a copy of information relating to number of enlistment and collection of turnover tax 'including the name, address, type of business and

annual turnover of the enterprises enlisted in the preceding month" to the Divisional Officer [sub-rule (19) of rule 4 amended]. There is another amendment regarding enforcement on the turnover tax enlisted person u/r 4(20). Under rule 4(20), previously the Divisional Officer may at any time examine the information relating to the annual turnover tax of the enlisted person and may, by recording reasons, issue necessary directions to the Superintendent about it. On substitution of sub-rule (20) of rule 4, now the Divisional Officer after receiving the information under sub-rule (19) shall, as soon as possible, examine the information relating to the annual turnover tax of the enlisted person and if after such examination it is deemed to the Divisional Officer that the enlisted person has been enlisted by providing erroneous or false information or due to such information, turnover tax has been ascertained at a lower amount, in that case, the Divisional Officer, on giving notice to the enlisted person in that regard, may give the opportunity to submit the statement defending himself within ten working days and if the Divisional Officer is not satisfied about the response received, he may, on giving the opportunity of being heard in the presence of the Superintendent-

- (a) re-ascertain the turnover of the enlisted person; or  
 (b) give order to pay value added tax after being registered for value added from the date of enlistment on cancellation of the turnover tax enlistment [sub-rule (20) of rule 4 substituted].
- (6) *Enhancement of annual turnover threshold for VAT registration [rule 9]:* The threshold of annual turnover or turnover of a continuous 12 months for VAT registration has been enhanced from Tk. 24 lakh to Tk. 40 lakh [sub-rules (1), (2) and (3) of rule 9 amended]
- (7) *Change in place of submission of application for voluntary VAT registration [rule 10]:* Previously a person exempted from registration under section 16, if willing to be registered voluntarily, was supposed to submit the application for registration to the Local VAT Office. Now, the place for submission of application will be the 'Divisional Office' from FY 2009-10 [rule 10 amended].
- (8) *Closure and restarting business by a registered person [rule 12]:* Under rule 12(2), existing provision is: "If a registered person intends to refrain from the conduct of the business of supply of taxable goods or rendering of taxable service or import of taxable goods or export of any goods or service, he shall inform it to the

local value added tax office at least 24 (twenty-four) hours before such refraining.” Additionally, now the Local VAT Office, on being informed about the closure (not being a temporary closure) of the registered person’s domestic business or import or export business, shall prepare a statement on inventory of raw materials or finished goods or services on physical verification after taking accounts on all the liabilities and payables and work-in-process and inform the Divisional Office [amended sub-rule (2) of substituted rule 12]. If a registered person refrains from the conduct of the business of supply of taxable goods or rendering of taxable service or import of taxable goods or export of any goods or service and intends to restart such business, he shall inform it to the local value added tax office at least 24 (twenty-four) hours before such restarting [new sub-rule (3) of substituted rule 12].

- (9) *Change in cancellation of registration [rule 15]*: Previously rule 15 was only for VAT registered person. After amending sub-rule (1), the provision has been made for both enlisted and registered persons (although the title of the rule ‘Cancellation of registration’ has not been changed). In the list of situations for which a registered or enlisted person may apply for cancellation of registration or enlistment number, the turnover threshold mentioned in the last two situations has been changed from Tk. 24 lakh to Tk. 40 lakh. The changed two situations are: (d) the annual turnover of a registered person voluntarily registered under section 17 of the Act being less than taka forty lakhs during the period of twelve months next following his registration; (e) the annual turnover of a registered person being less than taka forty lakhs.
- (10) *Correction of the applicability of the input tax credit method [rule 19(2)]*: The method of input tax credit mentioned in rule 19(2) by the registered person (which is, after all the inputs, along with the bill of entry containing his registration number or the invoice having entered the place of production or supply of goods or place of business, recording, in writing, in the column “credit” shown in the account current in Form “Musak-18” the input tax paid on inputs purchased by him) was erroneously applicable only in the case of supply of taxable goods. Through amendment, now the provision is applicable in the case of supply of taxable goods or services [sub-rule (2) of rule 19 amended].
- (11) *Changes in examination of return [rule 25(1)]*: In case of considering the return by the inspector in-charge of the concerned revenue area and the Superintendent of the local value added tax office, on examination as proper, while both of them shall certify to that effect by putting their signature and affixing their seals

separately, but this certification is to be done without offending the provision of sub-section (4) of section 36 (which is, determination of VAT or SD or calculation of drawback, in case failure to submit a return or providing incorrect information therein and consequent under-payment of VAT and SD, or over-claiming of drawback). Previously there was no mention about the provision of section 36(4) in rule 25(1) [sub-rule (1) of rule 25 amended].

- (12) *Physical survey in case of application for invoice-based drawback [rule 30(9)]*: Previously, the survey could be undertaken by the Director General (DG) of the Duty Exemption and Drawback office (DEDO) only. After amendment, now it can be done by the DG or any official authorized by him in this regard [sub-rule (9) of rule 30 amended].
- (13) *Conditions for obtaining tax exemption on local purchase under international treaty or memorandum of understanding (MoU) [new rule 31B]*: New rule 31B has been prescribed by SRO No. 174-Ain/2009/527-Musak, dated 30.06.2009 without any title. VAT and/or SD will be exempted on purchase of goods and services from a Bangladeshi registered producer or service-renderer through local or international tender by an agency or person that is responsible in implementation of projects in exchange of foreign currency given as donation for the purpose of construction of any establishment or infrastructure, balancing, expansion, modernization or providing assistance to those activities with an intention to supply of any goods or provision of services to any group of population in Bangladesh under international treaty or memorandum of understanding (MoU) subject to following conditions:
- (a) There shall be international treaty or MoU of the donor agency relating to donation with the Government of Bangladesh or any person or organization having the authority from the Government of Bangladesh;
  - (b) There shall be mentioning of the place of use of the locally collected goods or services after mentioning the reference of the said international treaty or MoU in the local or international tender;
  - (c) The supplier of goods or service-renderer selected through tender shall inform the VAT authority about the exemption of the said tax or duty on goods or services to be supplied after applying to the local VAT office along with the attested copies of the concerned international treaty or MoU, tender advertisement and supply order or, where applicable, the copy of purchase order. The application must be submitted only after receiving the purchase/supply order;

The VAT authority shall take legal actions including the intimation to the applicant about any objection within 15 working days from the receipt of the application. This rule (rule 31B) is not applicable to any local purchased in exchange of foreign currency received against any loan or debt taken by the Government of Bangladesh.

- (14) *Penalty for contravening any provision of the VAT Rules changed [Rule 35]:* The penalty for contravening any provision of the VAT Rules was: an amount, being not less than 25 percent, and not more than 75 percent of the amount of VAT or, where applicable, the VAT and SD, and the goods or service (where applicable) related to such contravention to be forfeited in favour of the Government. Now, the penalty part has been changed to “an amount, being not less than equal amount, and not more than two and half times, the amount of VAT or, where applicable, the VAT and SD”. The forfeiture of the goods or service (where applicable) remains unchanged [rule 35 amended].

### 3.2.3 Changes of Value Added Tax related S.R.Os:

Following are the major changes brought by various SROs (Statutory Rule and Order) issued under the VAT laws:

- (1) Electricity (Manufacturing stage), Cancer preventive drugs (Manufacturing stage), hard board (Manufacturing stage), Electric generator (Manufacturing stage), Refrigerator (Manufacturing stage), Motor cycle (Manufacturing stage), Solar panel (Manufacturing stage), goods carrier Trailer (Manufacturing stage), Internet service (only service provided to educational institution), Specialized doctor (Service) and Maize (corn) seeds (Trade stage) has been exempted from VAT [SRO No. 104-Ain/2009/512-Musak, dated 11.06.2009].
- (2) Existing VAT exemption has been withdrawn from Homeopathic, Ayurvedic, Unany and herbal medicine (Manufacturing stage), Plastic furniture (Manufacturing stage), Kitchenware made of aluminum and enamel (Manufacturing stage), Indenting firm (service stage), and Travel agency (service stage) [see SRO No. 188-Ain/2008/490-Musak, dated 29.06.2008, repealed by SRO No. 104-Ain/2009/512-Musak, dated 11.06.2009].<sup>8</sup>
- (3) The S.R.O related to cottage industry has been amended in the following way:

<sup>8</sup> In the proposed Finance Bill 2009, VAT was initially imposed on “Manpower exporting organization” (service stage) by deleting it from Second Schedule. But in the passed Finance Act 2009, this is not done and hence still VAT exempted.

- (a) The investment limit behind plant and machinery has been increased from Tk. 15 lakh to Tk. 25 lakh;
  - (b) Annual turnover threshold has been increased from Tk. 24 lakh to Tk. 40 lakh;
  - (c) Condition of barring the cottage industry from subcontracting has been withdrawn. Under a new clause [clause 5A], the cottage industry benefit enjoying firm can produce branded goods of local VAT registered person after submission of price declaration to the VAT divisional office and taking approval therefrom [see SRO No. 168-Ain/2003/376-Musak, dated 29.06.2008, amended by SRO No. 108-Ain/2009/516-Musak, dated 11.06.2009 and SRO No. 181-Ain/2009/534-Musak, dated 30.06.2009].
- (4) Lozenge, Energy drink, juice, Chaanachur, Cosmetics, Hair care item, and Biscuits manufacturing units has been brought under compulsory VAT registration irrespective of annual turnover [see SRO No. 191-Ain/2008/493-Musak, dated 29.06.2008, repealed by SRO No. 115-Ain/2009/523-Musak, dated 11.06.2009].<sup>9</sup>
- (5) The provision regarding monthly submission of return has been increased to three months for the 100% exported oriented garment industries as well as 100% deemed exported accessories industries [see SRO No. 144-Ain/97/161-Musak, dated 12.06.1997, amended by SRO No. 106-Ain/2009/514-Musak, dated 11.06.2009].
- (6) *Changes in the definitions of the taxable services* [SRO 189-Ain/2008/491-Musak, dated 29.06.2008, amended by SRO 105-Ain/2009/513-Musak, dated 11.06.2009]:
- (a) *Expanded scope of “Survey Firm”*: The definitional scope of “Survey Firm” [S020.00] has been expanded by incorporating “an organization performing any sort of physical or chemical examination or doing feasibility study of any subject or certifying the standardization of an enterprise or carrying out the performance audit in exchange of consideration and it shall also include a marine surveyor firm” into the definition. Here, VAT deducted at source (VDS) is applicable @ @ 15%.
  - (b) *Change and reinstatement of the scope of “Sales Center of Furniture”*: The definitional scope of “Sales Center of Furniture” [S024.00] was confined to “a place of sale, in exchange of consideration, of furniture self-made or made by others” by deleting “the place of making and repairing such

