



Government of the People's Republic of Bangladesh

WTO Cell, Ministry of Commerce

Bangladesh Regional Connectivity Project-1

Probashi Kollayan Bhaban

Eskaton Garden, Dhaka-1000



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Conducting 03 Studies Suggested by NTTFC under Bangladesh Regional Connectivity Project-1

Review of Policy, Laws and Regulations Governing Border Management and Operations in Bangladesh



March 2020

Government of the People's Republic of Bangladesh

WTO Cell, Ministry of Commerce

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**Level-12, Probashi Kollayan Bhaban,
Eskaton Garden, Dhaka-1000, Bangladesh**

**STUDY ON
REVIEW OF POLICY, LAWS AND REGULATIONS GOVERNING BORDER
MANAGEMENT AND OPERATIONS IN BANGLADESH**

SUBMITTED TO:

Project Director

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4.	Dr. M M Amir Hossain	Consultant & Managing Director
5.	Md. Mahabub Alam	Study Coordinator & Data Analyst

PREFACE

This Final Report intends to respond to the requirement of the client according to the provision of contract agreement signed between Bangladesh Regional Connectivity Project -1 (BRCP 1) and Development Technical Consultant Pvt. Ltd. (DTCL) for conducting the **“03 Studies Suggested by NTTFC under The Bangladesh Regional Connectivity Project-1”**. implementing in Bangladesh by WTO Cell, Ministry of Commerce, GoB. The study consists of Current Status of Coordination and Collaboration among Border Agencies in Bangladesh, bilateral cooperation between neighboring countries and multinational cooperation. It also analyzed the Best Practices of Regional Countries adapted to Facilitate Better Border Management, Existing legal, regulatory and policy frameworks, International/ Regional ‘Law and Policy’ Good Practices, Legislative, Administrative and Policy Reforms Required. Finally, the study examined the Current Status of Bangladesh in Implementation of the TFA, Identify and Analyze the Status and Best Practice of Regional Countries in Implementation of TFA and on the basis of findings recommendations were determined.

Consultancy services for conducting the **“03 Studies Suggested by NTTFC under The Bangladesh Regional Connectivity Project-1”**. was provided by the Development Technical Consultants Pvt. Ltd. (DTCL), Bangladesh. The study team consists of three senior level experts including field and office level support staffs. The major objective of the study is to obtain a snapshot assessment of the current status of coordination and collaboration mechanism among different border land port agencies and to provide recommendations to establish an effective and efficient coordinating border management system in Bangladesh. Moreover, the study also aims to review and identify gaps of existing policy, legal and regulatory regime-national and international relating to Bangladesh’s cross border Trade and trade facilitation.

The Final Report includes study design, sampling framework and data collection instruments and data collection methods, data management and entry and data analysis and study findings.

Zinat Ara

Project Director (Joint Secretary)
Bangladesh Regional Connectivity Project-1
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ACKNOWLEDGEMENTS

It is indeed a great honor for us that Bangladesh Regional Connectivity Project 1 (BRCP-1) , Ministry of Commerce has entrusted Development Technical Consultant Pvt. Ltd. (DTCL) to carry out the “**03 Studies Suggested by NTTFC under The Bangladesh Regional Connectivity Project-1**”. The final report of the Study has been prepared based on a validation Workshop held on 19 March 2020. The Studies are i) Review of Collaborative Border Management institutional mechanism for Co-coordinating across Sectors/ Ministries and across countries; ii) Analysis of Law and Regulations governing border operation; iii) How comparable countries are addressing implementation of TFA.

The 03 Studies contains objective, scope and methodology of the Studies, current status Co-ordination and collaboration among border agencies in Bangladesh, existing legal, regulatory and policy framework and reforms required, current Statues of Bangladesh in implementation of the TFA. The consultants also described the best practices of Regional Countries adapted to facilitate Better Border Management and TFA implementation. At the end they analyzed the findings from the three studies and recommended to implement the suggestions.

The principal author is Md. Munir Chowdhury, Lead Consultant cum Team Leader with inputs from Md. Shafiqul Islam, Consultant & Trade Specialist; Dr. Rana Sattar, Consultant & Legal Specialist, Statistician, Data Analyst and other enumerators and field surveyors of the study team. Project Director of the BRCP-1 Mrs. Zinat Ara , PIU Coordinator, WTO Cell as well as other officials of the Ministry of Commerce, NBR, Land port Authority who provided their extended supports and gave us an opportunity to complete Study. We are thankful to all of them for their valuable cooperation and suggestions. The active support of Dr. M. M. Amir Hossain, Managing Director, DTCL; Mr. Habibur Rahman, Director, DTCL and Mr. Md. Mahabub Alam, Study Coordinator of Mid-Term Impact Study and Senior Manager of DTCL during data collection and monitoring activities are also acknowledged with thanks.

Md. Munir Chowdhury

Lead Consultant & Team Leader

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ACRONYMS

ASEAN	Association of South East Asian Nations
AEO	Authorize Economic Operator
ASYCUDA	Automated System for Custom Data
BBS	Bangladesh Bureau of Statistics
BLP	Bangladesh Land Port Authority
BRCP	Bangladesh Regional Connectivity Project
C&F	Clearing & Forwarding Agent
CCI&F	Chief Controller of Import & Export
CPA	Chittagong Port authority
CB	Capacity building
DTIS	Diagnostic Trade Integration Studies
DAE	Department of Agricultural Extension
DDR4	Double Data Rate Type 4
DCIs	Data Collection Instruments
DPP	Development Project Proforma
DTCL	Development Technical Consultants Limited
EPB	Export Promotion bureau
EPZ	Export Processing Zone
EU	European Union
FBCCI	Federation of Bangladesh Chamber of Commerce & Industries
FGD	Focus Group Discussion
FPC	Finite Population Correction
GDP	Gross Domestic Production
ICP	Integrated Check Post
ICD	Inland Container Depot
IPO	Import policy Order
IDA	International Development Association
IFC	International Finance Corporation
ICC	International Chamber of Commerce
ITC	International Trade Commission
KII	Key Informant Interview
LCS	Land Custom Station
LPI	Logistic Performance Index
LDC	Least Development Country
MOC	Ministry of Commerce
MOS	Ministry of Shipping
MOH	Ministry of Health
MoFA	Ministry of Foreign Affairs
M&E	Monitoring and Evaluation
MoA	Ministry of Agriculture
MRA	Mutual Recognition Agreement

MVA	Motor Vehicle Framework agreement
NBR	National Board of Revenue
NSW	National Single Window
NTTFC	National Trade and Transport Facilitation Committee
NEP	National Enquiry Point
NGO	Non-Government Organization
NTB	Non-Tariff Barrier
NTM	Non-Tariff Measures
OGA	Other Government Agency
OECD	Organization for Economic Development and Cooperation
PSI	Pre-Shipment Inspection
PRA	Participatory Rural Appraisal
PCs	Public Consultations
PIWTT	Protocol on Inland Water Transit and Trade
PIU	Project Implementation Unit
RMG	Ready-Made Garment
QCBS	Quality and Cost Based Selection
QAQC	Quality Assurance and Quality Control
RTA	Regional Trade Agreement
R&HD	Roads and Highway Department
SAFTA	South Asian Free Trade Area
SPS	Sanitary and Phyto-Sanitary
SME	Small and Medium Enterprises
SPSS	Statistical Package for the Social Science
SWOT	Strength. Weakness, Opportunity and Treats
SCM	Supply Chain Management
USAID	United States Agency For International Development
TBT	Technical Barrier on Trade
TQM	Total Quality Management
TAPP	Technical Assistance Project Proposal
TFA	Trade Facilitation Agreement
TOR	Terms of Reference
TIR	Transport International Route
TEU	Twenty Feet Equivalent Unit
TTF	Transport and Trade Facilitation
WTO	World Trade Organization
WB	World Bank
WCO	World Custom Organization

EXECUTIVE SUMMARY

Bangladesh economy aims at becoming a higher Middle-Income Country from a Developing Country (LDC) achieve the SDGs by 2030, graduate to Upper Middle-Income Country by 2031 and become a Developed Economy by 2041. Bangladesh's recent eight steps progress in the Doing Business Index of the World Bank is the direct outcome of government's business reforms initiatives. However, a complementary way of performing better would be proper implementation of an updated, adapted and contextualized policy and regulatory framework relating to international trade in Bangladesh, including specifically the WTO's Trade Facilitation Agreement (TFA) ratified by Bangladesh in September 2016. In order to achieve the goal of trade facilitation, there is a need to make trade across borders (imports and exports) faster, cheaper and more predictable, whilst ensuring its safety and security. In terms of focus, it is about simplifying and harmonizing formalities, procedures, and the related exchange of information and documents among various partners in the supply chain.