<sup>9</sup> Medicine (including Homeopathic, Ayurvedic, Uniny and herbal medicine) was included in this list, but deleted by SRO No. 180-Ain/2009/533-Musak, dated 30.6.2009.

furniture” from the definition [SRO 105-Ain/2009/513-Musak, dated 11.06.2009]. But the earlier definition has been again reinstated [SRO 176-Ain/2009/529-Musak, dated 30.06.2009]

- (c) *Expanded scope of “Leaseholder”*: The definitional scope of “Leaseholder” [S033.00] has been expanded by incorporating “commercial rental of any floor/space, establishment, equipment for a particular period, except for using in residential activity” into the definition. Here, VDS is applicable @ @ 15%.
- (d) *Three new taxable services defined*:
- (i) **Program Organizer [S071.00]**: “Program Organizer” means such a person or organization or association, who or which, provides assistance in organizing any type of program of any other person or organization on commercial basis.
  - (ii) **Human Resource Supply and Management Organization [S072.00]**: “Human Resource Supply and Management Organization” means a person or organization or association, supplying skilled, unskilled human resource or providing office services under an agreement for the purpose of performance or overall management of a categorically defined work in a Government, private, autonomous organization or limited company.
  - (iii) **Manpower Exporting Organization [S073.00]**: “Manpower Exporting Organization” means such a person or organization or association, who or which, being enlisted/registered under the Bureau of Manpower or Employment or any other similar authority, provides visa processing and other office services including the coordination between different offices in employing manpower from Bangladesh to foreign countries or from foreign countries to Bangladesh in exchange commission/charge/fee. *But “Manpower Exporting Organization [S073.00]” is still exempted under the Second Schedule of the VAT Act.*
- (7) *New services subject to VAT deducted at sources*: Decorators and caterers [S002.00 @ 15%], Auctioneer [S009.00 @ 15%], Courier and express mail service [S028.00 @ 4.5%], Architect, interior designer or interior decorator [S050.10 @ 4.5%], Graphic designer [S050.20 @ 4.5%], Travel agent [S016.00 @ 15%] and Chartered plane and helicopter rental organization [S058.00 @ 15%] has been included in the list of services on which the

Government, Semi-government, Autonomous body, private organization, Bank, insurance company or limited company has been given the power to collect VAT at source and deposit the same to the government exchequer [see SRO No. 193-Ain/2008/495-Musak, dated 29.06.2008, repealed by SRO No. 113-Ain/2009/521-Musak, dated 11.06.2009]..

- (8) *Enhanced supplementary duty (SD)*: SD on local manufacturing stage on powder milk from liquid milk has been withdrawn. On top of that, 10% supplementary duty on Jarda, gul and glass sheet has been imposed and the existing supplementary duty on soft drinks, Ceramic tiles, mosaic, and bathroom fittings has been increased [see SRO No. 153-Ain/2005/444-Musak, dated 09.06.2005, amended by SRO No. 112-Ain/2009/520-Musak, dated 11.06.2009].
- (9) *Enhanced rate of ATV*: The rate of ATV (Advance Trade VAT) has been increased from 1.5% to 2.25% [see SRO No. 260-Ain/2004/431-Musak, dated 30.08.2004, amended by SRO No. 110-Ain/2009/518-Musak, dated 11.06.2009].
- (10) *Exemption of VAT and SD*: Supplementary duty and VAT has been exempted from internationally awarded Bangladeshi cinema, nationally awarded Bangladeshi cinema and cinema made of government grant [against service code S023.10] (SRO No. 117-Ain/2009/525-Musak, dated 11.06.2009).
- (11) *VAT exemption on local industry*: In order to protect the fully manufacturing industry (local) the VAT has been exempted from Refrigerator and Motor cycle for the next one year (SRO No. 116-Ain/2009/524-Musak, dated 11.06.2009, amended by SRO No. 182-Ain/2009/535-Musak, dated 11.06.2009).

### 3.2.4 Value Added Tax Related orders:

Following are the major changes brought by various general or special orders of the NBR issued under the VAT laws:

- (1) *Tariff value*: Order has been made to fix the new tariff value for powder milk made from liquid milk (newly fixed at Taka 100 per kg), C.R. coil (newly fixed at Taka 10,000 per MT after a gap over FY 2004-05 to FY 2008-09), razor blade made up of stainless steel/carbon steel strip (newly fixed) from 11.6.2009 and for machine-made biscuit (newly fixed at Tk. 60 or 80 per kg) from 30.6.2009. Orders have been made to increase tariff value on G.P. sheet (increased to Taka 15,000 per MT of all colours from Taka 8,500 per MT of colour sheet), C.I. sheet (increased to Taka 15,500 per MT of all colours from Taka 9,000 per MT of colour sheet), and white paper. Order has been made to significantly reduce tariff value on 5-75 KVA electric transformer [General Order No.

07/Musak/2009, dated 11.06.2009 and No. 17/Musak/2009, dated 30.06.2009]. Thus, the tariff value of *Bidi* is still at Taka 3.1579 per packet of 25-stick according to the previous order of 2004 [Order No. 09/Musak/2004, dated 10.06.2004].<sup>10</sup>

- (2) *VAT exemption*: The VAT exemption limit for Sample medicine export has been increased from Tk. 20,000 to Tk. 30,000 [General Order No. 09/Musak/2009, dated 11.06.2009].
- (3) *Cigarette price and SD thereon*: The price slab of cigarette per 10-stick (subject to condition of printed retail price on the packet and number of cigarettes) has been increased to: (1) Tk. 7.25 to Tk. 8.75 (instead of Tk. 6.00 to Tk. 7.50); (2) Tk. 16.25 to Tk. 17.25 (instead of Tk. 13.25 to Tk. 14.25); (3) Tk. 23.25 to Tk. 29.25 (instead of Tk. 21.00 to Tk. 28.00); and (4) Tk. 46.25 and above (instead of Tk. 41.00 and above). But the rate of SD has been kept unchanged at 32%, 52%, 55% and 57% respectively. The VAT Commissioners and the field-level VAT employees are instructed to take necessary steps according to the changes price slabs for revenue collection [General Order No. 10/Musak/2009, dated 11.06.2009].

### 3.3 Changes in the Excise Duty

Part-I (excisable goods) of the First Schedule of the Excise and Salt Act 1944 has been repealed by the Finance Act 2004 and hence there are no excisable goods from FY 2004-05. And Part-II (excisable services) of the First Schedule has been substituted to incorporate only two excisable services: (1) services rendered by banks through maintaining a deposit account; and (2) services rendered by airline through issuing a domestic 'Airline Ticket per seat' for single journey to ultimate airport of destination". Following are the changes in the rates of excise duty (SRO No. 119-Ain/2009/302-Abgari, dated 11.06.2009):

- (1) *Service Rendered by Bank [E032.00]*: The exemption level for excise duty on bank deposit has been increased from Tk. 10,000 to Tk. 20,000 and the duty rate (per deposit account per year) for the higher deposit range has been not been changed.

<sup>10</sup> Another tariff value on *Bidi* (cigarette containing tobacco manufactured manually) was increased to Taka 3.4337 per packet of 25-stick from Taka 3.1579 on 11.06.2009, but the relevant orders have been repealed on 30.06.2009 [General Order Nos. 06/Musak/2009 and 11/Musak/2009 were issued on 11.06.2009, but repealed by General Order Nos. 15/Musak/2009 and 16/Musak/2009 respectively, both dated 30.06.2009].

Balance of a deposit account	1.7.04 to 30.6.09	Balance of the account	New (since 1.7.2009)
Up to Tk. 10,000	Nil	Up to Tk. 20,000	Nil
Tk. 10,000 to Tk. 1 lakh	Tk. 120	Tk. 20,000 to Tk. 1 lakh	Tk. 120
Tk. 1 lakh to Tk. 10 lakh	Tk. 250	Tk. 1 lakh to Tk. 10 lakh	Tk. 350
Tk. 10 lakh to Tk. 1 crore	Tk. 550	Tk. 10 lakh to Tk. 1 crore	Tk. 1,000
Tk. 1 crore to Tk. 5 crore	Tk. 2,500	Tk. 1 crore to Tk. 5 crore	Tk. 5,000
Above Tk. 5 crore	Tk. 5,000	Above Tk. 5 crore	Tk. 10,000

- (2) *Service Rendered by Airline [E033.00]*: Since FY 2004-05, under the "Recovery of Excise Duty on Domestic Airline (Airline Ticket) Rules 2004" (S.R.O. No. 182-Ain/2004/300-Abgari dated 10.06.2004), the excise duty on domestic airline has been collected at a fixed rate. This duty rate on domestic air ticket has been increased from Tk. 200 to Tk. 300 as follows:

Services Rendered by Airline	Rate up to 30.6.2009	Rate from 01.7.2009
(a) Services rendered by airline through issuing a domestic "Airline Ticket per seat" for single journey, which may involve one or more stops over on its way to ultimate airport of destination	Tk. 200	Tk. 300
(b) Foreign national of Diplomatic class, showing his/her diplomatic passport at the Airline Ticket counter and check-in counter	Nil	Nil

### 4.0 An Analysis of the Changes in the Indirect Tax Laws

As enumerated above, through the latest amendments in the Customs Act, indirect tax authorities have been streamlined through enacting the same designations across the statutes [post of a Director General (Audit, Intelligence and Investigation, Value Added Tax) inserted in the Customs Act, which was in the VAT Act]. Tax-base is also streamlined from specific base to ad valorem base such as on mobile phone sets. Use of customs duty for socio-economic reasons through revision of duty rates or imposition of regulatory duty is the major budgetary instrument this year. Customs duty has been revised in some cases with specific objectives such as rates *reduced* on raw materials to enhance the competitiveness of the local industry and also on books to emphasize enhancement of knowledge; and customs duty has been *withdrawn/exempted* on solar panel and parts of energy saving lamps to reduce the pressure on power. Regulatory duty has been imposed on luxury items, products detrimental to public health and milk powder imported in bulk with a view to discouraging the consumption of such goods.

If the amendments in the VAT laws are reviewed, we find that the tax-base for computing taxes (SD and VAT) under the VAT Act has been rationalized (e.g., allowing VAT on price fixed by the Government; new provision for price declaration by traders or commercial importers), or clarified (e.g., base of import-stage SD redefined for clarity) and in some cases enhanced (e.g., VAT and SD on the basis of minimum value in case of free service; added new items in the negative list of input tax credit; withdrawal of existing exemption or imposition of VAT on new services; or withholding VAT on new services) or the tax-base possibly reduced (e.g., enhanced annual turnover threshold regarding turnover tax from Tk 24 lakh to Tk. 40 lakh; provision for exemption from price declaration; tax exemption on local purchase under international treaty or memorandum of understanding; enhancing the cottage industry size; new withdrawal of VAT at different stages). Tax rates of SD and ATV have been increased in some cases for discouraging imports and also for revenue reason. Provisions relating to enforcement have been also streamlined in some cases (e.g., introducing specific time limit for objection against disallowance of credit; empowering the NBR to initiate the cancellation of the central registration; treating the failure in submission of any requisitioned document as a penalizing default; enhancing minimum and maximum penalty limit; providing no time limit for reopening of a case on tax evasion; provision for new declaration by a VAT registered person regarding input price and input-output coefficient in Form "Musak-1Ga" for goods exempted or exported or deemed to be exported from Bangladesh;).

The specific rates of excise duty have been increased both on bank deposit account and domestic air ticket to collect more revenue assuming the payers being in the high-income strata of the society.

### 5.0 Concluding Remarks

This year's budgeted target of VAT at Tk. 227,890 million (13.3% higher than last year's revised budget), customs duty at Tk. 104,300 million (9.0% higher than last year's revised budget), turnover tax (TT) at Tk.60 million (20.0% higher than last year's revised budget), excise duty at Tk. 2,610 million (10.1% higher than last year's revised budget), and supplementary duty (SD) at Tk. 104,850 million (15.0% higher than last year's revised budget) will be achieved if the fiscal measures discussed above become successful (GOB, 2009c). As mentioned by the Finance Minister in his Budget Speech, "We are firmly committed to use the opportunity that the landslide mandate of the people has given us to improve the lot of common man. We tried to unlock the potential for action created by a congenial atmosphere in setting out this budget. Our entrepreneurs should be able to use the incentives offered in this budget under the direct and indirect taxation proposals to create an enabling

ground for investment and employment creation. I firmly believe that if we continue our collective efforts with genuine patriotism, honesty, sincerity and a sense of sacrifice, we can build a happy and prosperous Bangladesh free from poverty and corruption within a very short span of time (Muhit, 2009: 112). We also hope for the best of the materialization of the Finance Minister's expectation through the best use of the fiscal incentives by the existing and potential entrepreneurs of Bangladesh.

### References

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## International Customs Related Trade Treaties and Incoterms: Definitions

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*The intent of this article is to produce a broad listing of terms, which are commonly used in trade negotiations and especially within the context of the Customs procedure with a view to providing an information tool for the Customs Officials, Fiscal Policy formulators and public at large.*

<b>Asia-Pacific Economic Cooperation (APEC)</b>	Established in November 1989, the Asia-Pacific Economic Cooperation (APEC) is the premier forum for facilitating economic growth, cooperation, trade and investment in the Asia-Pacific region. APEC members (21) are: Australia, Brunei Darussalam, Canada, Chile, People's Republic of China, Hong Kong, China, Indonesia, Japan, Republic of Korea, Malaysia, Mexico, New Zealand, Papua New Guinea, Peru, the Philippines, the Russian Federation, Singapore, Chinese Taipei, Thailand, United States, and Viet Nam.
<b>Bay of Bengal Initiative for MultiSectoral Technical and Economic Cooperation (BIMSTEC)</b>	<b>BIMSTEC</b> is an international organization involving a group of countries in South Asia and South East Asia. The member countries of this group are: Bangladesh, India, Myanmar, Sri Lanka. According to the Bangkok Declaration on the Establishment of BIST-EC, the aims and purposes of BIST-EC/BIMST-EC are to create an enabling environment for rapid economic development, accelerate social progress in the sub-region, promote active collaboration and mutual assistance on matters of common interest, provide assistance to each other in the form of training and research facilities, cooperate more effectively in joint efforts that are supportive of, and complementary to national development plans of member states, maintain close and beneficial cooperation with existing international and regional organizations, and cooperate in projects that can be dealt with most productively on a sub-regional basis and which make best use of available synergies. BIMSTEC was initiated with the goal to combine the 'Look West' policy of Thailand and ASEAN with the 'Look East' policy of India and South Asia. So it could be explained that BIMSTEC is a link between ASEAN and SARRC.
<b>European Union (EU)</b>	The European Union (EU) groups fifteen member states through a set of common institutions where decisions on specific matters of joint interest are taken at the European level. It was founded as the European Community after the Second World War to enhance political, economic and social co-operation among its members. The 'single market', adopted in 1992 through the Treaty of Maastricht, is the core of the present European Union. It includes the freedoms of movement for goods, services, people and capital and is underpinned by a range of supporting policies. A common currency, the 'Euro', which replaced the old national currencies in 12 EU countries, along with a European Central Bank, came into existence on 1 January 2002. Member states (15) include: Austria; Belgium; Denmark; Finland; France; Germany; Greece; Ireland; Italy; Luxembourg; Netherlands; Portugal; Spain; Sweden; United

	Kingdom of Great Britain and Northern Ireland. Ten new member countries have been invited to join the EU on 1 May 2004, namely: Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia.
<b>General Agreement on Trade in Services (GATS)</b>	The General Agreement on Trade in Services (GATS) is the first multilateral, legally binding set of rules covering international trade in services. The GATS came into effect in January 1995 as an integral part of the WTO. The workings of the GATS are the responsibility of the Council for Trade in Services, made up of representatives from all WTO members.
<b>SAARC Preferential Trading Arrangement (SAPTA)</b>	In December 1991, the Sixth SAARC Summit held in Colombo approved the establishment of an Inter-Governmental Group (IGG) to formulate an agreement to establish a SAARC Preferential Arrangement (SAPTA) by 1997. Given the consensus within SAARC, the Agreement on SAPTA was signed on 11 April 1993 and entered into force on 7 December 1995 well in advance of the date stipulated by the Colombo Summit. The Agreement reflected the desire of the Member States to promote and sustain mutual trade and economic cooperation within the SAARC region through the exchange of concessions. The basic principles underlying SAPTA are: overall reciprocity and mutuality of advantages so as to benefit equitably all Contracting States, taking into account their respective level of economic and industrial development, the pattern of their external trade, and trade and tariff policies and systems; <ol style="list-style-type: none"> <li>a. Negotiation of tariff reform step by step, improved and extended in successive stages through periodic reviews;</li> <li>b. Recognition of the special needs of the Least Developed Contracting States and agreement on concrete preferential measures in their favour; and</li> </ol> Inclusion of all products, manufactures and commodities in their raw, semi-processed and processed forms.
<b>Organization for Economic Cooperation and Development (OECD)</b>	The Organization for Economic Cooperation and Development (OECD) groups 30 member countries in a unique forum to discuss, develop and refine economic and social policies. Established December 1960 and came into being in September 1961. Members (30) include: Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, South Korea, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Slovakia, Spain, Sweden, Switzerland, Turkey, United Kingdom and the United States.
<b>North American Free Trade Agreement (NAFTA)</b>	The North American Free Trade Agreement (NAFTA) is a comprehensive free trade agreement involving Canada, Mexico, and the U.S., implemented on 1 January 1994. Its objectives include: to eliminate barriers to trade in, and to facilitate the cross-border movement of goods and services; to promote conditions of fair competition; to increase investment opportunities; to provide adequate and effective protection and enforcement of intellectual property rights; to create effective procedures for the implementation and application of the Agreement, for its joint administration and for the resolution of

	disputes; and to establish a framework for further trilateral, regional and multilateral cooperation.
<b>Organization of American States (OAS)</b>	On 30 April 1948, the Charter of the Organization of American States (OAS) was adopted by 21 nations of the hemisphere. It affirmed their commitment to common goals and respect for each nation's sovereignty. Since then, the OAS has expanded to include the nations of the Caribbean, as well as Canada. Through the Summit of the Americas process, the Heads of State and Government in the hemisphere have given the OAS important responsibilities and mandates, including: human rights; participation of civil society; improving cooperation to address the problem of illegal drugs; supporting the process to create a Free Trade Area of the Americas; education; justice and security. Members (35) include: Antigua and Barbuda, Argentina, the Bahamas, Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba (excluded from formal participation since 1962), Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, the United States, Uruguay and Venezuela.
<b>United Nations Commission on International Trade Law (UNCITRAL)</b>	Established in December 1966, the United Nations Commission on International Trade Law (UNCITRAL) aims to further the progressive harmonization and unification of international trade law. Members (36) include: Argentina (alternating annually with Uruguay), Austria, Benin, Brazil, Burkina Faso, Cameroon, Canada, China, Colombia, Fiji, France, Germany, Honduras, Hungary, India, Iran, Italy, Japan, Kenya, Lithuania, Mexico, Morocco, Paraguay, Romania, Russian Federation, Rwanda, Sierra Leone, Singapore, Spain, Sudan, Sweden, Thailand, The former Yugoslav Republic of Macedonia, Uganda, United Kingdom and the United States.
<b>United Nations Conference on Trade and Development (UNCTAD)</b>	Established in 1964, the United Nations Conference on Trade and Development (UNCTAD) aims to enhance the integration of developing countries into the world economy. UNCTAD is the focal point within the United Nations for the integrated treatment of trade and development and interrelated issues in the areas of finance, technology, investment and sustainable development. Members (192) include all members of the United Nations plus the Holy See.
<b>Uruguay Round of Multilateral Trade Negotiations</b>	Launched in September 1986, in Punta del Este, Uruguay, the eighth round of multilateral trade negotiations encompassed a wide-ranging negotiating agenda that covered many new trade policy issues. The resulting agreement, concluded in December 1993 and signed in April 1994, extended the multilateral trading system into several new areas, notably trade in services and intellectual property rights, and brought the important sectors of agriculture and textiles under multilateral trading rules. The Uruguay Round resulted in the establishment of the World Trade Organization in January 1995.
<b>World Customs Organization (WCO)</b>	Established in 1952 as the Customs Co-operation Council, the Council adopted the working name World Customs Organization (WCO) in 1994, to more clearly reflect its transition to a truly global intergovernmental institution. The WCO is an independent intergovernmental body whose