A number of short, medium and long-term policies, rules, regulations, acts and orders are in operation in Bangladesh to regulate the country's international trade. In general, different trade related activities have been carried out under the common understanding between different ministries and departments as per rules and regulations. Besides, a number of bilateral, regional and international agreements, standards and norms regulate the legal and policy regime in relation to the country's cross-border trade management, promotions and services. At regional level, Bangladesh is a member of South Asian Free Trade Area (SAFTA) and the Asia Pacific Trade Agreement (APTA). Bangladesh also participates in the Bay of Bengal Initiative for Multi Sectoral Technical and Economic Cooperation (BIMSTEC). Bangladesh is active in supporting and strengthening the multilateral trading system, and its leading role among least developed countries in the WTO, addressing their specific needs and concerns, is well appreciated.

To ensure international best practices for facilitating trade, Bangladesh Customs has initiated the implementation of a new Customs website, systematic PCA environment, Advance Ruling, National Enquiry Point (NEP), Authorized Economic Operator (AEO), Systematic Risk Management environment, Expedited shipments, enforcement of de minimis, Pre-arrival Processing (PAP), Advance Passenger Information (API)/Passenger Name Record (PNR), Modernizing customs intelligence mechanism, Time Release Study, National Single Window (NSW), etc. In addition, necessary changes have been made in the Customs Act to accommodate these measures. Moreover, in line with the provision of RKC and TFA, the preparation of a new Customs Act is in progress.

Bangladesh trade sector has been facing many constraints and challenges. These include, among others, cost of doing business is comparatively high, narrow export basket, dependence on a very few markets, lack of supply-side capacity, poor infrastructure, lack of appropriate compliant capability, weak institutional and human capacity, difficulties in implementation of relevant policies, rules and regulations originating from their non-binding nature (e.g. Export Policy, Industrial Policy); lack of coordination and interlinkage between relevant policies and

agencies to address interwoven aspects of export and import; rooms for discrepancies, difference of priorities and/or focus; weaknesses in the use of trade policy tools for the development of domestic market-oriented and import-substituting industries; lack of transparency, awareness, knowledge, expertise and experience of relevant regulatory frameworks or being part of FTAs; and lack of initiatives towards strengthening institutional capacities in the areas of trade diplomacy and trade-promoting bodies.

It is thus of great essence that export, import, customs related Laws, rules and regulations are harmonized with regional trade partners; comprehensive Trade Policy is required specifically addressing unique issues related to land port trading; better coordination among various components of the macro-economic policies are also important to pursue strategic trade policy effectively; and that various policy instruments are deployed in fiscal, monetary and exchange rate arena are better coordinated with those of the trade policy.

While Bangladesh's initial trade reforms focused mostly on trade liberalization, the reduction of import duties, the rationalization of tariffs, the promotion of exports, and removal of visible trade barriers, it has become clear that Bangladesh would have to take significant strides to carve a more pronounced place for itself in the global trade community.

It has been highlighted in the report that there have been some remarkable initiatives to improve trade facilitation in Bangladesh and achieve specific components of the TFA such as the establishment of the NTTFC, implementation of advance ruling, and launch of the NBR's Customs Portal and Ministry of Commerce's NTP. The enactment of the new Customs Act (drafted in 2018) will be another milestone. Other efforts, such as implementation of the NSW, are in progress. Broadly, it can be said that Bangladesh Customs has taken initiatives to facilitate trade by adopting modernization activities. Other departments have been endeavoring to do the same. The importance of trade facilitation is now well recognized among officials and within the relevant government agencies. It is important to note that the NTTFC can frame policies, provide directives, recommend changes in the terms of references of the agencies, set their roles and responsibilities, and establish a mechanism for monitoring and supervising activities.

Although the use of trade facilitation measures for tackling trade bottlenecks has gained traction in recent times, one aspect which remains largely unexplored is the importance of gender sensitivity in trade facilitation. In Bangladesh, however, not much attention has been given to understand the gender impact of services involved in trade facilitation like customs and border management, logistic services, trade infrastructure and transportation. The practice of employing gender differentiated filters on trade policies, port-level procedures, infrastructure planning, and design of trade promotion programs is still far from adequate. The study found that there are very few facilities for woman entrepreneur only in the Benapole border.

It is thus particularly emphasized in the findings and recommendations that proper implementation of the TFA requires particular focus on harmonizing export, import and customs related policies, laws, rules and regulations with regional trade partners as well as standards and guidelines developed at the global levels. To this end, a comprehensive Trade Policy is of

essence that specifically addresses unique issues related to land port trading. Equally important is a regulatory and procedural framework (such as SOP) for better coordination among various components of the macro-economic policies that are considered necessary to pursue and sustain strategic trade policies effectively. Various policy instruments deployed in fiscal, monetary and exchange rate arena ought to be better coordinated with those of the trade policy.

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It is thus of great essence that export, import, customs related Laws, rules and regulations are harmonized with regional trade partners; comprehensive Trade Policy is required specifically addressing unique issues related to land port trading; better coordination among various components of the macro-economic policies are also important to pursue strategic trade policy effectively; and that various policy instruments are deployed in fiscal, monetary and exchange rate arena are better coordinated with those of the trade policy.

While Bangladesh's initial trade reforms focused mostly on trade liberalization, the reduction of import duties, the rationalization of tariffs, the promotion of exports, and removal of visible trade barriers, it has become clear that Bangladesh would have to take significant strides to carve a more pronounced place for itself in the global trade community.

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Although the use of trade facilitation measures for tackling trade bottlenecks has gained traction in recent times, one aspect which remains largely unexplored is the importance of gender sensitivity in trade facilitation. In Bangladesh, however, not much attention has been given to understand the gender impact of services involved in trade facilitation like customs and border management, logistic services, trade infrastructure and transportation. The practice of employing gender differentiated filters on trade policies, port-level procedures, infrastructure planning, and design of trade promotion programs is still far from adequate. The study found that there are very few facilities for woman entrepreneur only in the Benapole border.

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CHAPTER-1

INTRODUCTION

1.1 Background and Contexts

Bangladesh attaches great importance to trade as an engine of growth. Importance of trade in her economy is progressively increasing. Trade has been directly contributing to over-all development of the country. Trade is not only increasing business activities, it is also generating employment opportunities for millions, attracting foreign investment, creating opportunities for international exposures of the country's businessmen and entrepreneurs. The vision and objectives is to become a higher middle-income country, achieve the SDGs by 2030, graduate to upper middle income country by 2031 and become a developed economy by 2041. The World Bank declared Bangladesh as a Lower Middle Income Country from a Lower Income Country in 2015 on the basis of per capita GDP. Within three years, in 2018 the United Nations has primarily declared Bangladesh as a Developing Country (The final declaration would be in 2024). Committee for Development Policy (CDP) of the UN declared Bangladesh unanimously as primarily competent to be graduated as a developing country. Bangladesh now explore the positive aspects of her economy, new horizon of FDIs would open up. The main trade related challenges regarding LDC graduation could emanate from the loss of preferences and reduced flexibilities in the implementation of WTO agreements. Upon graduation Bangladesh would have to bring its laws into conformity with WTO agreements in the areas including subsidies, patent protection, notification, SPS & TBT, TFA etc.

In the past, Bangladesh needed to adopt a controlled trade regime particularly for scarcity of foreign currency. Afterwards, Government started liberalizing its economy as well as trading system keeping consistency with the global system under GATT. Given highest priority to trade, Government facilitates exports and at the same time encourages uninterrupted imports of food and essential items, raw materials and capital machineries. In order to liberalize trade regime, various reform measures have been carried out, such as Abolition of import licensing system, withdrawal of all sorts of import restrictions, gradual reduction of tariffs (in 1993-94, maximum tariff was 300%, now it came down to 25%), many other procedural reforms/changes towards liberalization, various incentive packages and policy supports for encouraging exports.

According to Doing Business Report 2020 of the World Bank, Bangladesh ranked 168th against its last year position of 176th.¹ Bangladesh's progress in Doing Business ranking is the direct outcome of government's business reforms initiatives coordinated by the Private Sector Development Policy Coordination Committee (PSDPCC), Bangladesh Investment Development Authority (BIDA) and other relevant ministries and agencies under direct supervision of the Honorable Prime Minister's Office. In fact, this eight steps progress of the country is treated as the first step towards her further and continued progress. A complementary way of performing better in Doing Business Index would be proper implementation of an updated, adapted and contextualized policy and regulatory framework relating to international trade in Bangladesh, including specifically the WTO Trade Facilitation Agreement (TFA).

The term 'Trade Facilitation' could be defined in various ways. Researchers and policymakers around the world are defining it from two major aspects i.e. the "broader" aspects and a "narrower" aspect. The broader aspect is associated with the Asia-Pacific Economic Cooperation (APEC), where Trade Facilitation was conceptualized as the full range of policies other than reductions in tariffs that could lower internationally trade costs. The narrower aspect is typically focused on administrative procedures at the border, involving customs, immigration and other agencies

¹ The Independent, Editorial, and 2 December, 2019 (Ease of doing business through implementation of WTO Trade Facilitation Agreement: The reduced bureaucratic complexity and corruption is also expected to lower average time to import, Md. Joyanal Abdin).

involved in clearance and movement of goods and services. However, the current study focuses on the legal and regulatory frameworks, local as well as regional and international, encompassing cross-border trade and trade facilitation through the land ports in Bangladesh.

A land port, often also referred to as a 'dry port', inland port or multimodal logistics center, is an inland terminal connected to a seaport by rail or road.² It serves as a transshipment point in the transport of export/import goods. A land port is also employed to relieve a major seaport of some work load and congestion. It consists of facilities like container yards, warehouses, railway sidings, cargo-handling equipment, and administrative services for export and import clearances.

1.2 WTO Trade Facilitation Agreement (TFA)

To reduce the bureaucratic red-tapes for smooth movement of goods across the borders, the Trade Facilitation Agreement (TFA), finalized in December 2013, is the newest international trade agreement in the World Trade Organization (WTO), having entered into force on February 22, 2017 in Bali, when two-thirds of WTO members ratified the multilateral agreement.³ As of March 2017, 113 members (or 69 percent of WTO members) have ratified the agreement-including 19 Latin American and Caribbean (LAC) countries-and another 93 countries have notified the WTO of their timeline for each TFA provision, giving a comprehensive picture of the state of the agreement.⁴

Realizing the importance of the agreement, Bangladesh has ratified the TFA on September 27, 2016, and commenced the implementation of the requirements of the agreement accordingly.

*With the trade facilitation agreement WTO Members aim:*⁵

- to “expedite the movement, release and clearance of goods, including goods in transit;”
- to facilitate “effective cooperation among Members on trade facilitation and customs compliance issues;” and
- To enhance “assistance and support for capacity building” for developing and least developed country Members.

The Agreement has three sections, as follows:

Section I contains the substantive provisions, grouped in 12 Articles covering the following areas:

- Publication and availability of information;
- Opportunity to comment, information before entry into force, and consultation;
- Advance rulings;
- Appeal and review procedures;
- Other measures to enhance impartiality, non-discrimination and transparency;
- Disciplines on fees and charges imposed on or in connection with importation and exportation;
- Release and clearance of goods;
- Border Agency Cooperation;

²Violeta Roso* and Kent Lumsden, The Dry Port Concept: Moving Seaport Activities Inland?, Transport and Communications Bulletin for Asia and the Pacific No. 78, 2009, 87-101; also, Andrius Jaržemskis & Aidas Vasilis Vasiliauskas (2007) Research on dry port concept as intermodal node, Transport, 22:3, 207-213.

³WTO Trade Facilitation Agreement, World Customs Organization: URL:

<http://www.wcoomd.org/en/topics/wco-implementing-the-wto-atf/wto-agreement-on-trade-facilitation.aspx>

⁴⁴Antoni Esteveordal, Why trade facilitation matters now more than ever: Brookings (April 5, 2017). URL: <https://www.brookings.edu/research/why-trade-facilitation-matters-now-more-than-ever/>

⁵ WTO Agreement on Trade Facilitation, Trade Facilitation Implementation Guide, and URL: A free trade agreement (FTA) is a pact between two or more nations to reduce barriers to imports and exports among them. Under a free trade policy, goods and services can be bought and sold across international borders with little or no government tariffs, quotas, subsidies, or prohibitions to inhibit their exchange.⁵

http://tfig.unece.org/contents/WTO_Agreement.htm (retrieved on 9 Feb 2020).

- Movement of Goods under Customs Control intended for import;
- Formalities connected with importation and exportation and transit;
- Freedom of Transit; and
- Customs Cooperation.

Section II includes the provisions on special and differential treatment for developing and least-developed country members, as well as the provision of technical assistance and capacity building.

Section III contains institutional arrangements and final provisions, covering the relationship with the other WTO Agreements, the accession process of Members to the Agreement after entry into force, the WTO Committee on Trade Facilitation, and national trade facilitation committees to be established in all WTO Members.

1.3 Current Status of TFA Implementation

A free trade agreement (FTA) is a pact between two or more nations to reduce barriers to imports and exports among them. Under a free trade policy, goods and services can be bought and sold across international borders with little or no government tariffs, quotas, subsidies, or prohibitions to inhibit their exchange.⁶

The TFA is unique in that it allows developing and least-developed countries to set their own timetables for implementing the TFA depending on their capacities to do so. A Trade Facilitation Agreement Facility (TFAF) was created at the request of developing and least-developed countries to help ensure they receive the assistance needed to reap the full benefits of the TFA and to support the ultimate goal of full implementation of the new agreement by all members.⁷ Developed members, on the other hand, are committed to implementing the TFA since 22nd February 2017. All other members have been provided with following three categories to allocate their measures to:

- Category A:* Developing members are committed to implement it from the first day of enforcement i.e. 22nd February 2017 and least-developed members will do the same a year later i.e. from 22nd February 2018.
- Category B:* Members will require additional time to implement the measure.
- Category C:* Members will require additional time and capacity building support to implement the measure.