	mission is to enhance the effectiveness and efficiency of customs administrations worldwide. With 159 member governments, it is the main intergovernmental organization with competence over customs matters.
<b>World Intellectual Property Organization (WIPO)</b>	Established in 1967, the World Intellectual Property Organization (WIPO) is an international organization dedicated to promoting the use and protection of literary, artistic and scientific works. WIPO is one of the 16 specialized agencies in the United Nations system. It administers 23 international treaties dealing with different aspects of intellectual property protection. The Organization counts 179 nations as members.
<b>World Trade Organization (WTO)</b>	The World Trade Organization (WTO) succeeded the General Agreement on Tariff and Trade (GATT) on 1 January 1995. It is the only multilateral organization that serves as a negotiating forum for the liberalization of trade, a body to oversee the implementation of multilaterally agreed and binding trade rules and a forum for the resolution of trade disputes. The objective of the WTO is to promote the liberalization and expansion of international trade in goods and services under conditions of legal certainty and predictability. The WTO has 146 members.

#### COMPETITION POLICY

TERM	DEFINITION
<b>Abuse of dominant position</b>	Anticompetitive business practices in which a dominant firm may engage in order to maintain or increase its position in the market. These business practices by the firm, not without controversy, may be considered as "abusive or improper exploitation" of monopolistic control of a market aimed at restricting competition. Although they may include practices such as charging excess prices, price discrimination, predatory pricing, refusal to deal/sell, tied selling, etc., which of the different types of business practices are considered as being abusive will vary on a case by case basis and across countries.
<b>Anticompetitive practices</b>	A wide range of business practices in which a firm or group of firms may engage in order to restrict inter-firm competition to maintain or increase their relative market position and profits without necessarily providing goods and services at a lower cost or of higher quality. These practices include price fixing and other cartel arrangements, abuses of a dominant position or monopolization, mergers that limit competition and vertical agreements that foreclose markets to new competitors.
<b>Barriers to entry</b>	Factors which prevent or deter the entry of new firms into an industry even when the incumbent firms are earning excess profits. There are two broad classes of barriers: structural (economic or innocent) and strategic (behavioral). Structural barriers arise from basic industry characteristics such as technology, costs and demand. Strategic barriers arise from the behavior of incumbents.
<b>Bid rigging (Collusive tendering)</b>	A particular form of collusive price-fixing behavior by which firms coordinate their bids on procurement or project contracts. There are two common forms of bid rigging. In the first, firms agree to submit common bids, thus eliminating price competition. In the second, firms agree on which firm will be



	the lowest bidder and rotate in such a way that each firm wins an agreed upon number or value of contracts.
<b>Cartel</b>	A cartel is a formal agreement among firms in an oligopolistic industry. Cartel members may agree on such matters as prices, total industry output, market shares, allocation of customers, allocation of territories, bid-rigging, establishment of common sales agencies, and the division of profits or combination of these. Cartel in this broad sense is synonymous with "explicit" forms of collusion, which does not necessarily require a formal agreement, whether public or private, between members. Often the terms collusion and cartel are used somewhat interchangeably. Cartels are formed for the mutual benefit of member firms.
<b>Competition laws</b>	Also known as "antitrust" or "antimonopoly" laws. Antitrust refers to a field of economic policy and laws dealing with monopoly and monopolistic practices. The intellectual basis for antitrust economics or policy is the sub-field of industrial organization economics which addresses issues arising from the behavior of firms operating under different market structure conditions and the effect that this has on economic performance. Most antitrust or competition laws have provisions dealing with structure such as mergers, monopoly, dominant market position and concentration, as well as behavior, such as collusion, price fixing, and predatory pricing.
<b>Competition policy</b>	Include competition laws in additions to other measures aimed at promoting competition in the national economy, such as sectoral regulations and privatization policies. Also supervision over the government policies through competition advocacy.
<b>Consumer welfare</b>	The individual benefits derived from the consumption of goods and services. In theory, individual welfare is defined by an individual's own assessment of his/her satisfaction, given prices and income. Exact measurement of consumer welfare therefore requires information about individual preferences. In practice, applied welfare economics uses the notion of consumer surplus to measure consumer welfare.
<b>Cooperation</b>	Cooperation on competition has two main elements: (i) provisions to facilitate "case-specific" cooperation on anti-competitive practices having an impact on international trade; and (ii) provisions relating to general exchanges of information and experiences and joint analysis of global trade-related competition issues ("institutional co operation" in OECD terms).
<b>Discriminatory provision</b>	Includes treating: (i) a parent, a subsidiary or other enterprise with common ownership more favorably than an unaffiliated enterprise, or (ii) one class of enterprises more favorably than another, in like circumstances.
<b>Efficiency</b>	It relates to the most effective manner of utilizing scarce resources. Two types of efficiency are generally distinguished: technological (or technical) and economic (or allocative). A firm may be more technologically efficient than another if it produces the same level of output with one or fewer physical number of inputs. Economic efficiency occurs when inputs are utilized in a manner such that a given scale of output is produced at the lowest possible cost.

<b>Flexibility and progressivity</b>	In the multilateral context flexibility and progressivity are qualities for an international agreement. To get flexibility implies that the framework agreement recognizes that competition laws cannot and probably should not be the same in all countries; they are differences in substance as well as in procedure. Progressivity refers to the commitment to competition –for example through transition periods– probably depends on the level of the economic development and size of the economies.
<b>Market power</b>	The ability of a firm (or group of firms) to raise and maintain prices above the level that would prevail under competition is referred to as market or monopoly power. The exercise of market power leads to reduced output and loss of economic welfare.
<b>Market regulatory policies and measures</b>	Any rule that affects the price or quantities traded in a relevant market, or investments in the sector of activity affected by such rules. Market Regulation: Broadly defined as the imposition of rules by government, backed by the use of penalties that are intended specifically to modify the economic behavior of individuals and firms in the private sector.
<b>Mergers and acquisitions</b>	Merger is an amalgamation or joining of two or more firms into an existing firm or to form a new firm. A variety of motives may exist for mergers: to increase economic efficiency, to acquire market power, to diversify, to expand into different geographic markets, to pursue financial and R&D synergies, etc. Mergers are classified into three types: Horizontal Merger, Vertical Merger, and Conglomerate Merger. Acquisitions: Refers to obtaining ownership and control by one firm, in whole or in part, of another firm or business entity. As distinct from a merger, an acquisition does not necessarily entail amalgamation or consolidation of the firms.
<b>Monopoly</b>	A situation where there is a single seller in the market. In conventional economic analysis, the monopoly case is taken as the polar opposite of perfect competition. By definition, the demand curve facing the monopolist is the industry demand curve which is downward sloping. Thus, the monopolist has significant power over the price it charges, i.e. is a price setter rather than a price taker.
<b>Non-discrimination</b>	In the multilateral context there are two components to the principle of non discrimination: national treatment and most-favoured-nation treatment. In the context of FTAA Chapter on Competition Policy that refers to each Party undertakes to ensure that the provisions of its competition statutes and regulations do not discriminate on the basis of the nationality of the natural or legal persons of the Parties.
<b>Output restrictions</b>	Are anticompetitive agreement –including by quotas/ hard core cartels- by competitors to emulate monopoly in order to earn higher profits. It is for market sharing arrangements often applied in sectors where there is surplus capacity or where the objective is to raise prices.
<b>Positive and negative comity</b>	Under the concept of positive comity, cases involving anti-competitive practices originating in one country but affecting another can be referred to the competition agency of the country

	where such practices have originated for appropriate action. Principles of negative comity mean that countries (Parties) would take into account the important and clearly stated trade interests of other countries before action is taken in particular cases.
<b>Procedural fairness/ Due process</b>	In the multilateral context broad provisions on procedural fairness at the domestic level are based on three central concepts: (i) that governmental measures of general application be published and that this be done, as a general rule, before they are applied; (ii) that such measures be administered in a uniform, impartial and reasonable manner or in a fair and equitable way; and (iii) possibilities for appeal or review of decisions on the application of such measures. The different constituencies of competition law enforcement have somewhat different interests in procedural fairness.
<b>Protection of confidentiality</b>	Protection of confidential information from unwarranted disclosure is a fundamental part of procedural fairness. The most common way of protecting confidential information is by establishing direct obligation for countries (Parties) and authorities to protect confidential information, and prohibitions to disclose confidential information.
<b>Relevant market</b>	Means the geographic and product market for a good or service as used in antitrust analysis. It refers to the line of commerce in which competition has been restrained and to the geographic area involved, defined to include all reasonably substitutable products or services, and all nearby competitors, to which consumers could turn in the near term if the restraint or abuse raised prices by a not insignificant amount.

#### CUSTOMS PROCEDURES

TERM	DEFINITION
<b>Cost And Freight (CFR)</b>	CFR means Cost and Freight and is followed by a named port of destination, for example CFR Sydney. CFR requires the seller to pay the costs and freight necessary to bring the goods to the named destination, but the risk of loss or damage to the goods, as well as any cost increases, are transferred from the seller to the buyer when the goods pass the ship's rail in the port of shipment. Insurance is the buyer's responsibility.
<b>Cost, Insurance And Freight (CIF)</b>	CIF means Cost, Insurance and Freight and is followed by a named port of destination, for example CIF Miami. CIF is similar to CFR with the additional requirement that the seller purchases insurance against the risk of loss or damage to goods. The seller must pay the premium. Insurance is important in international shipping, more than domestic US shipping, because U.S. laws generally hold a common carrier to be liable for lost or damaged goods.
<b>Carriage And Insurance Paid To (CIP)</b>	CIP means Carriage And Insurance Paid To and is followed by a named place of destination, for example CIP Boston. CIP has the same incoterm meaning as CPT, but in addition the seller pays for the insurance against loss of damage.
<b>Code of conduct</b>	The collection of rules applicable to customs officers regarding conduct, conflict of interest and possible sanctions and applicable disciplinary action.