A total of 114 member countries of the WTO have notified some measures under category A, 73 members have notified under category B and 63 of them have notified some measures under category C. Bangladesh has notified as a Category C country.

From the TFA's notification status it is clear that more than half of the members have notified that additional time is required or capacity building support is required to implement some of the measures. The majority of the members that require support are either developing or least-developed members, since developed WTO members have a 100 percent implementation rate while developing economies have a rate of 60.6 percent and least-developed members have an implementation rate of only 22.8 percent.

None of the member states have 100 per cent implementation record of the TFA To-date. till now developed countries like Australia, Canada, New Zealand and Japan implemented about 80 per cent obligations, some developing countries like Chile, China, Korea, Mexico, Peru, Singapore and Thailand also implemented the same around 60 percent to 80 per cent. Implementation of

⁶ The concept of free trade is the opposite of trade protectionism or economic isolationism. See, Adam Barone (Reviewed By Gordon Scott), Free Trade Agreement (FTA), Investopedia (Updated Jan 29, 2020), URL: <https://www.investopedia.com/terms/f/free-trade.asp> (retrieved on 08.02.2020).

⁷ Further information on TFAF is available at www.TFAFacility.org

TFA reduced trade cost round 9 per cent to 12 per cent in the developing countries.⁸

Considerable indicators of TFA implementation are the following:⁹

1. Availability of Information both web-based and other forms of publications about customs and border related rules and procedures, including transparency mechanism;
2. Involvement of the trade community e.g. businesses with relevant government agencies to ensure their inputs in design and operation of border-related policies and procedures;
3. Advance rulings i.e. prior statements by the customs administration to requesting traders concerning the classification, origin, valuation method, etc., applied to specific goods at the time of importation;
4. Appeal procedures i.e. number of basic characteristics of the appeal system, such as, transparency, fairness, accessibility, timeliness, and effectiveness of the applicable rules and outcomes;
5. Applicable fees and charges on export and import have to be publicly available;
6. Import-Export formalities, harmonization and simplification of relevant documentation process;
7. Automation of borders, electronic interchanges of documents and application of risk management procedures;
8. Reducing procedures through implementation of single windows, pre-arrival processing, physical inspections, post-clearance audits etc.;
9. Proper cooperation between (local) agencies, control delegation, and regular meetings held at the national level;
10. Proper cooperation between (neighboring / international) agencies to alignment of work hours, alignment of procedures and formalities, development and sharing of common facilities, and joint controls with bordering and third economies;
11. Capsularization of transaction requirements;
12. Governance and impartiality i.e. good governance characteristics, including clearly established and transparent structures and functions, the existence of a Code of Conduct and an ethics policy, internal audits, and transparent provisions for financing and for internal sanctions in the customs administration;
13. Transit fees and charges have to be publicly available;
14. Transit formalities and documentation, transit infrastructure, single windows for transit trade, pre-arrival processing for transit trade, physical inspection;
15. Transit guarantees requirement, amount of guarantee, whether or not supported by some form of agreement, timeliness and full release of guarantee, and use of convoys;
16. Existence of bilateral or multilateral agreements supporting transit trade, simplification of documentation, and cooperation between agencies of the economies involved.

⁸Implementation Notifications, TFA Database (WTO):

URL: <https://tfadatabase.org/notifications/implementation>

⁹ The Independent, Editorial, 2 December, 2019: "Ease of doing business through implementation of WTO Trade Facilitation Agreement", Md. Joynal Abdin).

1.4 TFA Implementation Initiatives in Bangladesh:¹⁰

- Bangladesh has already been pursuing liberalized trade regime. All rules, regulations and statutory orders related to trade facilitation are published and made available in the website;
- Import licensing system was abolished back in 1985 for all products other than the products requiring special import permit for health, environment and other reasons;
- Number of pre-clearance signatures has gone down to 5 from 25, and export clearance time for 95% of consignments have been reduced from 72 hours in 1999 to 3 hours now and Customs is trying to further reduce the procedure and release time by automation;
- ASYCUDA World¹¹ has been put in all major Custom stations in Bangladesh;
- In 2009, Customs installed four container scanners at the Chittagong port to detect contraband/illegal shipments and weapons, aimed at ensuring security while facilitating legitimate trade. Money for another six such scanners has already been sanctioned;
- A selectivity system for risk management has also been implemented by Customs;
- Chittagong Port Authority has introduced container management system (CTMS), which has facilitated automation of import operations;
- National Board of Revenue (NBR) adopted the Customs Modernization Strategic Action Plan 2019-2022 (building upon the previous Plan of 2014-2017) to initiate reforms in key Customs areas and processes;
- Draft SOP (Standard Operating Procedure) on RM (Risk Management) is being formulated by the NBR;¹²
- A *Bangladesh Trade Portal* has been launched; hosted by the Ministry of Commerce, the portal provides an accessible, logical, helpful window for traders to access important regulatory and procedural information needed to export and import;
- A dedicated *Customs Portal*, hosted by the NBR, provides easy access to Customs information, procedures, forms and documents;
- A post-audit system is also under development to verify the accuracy of green channel and yellow channel clearances;
- The Government plans to extend the system to include both imports and exports at all customs offices;
- A PCA Manual is being formulated for transaction-based audits;
- A pilot on system-based audit will be made at Chittagong Customs;
- Draft of the new Customs Act has been approved in principle by the Cabinet, and will soon be placed in the National Parliament for approval;
- The process of implementation of Authorized Economic Operators (AEO) has begun. Pharmaceutical sector has been chosen for the pilot program. Criteria and Benefits are currently being worked out;
- Time Release Studies (TRS) of Chittagong Port and Benapole Port was conducted in 2013 and 2014, respectively;
- Modernization activities under SASEC are ongoing;¹³
- As per discussion of BIMSTEC Goa Declaration at 8th BRICS Summit, it was decided to

¹⁰ Implementation Status of Bangladesh Towards Paperless Trade Facilitation: National Challenges and Issues: Bangladesh Foreign Trade Institute (BFTI).

URL: https://www.unescap.org/sites/default/files/4_Implementation%20status%20of%20Bangladesh.pdf (retrieved on: 09 Feb 2020).

¹¹ The UNCTAD Automated System for Customs Data (ASYCUDA) is an integrated customs management system for international trade and transport operations in a modern automated environment. United Nations Conference on Trade and Development: URL: <https://unctad.org/en/Pages/DTL/TTL/ASYCUDA-Programme.aspx>

¹² Customs Modernization Strategic Action Plan: 2019-2022 (NBR, 2019).

¹³ The South Asia Sub-Regional Economic Cooperation (SASEC) program brings together Bangladesh, Bhutan, India, Maldives, Myanmar, Nepal, and Sri Lanka in a project-based partnership that aims to promote regional prosperity, improve economic opportunities, and build a better quality of life for the people of the sub-region. SASEC countries share a common vision of boosting intraregional trade and cooperation in South Asia, while also developing connectivity and trade with Southeast Asia through Myanmar, to the People's Republic of China, and the global market. ADB, 2020.

expedite BIMSTEC Agreement as well as to draft separate Trade Facilitation Agreements under BIMSTEC;

- Bangladesh, as the host country of 21 BIMSTEC TNC meeting, is working on the draft of BIMSTEC TFA;
- GSP Automation went into full operation from 1st September 2014, facilitating a much more improved process and the much-needed archiving of GSP documentation;
- Certification Marks Licenses Software was developed for BSTI with funding from IFC;
- IFC is also supporting Plant Quarantine Wing in automating their certification process;
- Automation of CCI&E certification will hopefully become fully functional by the end of this year;
- BFTI has already been instructed by the MoC to conduct a study to find out gaps in certification of her exports;
- Bangladesh has ratified WTO TFA on 27th September 2016;
- National Trade and Transport Facilitation Committee (NTTFC) consisting of 28 members have been established under the chairmanship of the Honorable Commerce Minister, officials/representatives of relevant ministries/departments / trade bodies.