<b>Carriage Paid To (CPT)</b>	CPT means Carried Paid To and is followed by a named place of destination, for example CPT Kansas City. CPT means that the seller must pay the freight for the carriage of the goods to the named destination. The risk of loss or damage to the goods and any cost increases transfers from the seller to the buyer when the goods have been delivered to the custody of the first carrier, and not at the ship's rail.
<b>Customs Administration</b>	The Government Service responsible for the application and control of compliance with the set of measures in force to assure the fulfilment of the laws and regulations that Customs is obligated to apply.
<b>Customs duty</b>	The duties laid down in the Customs tariff to which goods are liable on entering or leaving the Customs territory.
<b>Customs infraction</b>	Any breach, or attempted breach, of Customs law.
<b>Customs legislation</b>	The statutory and regulatory provisions relating to the importation, exportation, movement or storage of goods, the administration and enforcement of which are specifically charged to the Customs, and any regulations made by the Customs under their statutory powers.
<b>Customs operations</b>	All the operations which must be carried out by the persons concerned and by the The Customs in order to comply with the Customs law.
<b>Customs transit</b>	The Customs procedure under which goods are transported under Customs control from one Customs office to another.
<b>Customs valuation</b>	The customs value constitutes the basis for applying customs duties.
<b>Electronic Data Interchange (EDI)</b>	Consists of an exchange of electronic data between computer systems in a standard format.
<b>Exportation of goods</b>	The Customs procedure applicable to goods which, being in free circulation, leave the Customs territory and are intended to remain permanently outside the territory.
<b>Ex Works (EXW)</b>	EXW means Ex Works and is followed by a named place, for example EXW Dallas. EXW means the seller's responsibility is to make the goods available at the seller's premises. The seller is not responsible for loading the goods on the vehicle provided by the buyer, who then bears the full cost involved in bringing the goods from there to the desired destination.
<b>Importation of goods</b>	The Customs procedure which provides that imported goods enter into free circulation in the Customs territory upon the payment of any import duties and taxes chargeable and the accomplishment of all the necessary Customs formalities.
<b>Manifest of load (Cargo declaration)</b>	Information submitted prior to or on arrival or departure of a means of transport for commercial use providing the particulars required by the Customs relating to cargo brought to or removed from the Customs territory thereon.
<b>Personal effects</b>	All articles (new or used) which a traveller may reasonably require for his or her personal use during the journey, taking into account all the circumstances of the journey, but excluding any goods imported or exported for commercial purposes.
<b>Security</b>	Which ensures to the satisfaction of the Customs that an obligation to the Customs will be fulfilled. Security is described as "general" when it ensures that the obligations arising from

	several operations will be fulfilled.
<b>Re-importation of goods</b>	The Customs procedure under which goods which were exported may be taken into home use free of import duties and taxes under some conditions.
<b>Temporary admission/importation of goods</b>	The Customs procedure under which certain goods can be brought into a Customs territory conditionally relieved totally or partially from payment of import duties and taxes; such goods must be imported for a specific purpose and must be intended for re-exportation within a specified period and without having undergone any change except normal depreciation due to the use made of them.

### INTELLECTUAL PROPERTY RIGHTS

TERM	DEFINITION
<b>Author</b>	Natural person who creates a literary or artistic work.
<b>Breeder's rights</b>	The essence of plant breeding is the discovery or creation of genetic variation in a plant species and the selection from within that variation of plants with desirable traits that can be inherited in a stable fashion. The plant breeders' final selections of superior plants will form the basis of one or more plant varieties. Plant breeders use all available technology both to create genetic variation and to select from within that variation.
<b>Biological diversity</b>	Means the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems.
<b>Biological resources</b>	Include genetic resources, organisms or parts thereof, populations, or any other biotic component of ecosystems with actual or potential use or value for humanity.
<b>Compulsory license</b>	The TRIPS Agreement allows Members to authorize use by third parties (compulsory licenses) or for public non-commercial purposes (government use) without the authorization of the patent owner. The TRIPS Agreement contains a number of conditions that have to be met in order to safeguard the legitimate interests of the patent owner. The main conditions are that, as a general rule, an effort must first have been made to obtain a voluntary license on reasonable commercial terms and conditions and that the remuneration paid to the right holder shall be adequate in the circumstances of each case, taking into account the economic value of the license.
<b>Contractual license</b>	A permission to use an intellectual property rights under defined conditions.
<b>Copyright</b>	Copyright is a legal term describing rights given to creators for their literary and artistic works. The original creators of works protected by copyright, and their heirs, have certain basic rights. They hold the exclusive right to use or authorize others to use the work on agreed terms. Copyright and its related rights are essential to human creativity, by giving creators incentives in the form of recognition and fair economic rewards. Under this system of rights, creators are assured that their works can be

	disseminated without fear of unauthorized copying or piracy. This in turn helps increase access to and enhances the enjoyment of culture, knowledge, and entertainment all over the world.
<b>Counterfeit trademark goods</b>	Means any goods, including packaging, bearing without authorization a trademark which is identical to the trademark validly registered in respect of such goods, or which cannot be distinguished in its essential aspects from such a trademark, and which thereby infringes the rights of the owner of the trademark in question under the law of the country of importation.
<b>Domain name</b>	Domain name is the address of a web site that is intended to be easily identifiable and easy to remember, such as <i>yahoo.com</i> . These user-friendly addresses for websites help connect computers - and people - on the Internet. Because they are easy to remember and use, domain names have become business identifiers and, increasingly, even trademarks themselves, such as <i>amazon.com</i> . By using existing trademarks for domain names - <i>sony.com</i> , for example - businesses attract potential customers to their websites.
<b>Economic rights</b>	Many creative works protected by copyright require mass distribution, communication and financial investment for their dissemination (for example, publications, sound recordings and films); hence, creators often sell the rights to their works to individuals or companies best able to market the works in return for payment. These payments are often made dependent on the actual use of the work, and are then referred to as royalties. These economic rights have a time limit, according to the relevant WIPO treaties, of 50 years after the creator's death. National law may establish longer time-limits. This limit enables both creators and their heirs to benefit financially for a reasonable period of time.
<b>Expressions of Folklore</b>	Means productions consisting of characteristic elements of the traditional artistic heritage developed and maintained by a community or by individuals reflecting the traditional artistic expectations of such a community, in particular: (i) verbal expressions, such as folk tales, folk poetry and riddles; (ii) musical expressions, such as folk songs and instrumental music; (iii) expressions by actions, such as folk dances, plays and artistic forms or rituals; whether or not reduced to a material form; and (iv) tangible expressions, such as: (a) productions of folk art, in particular, drawings, paintings, carvings, sculptures, pottery, terracotta, mosaic, woodwork, metal ware, jewellery, basket weaving, needlework, textiles, carpets, costumes; (b) musical instruments; (c) architectural forms.
<b>Geographical indication</b>	A geographical indication is a sign used on goods that have a specific geographical origin and possess qualities or a reputation that are due to that place of origin. Most commonly, a geographical indication consists of the name of the place of origin of the goods. Agricultural products typically have qualities that derive from their place of production and are influenced by specific local factors, such as climate and soil. Whether a sign functions as a geographical indication is a matter of national law and consumer perception (for example, "Champagne", "Tequila" or "Roquefort").

<b>Genetic material</b>	Means any material of plant, animal, microbial or other origin containing functional units of heredity.
<b>Genetic resources</b>	Means genetic material of actual or potential value.
<b>Industrial designs</b>	An industrial design is the ornamental or aesthetic aspect of an article. The design may consist of three-dimensional features, such as the shape or surface of an article, or of two-dimensional features, such as patterns, lines or color. Industrial designs are applied to a wide variety of products of industry and handicraft: from technical and medical instruments to watches, jewelry, and other luxury items; from housewares and electrical appliances to vehicles and architectural structures; from textile designs to leisure goods. To be protected under most national laws, an industrial design must appeal to the eye. This means that an industrial design is primarily of an aesthetic nature, and does not protect any technical features of the article to which it is applied.
<b>Intellectual property rights</b>	Intellectual property rights are the rights given to persons over the creations of their minds. They usually give the creator an exclusive right over the use of his/her creation for a certain period of time.
<b>Layout-design/topography of integrated circuits</b>	The three-dimensional disposition of the elements and of some or all of the interconnections of an integrated circuit.
<b>Literary and artistic works</b>	The kinds of works covered by copyright include: literary works such as novels, poems, plays, reference works, newspapers and computer programs; databases; films, musical compositions, and choreography; artistic works such as paintings, drawings, photographs and sculpture; architecture; and advertisements, maps and technical drawings.
<b>Moral rights</b>	Copyright protection also includes moral rights, which involve the right to claim authorship of a work, and the right to oppose changes to it that could harm the creator's reputation.
<b>Related Rights</b>	The field of rights related to copyright has rapidly developed over the last 50 years. These related rights grew up around copyrighted works, and provide similar, although often more limited and of shorter duration, rights to: (i) performing artists (such as actors and musicians) in their performances; (ii) producers of sound recordings (for example, cassette recordings and compact discs) in their recordings; (iii) broadcasting organizations in their radio and television programs.
<b>Patent</b>	A patent is an exclusive right granted for an invention, which is a product or a process that provides a new way of doing something, or offers a new technical solution to a problem. Patent protection means that the invention cannot be commercially made, used, distributed or sold without the patent owner's consent. Patents provide incentives to individuals by offering them recognition for their creativity and material reward for their marketable inventions. All patent owners are obliged, in return for patent protection, to publicly disclose information on their invention in order to enrich the total body of technical knowledge in the world.
<b>Performer</b>	Actors, singers, musicians, dancers, and other persons who act, sing, deliver, declaim, play in, interpret, or otherwise perform literary or artistic works or expressions of folklore.

<b>Pirated copyright goods</b>	Means any goods which are copies made without the consent of the right holder or person duly authorized by the right holder in the country of production and which are made directly or indirectly from an article where the making of that copy would have constituted an infringement of a copyright or a related right under the law of the country of importation.
<b>Priority</b>	Any person who has duly filed an application for a patent, or for the registration of a utility model, or of an industrial design, or of a trademark, in one of the countries of the Paris Union has the right of priority to file in any of the other countries of the Union before the expiration of a period of twelve months for patents and utility models, and six months for industrial designs and trademarks. These periods start from the date of filing of the first application. Consequently, any subsequent filing in any of the other countries of the Union before the expiration of the periods referred to above shall not be invalidated by reason of any acts accomplished in the interval, in particular, another filing, the publication or exploitation of the invention, the putting on sale of copies of the design, or the use of the mark, and such acts cannot give rise to any third-party right or any right of personal possession.
<b>Producer of phonograms</b>	Means the person, or the legal entity, who or which takes the initiative and has the responsibility for the first fixation of the sounds of a performance or other sounds, or the representations of sounds; "phonogram" means the fixation of the sounds of a performance or of other sounds, or of a representation of sounds, other than in the form of a fixation incorporated in a cinematographic or other audiovisual work.
<b>Trademark</b>	A trademark is a distinctive sign which identifies certain goods or services as those produced or provided by a specific person or enterprise. Its origin dates back to ancient times, when craftsmen reproduced their signatures, or "marks" on their artistic or utilitarian products. Over the years these marks evolved into today's system of trademark registration and protection. The system helps consumers identify and purchase a product or service because its nature and quality, indicated by its unique trademark, meets their needs.
<b>Traditional Knowledge</b>	Refers to tradition-based literary, artistic or scientific works; performances; inventions; scientific discoveries; designs, marks, names and symbols; undisclosed information; and all other tradition-based innovations and creations resulting from intellectual activity in the industrial, scientific, literary or artistic fields. "Tradition based" refers to knowledge systems, creations, innovations and cultural expressions which: have generally been transmitted from generation to generation; are generally regarded as pertaining to a particular people or its territory; and, are constantly evolving in response to a changing environment. Categories of traditional knowledge could include: agricultural knowledge; scientific knowledge; technical knowledge; ecological knowledge; medicinal knowledge, including related medicines and remedies; biodiversity-related knowledge.
<b>Unfair competition</b>	Any act contrary to honest commercial practices. Acts contrary to honest commercial practices mean at least practices such as breach of contract, breach of confidence and inducement to

	breach, and includes the acquisition of undisclosed information by third parties who knew, or were grossly negligent in failing to know, that such practices were involved in the acquisition.
<b>Utility model</b>	Patents or certificate granted in the mechanical field in many developing countries that differ from inventions because they require a lower threshold of technological progress (inventive step) and are granted for a shorter term of protection.
<b>Well-known mark</b>	Highly reputed mark that receives special protection due to its reputation that extends beyond a specific market, sector or country.

## INVESTMENT

TERM	DEFINITION
<b>Bilateral investment treaty (BIT)</b>	The first modern bilateral investment treaty was entered into in 1959 between Germany and Pakistan. Over the decades that followed an increasing number of European countries concluded such treaties with developing countries. Since the 1980s, several countries in the Americas have signed a BIT with another country of the region. Traditionally, BITs set standards for the promotion and legal protection of foreign investments and investors. Some recent agreements also include the free entry of investments and investors as a feature of the treaty.
<b>Compensation for losses</b>	Investment agreements do not, in principle, require a state to pay compensation in a situation where an investor of another member country suffers losses in the host country due to war or other armed conflict, civil disturbances, state of emergency or similar events. Most agreements, however, provide for national treatment and most-favored-nation treatment in respect to any measure a member country adopts or maintains related to those losses.
<b>Denial of benefits</b>	A Party to a trade or investment agreement may deny the benefits of the Agreement to an investor of another Party that is an enterprise of such other Party and to investments of that investor if investors of a non-Party own or control the enterprise and the denying Party does not maintain diplomatic relations with the non-Party; or adopts or maintains measures with respect to the non-Party or an investor of the non-Party that prohibit transactions with the enterprise or that would be violated or circumvented if the benefits of the Agreement were accorded to the enterprise or to its investments.
<b>Expropriation</b>	Investment agreements include a provision that prohibits a member country from directly or indirectly nationalizing or expropriating an investment of an investor of another member country except when done for a public purpose, on a non-discriminatory basis, in accordance with due process of law, and on payment of compensation. In an international context, a direct expropriation occurs when the host state takes property owned by a foreign investor located in the host state, when there is deprivation of wealth attributable to the state. There are very few cases of indirect expropriation at the international level because under customary international law, a state is not responsible for loss of property or other economic disadvantage

	resulting from bona fide general taxation, regulation, forfeiture from crime, or other action of the kind. The state has the power to take actions, in the public interest, without having to pay compensation, even if the interests of individual property owners may be adversely affected.
<b>Foreign direct investment (FDI)</b>	FDI is defined as a cross-border investment in which a resident in one economy (the direct investor) acquires a lasting interest in an enterprise in another economy. The lasting interest implies a long-term relationship between the direct investor and the enterprise and usually gives the direct investor an effective voice in the management of the enterprise. By convention, a direct investment is established when the direct investor has acquired 10 percent or more of the ordinary shares or voting power of an enterprise abroad.
<b>General exceptions</b>	Investment agreements usually include general exceptions, which apply to all Parties to the Agreement and exempt these Parties from the provisions of the Agreement. These exceptions usually refer to measures taken for national security, public order, and international peace and security.
<b>International Centre for Settlement of Investment Disputes (ICSID)</b>	The International Centre for Settlement of Investment Disputes was established in 1966 under the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID Convention). ICSID provides facilities for the conciliation and arbitration of disputes between member countries and investors who qualify as nationals of other member countries. All Contracting States of ICSID are required to recognize and enforce ICSID arbitral awards.
<b>ICSID Additional Facility Rules</b>	Since 1978 the ICSID Secretariat has been administering certain types of proceedings between States and foreign nationals which fall outside the scope of the ICSID Convention. These include conciliation and arbitration proceedings where either the State party or the home State of the foreign national is not a member of ICSID.
<b>Most favored nation treatment (MFN)</b>	This principle contained in trade and investment agreements ensures that there is no discrimination among foreigners. It guarantees that foreign investors and their investments (those of another member country of the trade or investment agreement) are treated no worse than any other foreign investors and their investments.
<b>National treatment</b>	This principle contained in trade and investment agreements ensures that there is no discrimination between foreigners and nationals. It guarantees that foreign investors and their investments (those of another member country of the trade or investment agreement) are treated no worse than domestic investors and their investments
<b>Negative List</b>	Under a negative list approach, all sectors and measures covering investment must be liberalized unless otherwise specified in annexes containing reservations or a list of non-conforming measures.
<b>Non-conforming measures</b>	A non-conforming measure is any law, regulation, procedure, requirement or practice, which violates certain articles of the investment agreement. For example, a law prohibiting an investor of another member country to own a factory does not

	conform with the article on national treatment.
<b>Performance requirements</b>	Are used by countries to influence the behavior of investors. Traditionally, two types of performance requirements have been identified: mandatory performance requirements and incentive-based performance requirements. Mandatory performance requirements are conditions or requirements that are imposed at the pre- and/or post-establishment phases, i.e. for the establishment and/or operation of an investment. Incentive-based performance requirements are conditions that an investor must meet to secure a government subsidy or incentive.
<b>Portfolio investment</b>	It refers to shares, stocks or other forms of equity participation in an enterprise.
<b>Post-establishment</b>	It refers to the operation of an investment. It guarantees that foreign investors and their investments (those of another member country of the trade or investment agreement), once established or admitted, are treated no worse than domestic investors and their investments (national treatment) or any other foreign investors and their investments (most-favored-nation treatment).
<b>Pre-establishment</b>	It refers to the entry of investments and investors of a Party (member country of a trade or investment agreement) into the territory of another Party. Each Party allows investors of other Parties to establish an investment in their territory on terms no less favorable than those that apply to domestic investors (national treatment) or investors from third countries (most-favored-nation treatment). In the case of the provision on performance requirements, pre-establishment refers to the prohibition of imposing certain performance requirements as a condition for the establishment of an investment. Pre-establishment is rarely granted without exceptions since every country has sensitive sectors where foreign investment is not permitted. In fact, members of a trade or investment agreement usually list a number of measures (for example, laws and regulations) or entire sectors where pre-establishment (free entry of investments and investors) does not apply.
<b>Ratchet mechanism</b>	Some trade and investment agreements include this mechanism under which any liberalization measures adopted by a member country cannot be replaced by new measures that are more restrictive.
<b>Reservations</b>	They define any limitations to the commitments of the member countries to the investment agreement. They are specific to each country to a trade or investment agreement, and are taken against a limited number of provisions.
<b>Standstill</b>	Under this principle, member countries in a trade or investment agreement commit themselves to the imposition of the status quo on existing measures and practices which do not conform to a number of obligations such as national treatment and most-favored-nation treatment. Member countries commit themselves not to introduce new legislation that would violate these obligations. Standstill do not apply, however, to any general exceptions (e.g. national security) or to any temporary derogations (e.g. balance-of-payments), or to any exceptions (reservations) for future measures taken by these countries.

<b>Transfers</b>	The provision on transfers set out in several investment agreements guarantees that all payments relating to an investment of an investor of another member country can be transferred in a freely convertible or usable currency at the market rate of exchange prevailing on the date of transfer. In some cases, these agreements allow for limitations or exceptions, such as for balance-of payments problems.
<b>Ad-hoc Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL)</b>	Under the investor-state dispute settlement mechanism, an investor may submit a claim to arbitration under some specific rules of arbitration such as the ad-hoc arbitration rules of the United Nations Commission for International Trade and Law.