1.5 The National Single Window Project (NSW):

With the aim to further ease and speed up the process of export and import, the government has taken the initiative to launch the National Single Window project by 2021. A total of 39 ministries, government agencies and organizations will come together under the leadership of the National Board of Revenue. This initiative will allow importers and exporters the ease of access to perform necessary tasks such as getting trade registrations, attaining export-import permits, opening letters of credit, securing permission to unload imported goods and paying taxes, everything under one roof. A dedicated office will handle all these tasks, eliminating the need for traders to visit dozens of other offices.

NSW would be established under the Regional Connectivity Project of the World Bank.¹⁴ NBR formed a Project Implementation Unit to establish the NSW with NBR Member (Customs Modernization) as the Project-Director.¹⁵ NBR plans to sign MoUs with 60 OGAs to effectively implement NSW. A sub-committee will draft the MoU in consultation with the members of NSW Working Group. The Planning Commission has approved the DPP.

1.6 Objective of the Study

- To review, and identify gaps in (if any), existing policy, legal and regulatory regime-national, regional and international- relating to Bangladesh's cross-border trade operations and management.
- To identify and assess the legal normative frameworks that regulate Inter- Agency and Intra-Agency coordination mechanism among different border port management Agencies.
- To review bilateral and multinational cooperation arrangements between and among the neighboring states;
- To ascertain the good practices (in terms of organizations/Laws/rules/regulations) utilized regionally and elsewhere to facilitate better management at the borders; and
- To provide recommendations to reform existing policies and regulatory norms to facilitate better implementation of the country's policies, strategies and international commitments in promoting better business for faster and sustained progress and development.

¹⁴ National Single Window by 2021: Import-export schedule will speed up fourfold. The Business Standard, MONDAY, FEBRUARY 10, 2020.

¹⁵ The World Bank is supporting the National Board of Revenue with a budget of \$74.1 million or Tk 625 crore to implement the National Single Window project.

1.7 Rationale of the Study

Over the last few decades, Bangladesh has made significant progress in lowering trade tariffs and dismantling quota systems. International trade has increased and manufacturing has become more global with developing, emerging and transition economies connecting with international supply and value chains in terms of both their exports and imports. The worldwide distribution and sourcing cycles, along with just-in-time and just-in-sequence logistics services and the emergence of e-business, has created pressure on governments to ensure efficient, fast and reliable border crossing and clearance procedures. GOB has started to realize that their export economies heavily dependent on efficient import processing, hence the need to have a holistic approach for a more efficient management of end-to-end trade transactions. Lack of transparency about rules and regulations, redundant and lengthy clearance processes and multiple documents requirements in different formats and with different data elements, increase the costs and time of doing trade. Today these obstacles are seen as posing greater barriers to trade than tariffs and quotas do. Hence, it is more important than ever to achieve trade facilitation to enhance administrative efficiency and effectiveness to reduce costs and time to markets and increase predictability in global trade.

In order to achieve the goal of trade facilitation, there is a need to make trade across borders (imports and exports) faster, cheaper and more predictable, whilst ensuring its safety and security. In terms of focus, it is about simplifying and harmonizing formalities, procedures, and the related exchange of information and documents among various partners in the supply chain. There are great potential gains from trade facilitation for both governments and the business community. Public entities will profit in terms of enhanced trade tax collection, better use of resources and increased trader compliance. A more efficient and transparent delivery of public services will allow the administration to maintain high security levels and effective government control, while diminishing opportunities for corruption. Traders will gain in terms of higher predictability and speed of operations and lower transaction costs, resulting in more competitive exports on global markets. For countries as a whole, reducing unnecessary delays and costs attracts investments, and supports growth and job creation.

The fundamental principles of trade facilitation are transparency, simplification, harmonization, and standardization. While the transparency within border operations promotes openness and accountability of a government's and administration's actions, simplification of laws and regulations governing border operations eliminates all unnecessary elements and duplications in trade formalities, processes and procedures. Harmonization promotes the alignment of national procedures, operations and documents with international conventions, standards and practices. It can come from adopting and implementing the same standards as partner countries, either as part of a regional integration process or as a result of business decisions. The principle of standardization facilitates the process of developing formats for practices and procedures, documents and information internationally agreed by various parties of border operations. Standards are then used to align and, eventually, harmonize practices and methods.

In order to facilitate effective border operations, there is a need to have an enabling environment that involves different types of interventions and activities addressing the various dimensions of the government. This includes regulatory reforms aiming at a clear, concise, transparent legal framework. However, it requires an in-depth analysis of law and regulations that are critical for border operations. It will include laws and regulations of different agencies that are involved in trade facilitation and border operations. This study has therefore aimed to conduct a study to do an elaborate analysis of regulatory regime that encompasses activities of different organizations. The Government of the People's Republic of Bangladesh has received an SDR 150 million Credit from the International Development Association (IDA)-a member of the World Bank Group - for financing the cost of the Bangladesh Regional Connectivity Project (BRCP-I), being jointly implemented by the Bangladesh Land Port Authority (BLPA), National Board of Revenue (NBR) and the Ministry of Commerce (MoC). The second component of this umbrella project is being implemented by the Ministry of Commerce (MoC) as a separate technical assistance project. The overall objective of this technical assistance project is to strengthen trade related institutional capacity in order to ensure active and sustainable cooperation between multiple trade-related stakeholders and economic empowerment of women traders.

1.8 Scope and Limitations

Studies have been conducted in the following areas which are critical for trade promotion and trade facilitation:

- Review of collaborative border management-institutional-regulatory mechanisms and frameworks for coordinating across sectors/ministries and across countries;
- This study (*Review of Policy, Laws and Regulations Governing Border Management and Operations in Bangladesh*) focuses specifically on policies, laws and regulations relating to relevant areas of border trade management and trade facilitation which are directly linked with the activities of three implementing agencies, viz.-Ministry of Commerce, National Board of Revenue and Land Port Authority) of the BRCP-1 umbrella project.
- Collecting and processing of data on levels and clarity of awareness, knowledge, implementation status, strength and weaknesses, and gaps and opportunities in relevant legal and regulatory regime for better international trade and border operations and management in Bangladesh.
- Reviewing of collaborative border management institutional mechanisms/laws/rules/regulations that are being practiced in Bangladesh as well as in comparison with the other countries in the region and elsewhere in the world.
- Finding out the gaps between present practice and international standards with respect to border management, regulation and trade facilitation.
- Any other information that may be essential for the survey/studies.

This Study attempts to identify limitations faced by Bangladesh in exporting and importing products that have high trade potential in major cross border markets. Such a study is important in the sense that even though businesses and exporters need to deal effectively with trade procedures at the borders both home and abroad, they are often unable to specifically differentiate between valid NTMs and trade-hindering or trade-distorting NTBs. It is therefore necessary for the private sector, especially the exporters, to acquire a thorough understanding on standards, SPS and TBT measures, testing and certifications, customs formalities, procrastinating and unnecessary trade processes, etc. in the Land ports premises.

With the overall objective being 'enhanced efficiency of Bangladesh in addressing integrated border management', the Study aims to construct a policy and regulatory Road Map for sustainable Land port management in Bangladesh. The Study also highlights numerous procedural barriers as well as regulatory loopholes, constituting both at the border and behind border barriers, within Bangladesh that enhance time and cost for shipment, and thus reduce competitiveness of her overall trade.

CHAPTER- 2

APPROACH & METHODOLOGY

2.1 Design of the Study

- Survey has been designed emphasizing on appropriate survey sample frame and sampling technique that is statistically sound and acceptable to the client;
- The survey design included specific timeline for every activity in order for timely completion of the survey;
- The design also included proper deployment of manpower and ensuring systematic monitoring, supervision and coordination of all activities for desired accomplishment of the activities following a critical path making the most effective use of time. One of the most important elements of the design was to finalization of data collection tools-questionnaires for respondent survey and preparation of data collection checklists for FGD, KIIs and Public Consultations (PCs);
- Prior to the design of the questionnaires and checklists, the list of indicators and measurements of all indicators in detail has been finalized;
- The design also included data collection methodologies-secondary data and primary data;
- The consultants started their fieldwork only after approval of the design by the client.

2.2 Sources of Data

The survey was conducted to generate the stipulated primary data. Prior to generation of primary data, the relevant secondary information on the survey including documents/reports have been obtained from the PD-BRCP-1/MOC, NBR, BLPA, BSTI, DAE and other relevant public and private agencies and authorities and duly reviewed. To develop the survey instruments accurately and to reveal the inherent characteristics of various dimensions of the survey and its contribution to the cross-country border trade, the secondary data has been carefully scanned and collated with the survey data. For generating the desired primary data, the survey has been conducted using an appropriate sampling design and a set of study instruments (questionnaires).

2.3 Collections and Review of Data, Reports and Information

After commencement of the project, relevant documents and existing data on the current development in border trade in Bangladesh has been collected from different sources, particularly from the PD-BRCP-1/MOC, NBR, BLPA, BSTI, DAE and other relevant public and private agencies and analyzed in order to provide an outline of the initial assessment and facts and figures to be included in the report.

2.4 Methods of Data Collection:

Review of Primary and Secondary Data

- The consultants collected and reviewed secondary documents related with the study such as inter-ministerial National Trade and Transport Facilitation Committee (NTTFC), WTO Trade Facilitation Agreement (TFA), Bangladesh Trade Portal (BTP), BRCP-1, BLPA, NBR, BSTI, SPS & TBT agencies, Ministry of Commerce, etc.; different laws, rules, cross border management; good practices in Norway and Sweden/EU border, Switzerland and France/EU border, handbooks/guidelines for collaborative border management, among others.
- The consultants reviewed the National Single Window project implementing by NBR, Land Port Infrastructure Development project, Custom Procedure and requirement at the border, Economic review 2018, 2019, Transport Integrated Route (TIR) convention and

Bangladesh, Bilateral trade with India, Nepal, Bhutan, Myanmar and Regional trade of SAFTA, BIMSTEC, APTA etc.

- The consultants collected and reviewed different literature, abstract, guidelines, reports related to the good practices in border management, enabling rules and laws, Bangladesh and other countries TFA implementation status, challenges, and possible measures for implementation.
- The consultants also reviewed the border management and operation performance and examined the best practices.

Interview of Target Respondents

- Direct personal interview approach has been adopted for collection of primary data. This method is effectively related to the collection of data directly from the target respondents.
- The field enumerators personally contacted the respondents and obtained desired information by explaining the objectives of the survey to the respondents.
- Each enumerator was provided with a set of guidelines for code and data collection system and overall administration of the survey, a check list to ascertain the target respondent and the designed and field-tested questionnaire for data collection and administration of the study.
- The enumerators filled up the data sheet following the techniques, procedures, and instructions of the training and demonstration of the field-pre-testing questionnaire in consultation with the concerned persons in the designated area.
- The enumerators recorded the data only after fully being satisfied that she/he has been able to make the respondent understand the question, and the respondent is offering any of the probable answers in his own perception.
- The enumerators made all efforts to have a friendly and open-minded interaction with the respondent instead of asking questions like a school teacher to his students. All questions have been asked one by one, and data has been filled up on the spot and put signature in the space provided and preserve carefully for submission.
- Questionnaires were always filled-up by a respondent by question and in no case it was repeated and/or revived at any stage thereafter by anyone. The completed questionnaires has been packed and sealed by enumerators and submitted to the supervisors after completing the study of the respective district.

Focus Group Discussion (FGD)

- There is certain information that is difficult to fully capture by structured interviews within the limited time. Focus Group Discussion (FGD) method is, therefore, needed to get insight into this information. The consultants conducted FGDs with respondents who are involved in project interventions in the project areas. Each FGD included 10 participants.
- Participants for the FGDs had been chosen from different stakeholder groups. The FGDs were conducted at a venue for each sampled catchment/land ports, which were convenient for the participants and allowed them to speak freely. The FGD sessions were guided by a facilitator or moderator and always encouraged to talk freely and spontaneously about the issues of questionnaires.
- Discussions were recorded in a tape recorded and in black and white. One experienced facilitator or a member of the Survey Team documented the key points covered in course of discussions. Findings were compiled using both kinds of field records, i.e., taped record and notes. In collecting qualitative information, some data has been collected through hot spot discussion with the key informants.
- The FGD sessions were conducted using a guideline which is based on, not limiting to but including those issues listed here above. However, the FGD guideline further modified in consulting with the PD/PIU, BRCP-1 (Bangladesh Regional Connectivity Project-1), BLPA and NBR.

Other Interventions:

Public Consultations (PCs): Total 06 Public Consultations in selected location has been conducted to know the border management, operation, TFA implementation, women entrepreneurs, women friendly facilities at port, cross border and international best practices, rules and laws, challenges and remedial measures etc. The supervisors organized this Public Consultations where consultant conducted and recorded his information as per guideline mentioned-above.

Key Informants Interview (KIIs): One-to-one interviews of total 50 Key Informants had been carried out from the respondents at different catchment areas. The study team & supervisors collected this information from the NTTFC members, MOC, NBR, and BLPA and cross border officers using checklist.

Data collection, analysis and synthesis: The trained survey enumerators and supervisors gathered information and data in each of the survey locations rigorously using structured questionnaires, guidelines, checklists and provide daily progress reports. The supervisors also are responsible for conducting focus group discussions and large gathering. The consultants (specialists) including the Team Leader made random visits to ensure quality control of data collection and also to encourage the beneficiaries/respondents` and supervisors. The filled-in questionnaires were checked and verified properly. In addition to data collection, the consultant conducted visit in the project area to evaluate the group formation, project activities, infrastructure performance and effectiveness of major project components and its strengths and weakness.

CHAPTER- 3

LEGAL AND POLICY FRAMEWORKS RELATING TO TRADE FACILITATION

A number of short, medium and long-term policies, rules, regulations, acts and orders are in operation in Bangladesh to regulate the country's international trade. In general, different trade related activities have been carried out under the common understanding between different ministries and departments as per rules and regulations. Besides, a number of bilateral, regional and international agreements, standards and norms regulate the legal and policy regime in relation to the country's cross-border trade management, promotions and services.