#### SAFEGUARDS

TERM	DEFINITION
<b>Adjustment plan</b>	Measures adopted to generate conditions to overcome the lack of competitiveness of a particular industry before the presence of imports. These measures can include, for example, restructuring of a plant, training of employees, acquisition of new technologies, introduction of more efficient production processes, among others.
<b>Compensation</b>	Set of trade benefits (normally market access concessions) granted by the importing country imposing a safeguard measure to an affected exporting country. These benefits are given with a view to offsetting the commercial losses incurred by the exporting country. Normally the benefits granted should have a commercial value equivalent to the commercial losses.
<b>Customs Union</b>	An international association organized to eliminate customs restrictions on goods exchanged between member nations and to establish a uniform tariff policy toward nonmember nations.
<b>Directly competitive good</b>	Directly competitive good means the good which, while not necessarily similar to the one that it is compared with, is essentially equivalent for purposes of trade being put to the same use and being interchangeable with the latter.
<b>Findings of the investigation</b>	In the investigation to determine whether increased imports have caused or are threatening to cause serious injury to a domestic industry, the competent authorities shall evaluate all relevant factors of an objective and quantifiable nature having a bearing on the situation of that industry, in particular, the rate and amount of the increase in imports of the product concerned in absolute and relative terms, the share of the domestic market taken by increased imports, changes in the level of sales, production, productivity, capacity utilization, profits and losses, and employment.
<b>Interested parties</b>	Individuals or organizations that may have an interest in the safeguard measure. These may include; for example: the petitioner; other domestic producers; commercial, trade or business associations in which the majority of the members are producers of the good under investigation; foreign producers; exporters; importers; governments of the exporting or producing parties; and consumers or associations representing them.
<b>Like good</b>	Includes an identical good and one that, although not the same in all aspects, has similar features and composition, which enables it to perform the same functions and to be commercially

	interchangeable with the good it is compared with.
<b>Provisional safeguard measure</b>	Is a provisional measure, normally a tariff, which is imposed on imports to prevent injury to the domestic industry while the issue is under investigation and before a final decision is reached.
<b>Safeguard measure</b>	Border measure, usually of a tariff nature, imposed on a temporary basis on imports of goods that cause or threaten to cause serious injury to a domestic industry that produces like or similar goods. Its objective is to provide time for the affected industry to undergo an adjustment process. It is normally imposed after an investigation in the importing country that seeks to determine whether the serious injury or threat thereof is caused to the industry as a result of sudden imports.
<b>Serious injury</b>	Is a significant overall impairment in the position of a domestic industry. Normally, the following factors are examined in order to determine whether the domestic industry has been seriously injured by imports: share of domestic market taken by increased imports, changes in the levels of sales, production, productivity, capacity utilization, profits and losses, and employment.
<b>Specific safeguard mechanism</b>	A specific safeguard mechanism is a safeguard mechanism which objective is to offer temporary protection to a specific sector of the domestic production; for example: textiles, agriculture, etc.
<b>Substantial supplier</b>	Supplier of a good that exports important quantities of a good on a regular basis. In trade agreements a country may be considered as a substantial supplier if for a specific period of time it has been the territory of origin of a given percentage (for instance 10%) of the total imports of the good subject to a safeguard measure in the importing country.

## SERVICES

TERM	DEFINITION
<b>Classification of service sectors</b>	There are several classification lists that may be used for the purpose of negotiating trade in services. The most common, however, is the one developed by the WTO in GATS w/120 which sets out 155 service sub-sectors in 12 broad sectoral categories. The categories in this list are based on an aggregated version of the United Nations Commodity Product Classification List (CPC). The list can be found at the WTO website under the references "Trade Topics – Services"
<b>Commercial presence (Mode 3)</b>	A mode of service supply or trade where services are supplied through any type of business or professional establishment, i.e. foreign direct investment, of one member of the agreement in the territory of another. An example is the establishment of a branch of a foreign bank or of a franchising outlet in a foreign location.
<b>Consumption abroad (Mode 2)</b>	A mode of service supply or trade where services are supplied in the territory of one member of a trade agreement to the consumers of another. This mode of supply requires that the consumer of

	services move abroad. An example is the traveling abroad to receive: medical treatment or to enroll in an education program.
<b>Cross-border trade in services (Mode 1)</b>	A mode of service supply or trade where services are supplied from the territory of one member of a trade agreement into the territory of another. An example is architectural design services, supplied, by an architect in one country by post or electronic mail to consumers in another country.
<b>Denial of benefits</b>	The right of members to a trade agreement to deny the preferential treatment provided for by the agreement to any non-member. In the case of services, benefits may be denied if it is determined that the service is supplied from the territory of a non member country; or by an enterprise that is not duly constituted or domiciled in a member country; or by an enterprise of a non-member country that does not have substantial business activities or operations in the territory of any member; or by an enterprise that is owned or controlled by persons of a non-member; or by a combination of these conditions.
<b>Domestic regulation</b>	The set of non-discriminatory and non-quantitative regulations that are applied by governments and that may affect foreign and national service suppliers alike once in the market, as well as the ability of foreign service suppliers to enter the market. These consist of measures relating to qualification requirements and procedures, technical standards and licensing requirements, among others.
<b>List of commitments</b>	Under a positive list approach, the list of commitments comprises a national schedule and contains all of the commitments, set out by sector, which a party to a trade agreement has chosen to include.
<b>List of reservations</b>	Under a negative list approach, the list that is found in annexes to a trade agreement and that contains all of the measures that do not conform to the core disciplines of the relevant chapters and that government choose to maintain.
<b>Market access</b>	The set of conditions that allow for foreign exporters of goods or services, or foreign service providers or foreign investors, to access the market of an importing country (member of the trade or investment agreement). In the context of the FTAA, market access covers five main negotiating areas: tariffs for non-agricultural goods, agriculture, services, investment and government procurement. In addition, there is a Negotiating Group on Market Access in the FTAA in which the following six issues are being negotiated: tariffs; non-tariff measures; safeguards; customs procedures; rules of origin; and technical barriers to trade.
<b>Modes of supply in services trade</b>	The means through which services are traded. There are four modes of supply, which include: Cross-border trade (Mode 1), consumption abroad (Mode 2), commercial presence (Mode 3), and temporary movement of natural persons (Mode 4). These modes of supply require the movement of either the service itself (Mode 1), the service consumer (Mode 2) or the service supplier (Modes 3 and 4). For a more detailed explanation, see the definition under each mode of supply in this section.
<b>Most favored nation treatment (MFN)</b>	This principle contained in trade and investment agreements obliges members of a trade agreement to give the most favorable treatment accorded to any of their trading partners, to all the other

	members immediately and unconditionally. It guarantees that foreign services and service providers (from another member country of the trade agreement) are treated no worse than any other foreign service or foreign service provider. (or/ are extended the best treatment that is provided to any other).
<b>National treatment</b>	This principle contained in trade agreements and in services chapters ensures that there is no discrimination between foreigners and nationals. It guarantees that foreign services and service providers (those of another member country of the trade agreement) are treated no less favorably than local services and service providers.
<b>Negative list approach</b>	The comprehensive inclusion of all service sectors, unless otherwise specified in the list of reservations, under the specific disciplines of the services chapter and the general disciplines of the trade agreement. A negative list approach requires that discriminatory measures affecting all included sectors be liberalized unless specific measures are set out in the list of reservations.
<b>Positive list approach</b>	The voluntary inclusion of a designated number of sectors in a national schedule indicating what type of access and what type of treatment for each sector and for each mode of supply a country is prepared to contractually offer service suppliers from other countries.
<b>Right to regulate</b>	The sovereign right of all governments, members to a trade agreement, to introduce regulations for the pursuit of legitimate objectives in order to meet national policy objectives, including those related to the protection and safety of human, animal or plant life or health, or to prevent deceptive and fraudulent practices or to protect privacy of individuals.
<b>Service sectors</b>	Several broad service categories have been defined for the purpose of services trade negotiations at the WTO and used by many countries pursuing services negotiations in other forum. They include the following: business and professional services; communications; construction/ engineering services; transport services; distribution services; educational services; health services; financial services; environmental services; cultural and recreational services.
<b>Temporary movement of natural persons (Mode 4)</b>	A mode of service supply or trade where services are supplied by nationals of one member of a trade agreement in the territory of another, requiring the physical presence of the service provider in the host country. This mode includes both independent service providers as well as employees of the services providers of another member. Examples include consultants, teachers and actors of one country supplying services through their physical presence in a member country, or the managers of a multinational enterprise.
<b>Trade in services</b>	Trade in services involves the exchange or sale of a service within the eleven broad categories subsequently indicated between residents of one country and residents of another country, according to one of the four modes of supply.
<b>Transparency</b>	This principle requires that members of a trade agreement publish or make available national laws, regulations or decrees or any type of administrative act that may affect trade in

	services and foreign service suppliers with respect to the disciplines within the agreement. Transparency obligations in trade agreements may include publication, notification, right to prior comment, explanation upon request of the adoption of laws or regulations, and the provision of information to interested parties upon request.
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#### SUBSIDIES, ANTI-DUMPING AND COUNTERVAILING DUTIES

TERM	DEFINITION
<b>Accumulation</b>	The cumulative assessment of the volume and price effects of imports of the subject merchandise from all countries with respect to which antidumping or countervailing duty petitions were filed if such imports compete with each other and with domestic like products in the export market.
<b>Amount of subsidy</b>	Amount of financial contribution; transfer of funds; or other form of income or price support paid for the manufacture, production, or export of an article.
<b>Antidumping Agreement</b>	Agreement Relating to the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, in Annex 1 A to the WTO Agreement – WTO agreement resulting from the Uruguay Round that implements Article VI of GATT 1994.
<b>Antidumping duty</b>	Duty applied to imports of a particular good from a specified country in order to eliminate the harm being caused by the dumping to the domestic industry of the importing country. Article VI of the GATT 1994 permits the imposition of antidumping duties against dumped goods, equal to the difference between their export price and their normal value, if dumping causes injury to producers of competing
<b>Business Proprietary Information</b>	Information of commercial value, the disclosure of which is likely to have the effect of either impairing the investigator's ability to obtain such information as is necessary to perform its functions, or causing substantial harm to the competitive position of the products in the importing country.
<b>Causal link</b>	Relationship or connection between a cause and an effect. A domestic industry petitioning for an antidumping investigation must provide evidence of a causal link between the dumped imports and the alleged injury.
<b>Circumvention</b>	Measures taken by exporters to evade antidumping or countervailing duties.
<b>Countervailing duty</b>	A special duty levied for the purpose of offsetting any bounty or subsidy bestowed, directly, or indirectly, upon the manufacture, production or export of any merchandise. No WTO member may levy any countervailing duty on the importation of any product of the territory of another unless it determines that the effect of the subsidization is such as to cause or threaten material injury to an established domestic industry, or is such as to retard materially the establishment of a domestic industry.
<b>Countervailing measures</b>	Action taken by the importing country, usually in the form of increased duties to offset subsidies given to producers or exporters in the exporting country. Additional duties imposed by the importing country to offset government subsidies in the