3.1 Existing legal, regulatory and policy frameworks in Bangladesh

3.1.1 Policies & Responsible Agencies:

Key trade related policies in Bangladesh are:

- Export Policy 2018-21
- Import policy 2018-19
- FTA Policy 2010
- National Digital commerce policy 2018
- Leather and leather Goods policy 2019
- National API policy
- IP policy
- Competition policy 2012

Principal ministries and agencies involved in the process are:

- Ministry of Agriculture,
- Ministry of Health and Family Welfare
- the Ministry of Fisheries
- the Bangladesh Food Safety Authority/Ministry of Food
- BSTI/Ministry of Industries remain responsible for TBT measures
- Ministry of Agriculture responsible for SPS measures

3.1.2 Acts, Rules & Regulations:

The following laws and regulations make up the **most relevant and prioritized legal framework** in relation to Bangladesh's land port operation:

- Bangladesh Land Port Authority Act, 2001
- Bangladesh Land Port Authority Employee Service Regulation, 2004
- Tariff Schedule-2017 for Benapole Land Port
- Tariff schedule-2017 for All Land Ports except Benalpole Land Port
- Non-government ICD/CFS (off-dock) Policy, 2016

Other Laws/Rules Governing Imports & Exports include:

- ▶ Export Promotion Bureau Ordinance, 1977;
- ▶ Bangladesh Tariff Commission Act, 1992;
- ▶ Foreign Private Investment Promotion & Protection Act, 1980;
- ▶ The Competition Act 2012;
- ▶ The Patent and design Act 1911, amended in 2016 by CC;

- ▶ Copyright Act 2005, rules 2006, trade mark act 2009;
- ▶ New Custom Act 2018 and Old 1969 Act;
- ▶ BSTI amendment Act 2018;
- ▶ Quarantine Regulation act 2018;
- ▶ Food safety act 2018;
- ▶ Land port authority act 2001;
- ▶ Bangladesh land port authority employee service regulation 2004;
- ▶ C&F Agent licensing rules 2016;
- ▶ The baggage rules 2018;
- ▶ SRO of AEO;
- ▶ Public Procurement Act 2006 & rules 2008;
- ▶ Company Act 2018;
- ▶ Imports and Exports (Control) Act, 1950;
- ▶ The Importers, Exporters and Indenters (Registration) order, 1981;
- ▶ Review, Appeal and Revision (order), 1977;
- ▶ Import Policy Order (presently 2015-2018);
- ▶ Export Policy 2018-21;
- ▶ The Bangladesh Economic Zones Act, 2010;
- ▶ Bangladesh Export Processing Zones Authority Act, 1980;
- ▶ Bangladesh EPZ Labour Ordinance, 2019; and
- ▶ EPZ Workers' Welfare Association and Industrial Relations.

Relevant Intellectual Property Laws are:

- ▶ The Patents and Designs Act (Act No. II of 1911) (2003);
- ▶ Trademarks Act, 2009 (Act No. XIX of 2009) (2009);
- ▶ Copyright Act, 2000 (Act No. 28 of 2000, as amended up to 2005);
- ▶ Right to Information Ordinance, 2008 (2008);
- ▶ The Copyright Rules, 2006 (2000);
- ▶ Patents and Designs Rules, 1933 (as amended up to June 15, 1946) (1993);
- ▶ Geographical Indication of Goods (Registration and Protection) Act in 2013;
- ▶ Layout Design (Topographies) Integrated Circuit Law 2011 (Draft);
- ▶ Utility Model Law 2011 (Draft); and
- ▶ Protection of Undisclosed Information Law (Draft).

A full list of national laws, rules and regulations in Bangladesh along with a list of regional and international bi-/multilateral agreements have been annexed to this report (Annexure:4)

3.1.3 Current status of Trade Laws and regulations

- ▶ During 2012-2018, the range of Bangladesh's legal Instruments in numerous trade and trade related areas, including customs, standards, SPS, public procurement, competition, IPR, electricity, Jute, industrial policy, civil aviation was updated. The regulatory framework continues to consist of laws/acts, ordinance, SROs issued by relevant public sector agencies with the consultation of stakeholders to facilitate trade.
- ▶ New Custom Act 2019 which is waiting for the approval from the Parliament, significant customs modernization has been suggested to facilitate speedy clearance through automation.
- ▶ No major changes were made to the main piece of legislation governing investment. The main laws affecting foreign investment include the Foreign Private Investment Promotion and

Protection Act, 1980, the Bangladesh Export Processing Zones Authority Act, 1980, the Bangladesh Private Export Processing Zones Act, 1996, the Companies Act, 1994, the Telecommunications Act, 2001, and the Bangladesh Economic Zones Act, 2010.

Company Law 2019

- ▶ The government has moved to amend the Companies Act, 1994, incorporating a provision on forming a company by a single person;
- ▶ A new section named 'single person company' will be included where the company will be defined as an institution where a single natural entity would be its shareholder;
- ▶ Apart from creating an opportunity for forming a company by a single person, the law is being amended to attract investment from home and abroad by creating an investment-friendly environment, easing business processes and giving priority to safeguarding the interests of the general creditors of the companies and minority shareholders.

3.2 Main features of Cross Border Trade Policy

3.2.1 Objectives

Important objectives of the Import Policy are:

- ▶ facilitating import of capital machinery and industrial raw materials;
- ▶ ensuring availability of goods to the consumers at a reasonable price;
- ▶ ensuring growth of the indigenous industry; and
- ▶ safeguarding consumer interests and health through proper standard and other conditions.

3.2.2 Institutional & Regulatory challenges

- ▶ Office of the Chief Controller of Imports and Exports(CCIE) lacks adequate human resources;
- ▶ CCIE needs reform and reorganization, need decentralization of power, relocation of some regional offices etc.;
- ▶ Lack of digital connection with other stakeholder –BIDA, BSCIC, BB, NBR;
- ▶ Need empowerment from the MoC for taking independent decision;
- ▶ Needs greater role in formulation of import policy order, laws, act; and
- ▶ Needs capacity building for advisory role in formulating trade policies.

3.2.3 Challenges of Trade Policy Implementation

Bangladesh trade sector has been facing many constraints and challenges. These include:

- ▶ Cost of doing business is comparatively high, narrow export basket, dependence on a very few markets, lack of supply-side capacity, poor infrastructure, lack of appropriate compliant capability, weak institutional and human capacity, difficulties in implementation of relevant policies, rules and regulations originating from:
 - their non-binding nature (e.g. Export Policy, Industrial Policy);
 - lack of coordination and interlinking between relevant policies to address interwoven aspects of export and import;
 - weaknesses in the use of trade policy tools for the development of domestic market-oriented and import-substituting industries;
 - lack of awareness/knowledge/expertise of relevant regulatory frameworks; and
 - Lack of initiatives towards strengthening institutional capacities in the areas of trade diplomacy and trade-promoting bodies.
- ▶ MoC provides with recommendations for policy support and incentives to other ministries/offices. It has to maintain close communication with Finance Division and

NBR that takes much time and sometimes it is difficult to convince them;

- There are rooms for discrepancies, difference of priorities and/or focus and lack of coordination between the policies, laws, rules of other ministries and Export policy;
- Priorities/focus of other ministries/departments may not match with the priority of MoC;
- Changes of law/rules in the global trade and trade war among big economies;
- Changes in international politics and economies such as, change of political leadership in the important export destinations, financial downturn, unemployment, less buying capacity, depreciation of international currencies, changing trends of consumers taste and choice;
- Fall in demands and drop-in unit prices of commodities in international markets;
- Export basket is limited to very few products. 6 products (woven, knit, leather & leather goods, jute & jute goods, agro and fish products) that account for 93% of total export earnings where RMG accounts for 82-83% of exports;
- High dependence and policy biasness towards RMG;
- High dependence on Imported raw materials for export-oriented sectors;
- High cost of capital & production cost and inadequate access to trade finance;
- Lack of competitiveness in international markets;
- Low value-added products;
- Lack of Laws about compliance, quality and standards;
- Lack of technology application and inadequate investment;
- Less enthusiasm among entrepreneurs to go to new export sectors; and lack of understanding about international market dynamic;
- Cope up with post LDC graduation situation in the face of termination of duty-free market access in most of the preference giving markets by 2024;
- Availing GSP+ benefit in the EU markets after 2027 which requires ratification of 27 UN conventions which are mostly related to labor rights, environmental compliance, intellectual property right (IPR) and good governance;
- Strict quality, standard and compliance requirements in businesses;
- No experience of being part of FTAs;
- Foreign loan with high interest rate and harder conditions;
- Lack of Regulatory framework to address the issues.