	exporting country when the subsidized imports cause material injury to domestic industry in the importing country.
<b>Definitive duty</b>	The final legal assessment or collection of a duty or tax where the facts as finally established show that there is dumping and injury caused thereby.
<b>Domestic industry</b>	Domestic producers as a whole of the like products or to those of them whose collective output of the products constitutes a major proportion of the total domestic production of those products.
<b>Domestic subsidy</b>	Any act, practice, or measure other than an export subsidy by which a government confers a benefit upon a product and/or enterprise.
<b>Dumping</b>	Introduction of a product into the commerce of another country at less than its normal value, if the export price of the product exported from one country to another is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country. Selling merchandise in another country at a price below the price at which the same merchandise is sold in the home market or selling such merchandise below the costs incurred in production and shipment Dumping occurs when goods are exported at a price less than their normal value, generally meaning they are exported for less than they are sold in the domestic market or third-country markets, or at less than production cost.
<b>Duty deposit</b>	This refers to antidumping duties which must be deposited upon entry of merchandise which is the subject of an antidumping duty order for each manufacturer, producer or exporter equal to the amount by which the foreign market value exceeds the price of the merchandise in the domestic market.
<b>Essential facts</b>	Crucial facts considered and used for the decision to apply, or not, an antidumping measure.
<b>Export subsidy</b>	A subsidy such as those described in the Illustrative List of Export Subsidies of the WTO Agreement on Subsidies and Countervailing Measures.
<b>Final determination</b>	Final decision on an antidumping or subsidy investigation.
<b>Initiation of an investigation</b>	Procedural action by which a WTO member formally commences an antidumping investigation to determine the existence, degree and effect of any alleged dumping.
<b>Injury</b>	Occurs when the effect of the dumping or subsidization, as the case may be, is such as to cause or threaten material injury to an established domestic industry, or is such as to retard materially the establishment of a domestic industry.
<b>Investigating authority</b>	Body in charge of carrying out an antidumping or subsidy investigation.
<b>Investigation</b>	Procedure to determine the existence, degree, and effects of dumping or subsidies.

<b>Lesser duty</b>	A duty which is less than the margin of dumping but adequate to remove the injury to the domestic industry.
<b>Like product</b>	A product which is identical, i.e. alike in all respects to the product under consideration, or in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration.
<b>Margin of dumping</b>	The difference between the comparable price of the like product when exported to an appropriate third country and the cost of production in the country of origin plus a reasonable amount for administrative, selling and general costs and for profits.
<b>Normal course of trade</b>	Sales made in the course of normal operations.
<b>Normal value</b>	The price at which merchandise is sold or offered for sale in the principal markets of the country from which it is exported.
<b>Preliminary investigation</b>	Initial procedure to determine the existence, degree, and effects of dumping or subsidization.
<b>Price undertaking</b>	Undertaking by an exporter to raise the export price of the product to avoid the possibility of an antidumping duty.
<b>Prospective</b>	Effective or operative in the future.
<b>Provisional duty</b>	Provisionally applied as opposed to definitive duty.
<b>Public interest</b>	The general welfare of the public that warrants recognition and protection.
<b>Constructed/ Reconstructed value</b>	A means of determining fair or foreign market value when sales of such or similar merchandise do not exist or, for various reasons, cannot be used for comparison purposes. The "constructed value" consists of the cost of materials and fabrication or other processing employed in producing the merchandise, general expenses of not less than 10 percent of material and fabrication costs, and profit of not less than 8 percent of the sum of the production costs and general expenses. To this amount is added the cost of packing for exportation to the export market.
<b>Relevant market</b>	The relevant market is determined on the basis of first establishing the relevant product market and geographic market. The relevant product market comprises all the products and/or services that the consumer and/or user consider to be interchangeable or substitutable by reason of their characteristics, price or intended use. The relevant geographic market comprises all areas in which competitors in the relevant product market compete with each other in the sale or purchase of products under equal competition conditions. Geographic areas in which the competition conditions are significantly different are not taken into account in determining the relevant geographic market.
<b>Retrospective</b>	Taking effect from a date in the past.
<b>Review</b>	Review of rights and obligations that might be initiated by the

<b>determination</b>	investigating authority.
<b>Subsidy</b>	An export subsidy is a benefit conferred on a firm by the government that is contingent on exports. A domestic subsidy is a benefit not directly linked to exports.
<b>Subsidies Agreement</b>	Agreement on Subsidies and Countervailing Measures in Annex 1 a to the WTO Agreement (also known as SCM Agreement) - The Agreement on Subsidies and Countervailing Measures is intended to build on the Agreement on Interpretation and Application of Articles VI, XVI and XXIII which was negotiated in the Tokyo Round.
<b>Sunset review</b>	Procedure under which an antidumping or countervailing duty automatically terminates at the end of a fixed period unless it is formally renewed.
<b>Verification schedule</b>	A timetable for the verification of documents by the investigative authority.
<b>Weighted average</b>	The percentage determined by dividing the aggregate dumping margins determined for a specific exporter or producer by the aggregate export prices and constructed export prices of such exporter or producer.
<b>Zeroing</b>	In a comparison of the weighted average normal value with the weighted average of prices of comparable export transactions for the product under an antidumping investigation, the practice of assigning a zero margin to a negative dumping margin (when the export price is above the normal price) found for any export transaction.

#### TARIFFS AND NON TARIFF MEASURES

TERM	DEFINITION
<b>Ad valorem tariff</b>	A tariff which is imposed in percentage terms over the value of the good. For example, a 5% tariff, which means that the import tariff is 5% of the appraised value of the good in question.
<b>Ad valorem equivalent</b>	When a tariff is fixed in specific or mixed terms, usually an "ad valorem equivalent" of the non ad valorem portion of the duty is calculated for reference purposes. There are several formulas for estimating the AVEs. One common approach is based on MFN trade dividing duties collected by Customs value.
<b>Drawback procedure</b>	Customs procedure which, when goods are exported, provides for a repayment (total or partial) to be made in respect of the import duties and taxes charged on the goods, or on materials contained in them or consumed in their production.
<b>Duty-free shop</b>	Duty-free shop is a licensed warehouse that has obtained permission from the government to make sales free of customs duty, domestic taxes and excises, to persons traveling out of the country. Most of these shops are located in ports, airports, and international borders. There are normally two categories of duty-free shops, 'outwards' duty-free shops and 'inwards' duty-free shops. 'Outwards' duty-free shops are allowed to sell tax-free items to individuals departing a country. 'Inwards' duty-free shops are located within international airport terminals between the disembarkation gates and the customs processing

	areas. These shops can only sell duty and tax-free goods to arriving passengers. They are limited in the range of items that they can sell. Similarly, passengers are constrained in the amount of certain goods they can purchase.
<b>Duty deferral program</b>	Any import scheme which includes provisions for the deferral in the payment of import duties such as those governing free zones, temporary importations under bond, bonded warehouses, "maquiladoras", and inward processing programs.
<b>Export processing zone</b>	A clearly delineated industrial estate which constitutes a free trade enclave in the customs and trade regime of a country, and where foreign and local manufacturing firms producing mainly for export benefit from a certain number of fiscal and financial incentives.
<b>Harmonized Commodity Description and Coding System</b>	Harmonized Commodity Description and Coding System, generally referred to as "Harmonized System" or simply "HS", is a multipurpose international product nomenclature developed by the World Customs Organization (WCO). It comprises about 5,000 commodity groups, each identified by a six digit code, arranged in a legal and logical structure and is supported by well-defined rules to achieve uniform classification. The system is used by more than 177 countries and economies as a basis for their Customs tariffs and for the collection of international trade statistics. The Harmonized System is governed by "The International Convention on the Harmonized Commodity Description and Coding System".
<b>Import licensing</b>	Administrative procedures requiring the submission of an application or other documentation (other than those required for customs purposes) to the relevant administrative body as a prior condition for importation of goods. WTO Agreement on Import Licensing Procedures.
<b>Mixed tariff</b>	A tariff which combines ad valorem and specific tariffs.
<b>National treatment</b>	Legal provision that seeks to avoid discrimination and protectionism in the application of internal tax and regulatory measures. It normally states that, once imports have entered the territory of an importing country, 1) internal taxes must be applied equally to imports and the like domestic production, and 2) national regulations must not treat imports "less favorably" than similar domestic production.
<b>Non-tariff barriers</b>	Non-tariff measures that have a protectionist impact. Examples: quotas, tariff-rate quotas, licensing regimes, price bands.
<b>Non-tariff measures</b>	All measures imposed on trade flows that are not tariff measures. Some of these measures may constitute non-tariff barriers.
<b>Performance requirements</b>	A legal requirement imposed on producers of goods and/or services, which impose on them certain obligations. For instance, some trade agreements include the following performance requirements, among others: (i) that a given level or percentage of goods or services be exported; (ii) that domestic goods or services of the producing country granting a waiver of customs duties be substituted for imported goods or services; (iii) that a person benefiting from a waiver of customs duties purchase other goods or services in the territory of the producing country granting the waiver or accord a preference to

	domestically produced goods or services; (iv) that a person benefiting from a waiver of customs duties produce goods or provide services, in the territory of the producing country granting the waiver, with a given level or percentage of domestic content; or (v) a requirement that relates in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows.
<b>Specific tariff</b>	A tariff which is imposed in terms of specific monetary charges per unit or quantity of the imported good. For instance, \$100 per metric ton of a given good.
<b>Tariff-rate quota/ Tariff-quota</b>	A trade protection system by which a lower tariff rate is imposed on imports of specified quantities of a given product, and higher rates are imposed on imports that exceed those quantities. The size of the quota is normally defined by the government on a periodical basis, for instance, annually.
<b>Voluntary export restraint</b>	A measure adopted by an exporting country by which it voluntarily agrees to limit the volume or value of exports of a given product to a particular importing country.

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