It is thus of great essence that export, import, customs related Laws, rules and regulations are harmonized with regional trade partners; comprehensive Trade Policy is required specifically addressing unique issues related to land port trading; better coordination among various components of the macro-economic policies are also important to pursue strategic trade policy effectively; and that various policy instruments are deployed in fiscal, monetary and exchange rate arena are better coordinated with those of the trade policy.

3.3 International Legal Obligations: WTO TRIPS Agreement

General Transition Period July 2021 and Patent Protection waiver for Pharmaceuticals and Agro-Chemical Products 01 January 2033 will cease to be enjoyed as an LDC. **(Section 1.2 above)**

3.4 Regional and Bilateral Trade Agreements

SAARC Preferential Trading Arrangement (SAPTA): The Agreement on SAARC Preferential trading Arrangement (SAPTA) was signed on 11 April 1993 and entered into force on 7 December 1995, with the desire of the Member States of SAARC (Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, and Sri Lanka) to promote and sustain mutual trade and economic cooperation within the SAARC region through the exchange of concessions. The main purpose of SAPTA was to urgently promote the intraregional trade which constitutes a negligible share in

the total volume of the South Asian trade. The objectives were to:

- promote regional cooperation;
- expand trade and investment;
- strengthen intraregional economic cooperation;
- promote intraregional trade;
- Liberalize trade.

South Asian Free Trade Area (SAFTA): The SAFTA Agreement was signed on 6 January 2004 during Twelfth SAARC Summit held in Islamabad, Pakistan, and the agreement entered into force on 1 January 2006. Actually, SAPTA was envisaged primarily as the first step towards the transition to a South Asian Free Trade Area (SAFTA) with a goal to home a Customs Union, Common Market and Economic Union. Also, the Trade Liberalization Programme (TLP) under SAFTA commenced from 1st July 2006. Under Phase-II of the Trade Linearization Program under SAFTA all the import tariffs have been brought down between 0-5 percent. As an LDC, Bangladesh is enjoying 0% tariff access on all items export to India except only 25 items (i.e. alcohol, drugs, narcotics etc.) under SAFTA.

SAARC Agreement on Trade in Services (SATIS): The SAARC Agreement on Trade in Services (SATIS) was signed at the 16th SAARC Summit held in Thimphu in April 2010 with a view to expand cooperation in trade in services and further deepen the integration of the regional economies. The Agreement entered into force on 29 November 2012. All the Member States have ratified the Agreement and exchanged initial Offer Lists and Request Lists with a view to finalizing the Schedules of Commitments. In the meantime, Bangladesh has offered 02 Services Sectors (Telecom & Tourism) and submitted its Schedule of Commitments. Bangladesh has also requested all member States to liberalize ten Services Sectors: Accounting & Auditing, Management Consulting Services, Computer related Services, Telecom Services, Financial Services, Construction & Engineering, Education Services, Audio-visual Services, Courier Services and Maritime Services. Discussion and negotiations among the member states are going on for finalizing the Schedules of Commitments. Bangladesh would be benefitted in the area of investment and trade after implementation of the Agreement.

Asia Pacific Trade Agreement (APTA): The first regional agreement in the Sais-Pacific region, called "Bangkok Agreement", was signed in 1975. Then with its first amendment in 2005 the "Bangkok Agreement" was reorganized and renamed as the "Asia-Pacific Trade Agreement (APTA)". Its present Participating States are Bangladesh, India, Laos, South Korea, Sri Lanka and China. The 4th Round negotiation of APTA has been concluded and has been announced during the 4th Ministerial Council held in Bangkok, Thailand on 13 January 2017. The 4th Round negotiation on tariff concession has been implemented from 01 July 2018. Three Framework Agreements, (i) Framework Agreement on the Promotion and Liberalization of Trade in Services among the Participating States, (ii) Framework Agreement on the Promotion, Protection and Liberalization of Investment in the APTA Participating States, and (iii) Framework Agreement on Trade Facilitation in the APTA Participating States have been signed and ratified by the Participating States. Separate Working Groups have been formed for implementing the framework agreements at the earliest.

BIMSTEC Trade Negotiating Committee (TNC) meeting: The BIMSTEC Framework Agreement was signed in June 1997 and Agreement on FTA concluded in February 2004. Member countries are Bangladesh, India, Myanmar, Sri Lanka, Thailand, Nepal and Bhutan. Fast and Normal track methods are adopted in order to implement the duty reduction process under BIMSTEC agreement. In case of First Track products, non-LDCs are to open up their markets for the products of LDCs in 1 year and LDCs are to do the same for non-LDCs in 5 years. On the other hand, for Normal Track products, non-LDCs are to open up their market for the products of LDCs in 3 years and the LDCs to follow 10 year schedule in order to open up their markets for the products of non-LDCs. Least Developed Member Countries of BIMSTEC FTA are to enjoy special and differential treatment. Also, a BIMSTEC Trade Negotiating Committee (TNC) has been constituted to conduct negotiations on trade in goods, trade in services and investment.

Trade Preferential System among the OIC Members (TPS-OIC): TPS-OIC launched First Round on Trade Negotiations under TPS-OIC in April 2003. First Round was concluded in November 2005 with finalization of a protocol on Preferential Tariff Schemes for TPS-OIC (PRETAS). Bangladesh signed TPS-OIC (PRETAS) on 26th November 2006.

Preferential Trade Agreement (PTA) among D-8 Countries (D-8): Developing-8 is an arrangement for development cooperation among the member countries: Bangladesh, Egypt, Indonesia, Iran, Malaysia, Nigeria, Pakistan and Turkey. D-8 was officially established by the Summit of Heads of State/Government in Istanbul on June 15, 1997 (Istanbul Declaration). The objectives of D-8 are to improve positions of the developing countries' in the world economy, diversify and create new opportunities in trade. Bangladesh signed Preferential Trade Agreement (PTA) among D-8 Countries in 2006. But due to the fact that the PTA's Rules of Origin has 40 percent value requirements and Bangladesh is not considered advantageous, Bangladesh did not ratify D-8 PTA earlier. Bangladesh has finally ratified the D-8 FTA in November 2017.

EU-Bangladesh Business Climate Dialogue: EU-BD Business Climate Dialogue was held on May 19, 2016, with the representatives of the European Ambassador to the eight European countries and representatives of 5 Joint Chambers of Bangladesh. Representatives from 20 ministries and organizations, including Honorable Commerce Minister, Senior Secretary, Ministry of Commerce and Chairman of the National Board of Revenue, were present in the meeting.

Cross-border paperless Facilitation: The framework agreement on Facilitation of Cross Border Paperless Trade in Asia and the Pacific prepared by UNESCP has been signed on 29 August 2017. With this agreement, regional trade will be faster.

Other preferences and arrangements: Bangladesh remains a beneficiary under the GSP schemes, in particular the DFQF schemes, of Australia, Canada, the European Union, Iceland, Japan, Montenegro, New Zealand, Norway, the Russian Federation, Switzerland, and the United States (until 2013).¹⁶ It is also entitled to DFQF schemes provided by certain Members of the WTO, including China, Chinese Taipei, Chile, India, Kazakhstan, the Republic of Korea, the Kyrgyz Republic, Tajikistan, Thailand, and Turkey. Despite the current non-eligibility for the U.S. GSP, Bangladeshi exports to this market were sustained; the United States remains the second-largest individual country destination for Bangladeshi exports and, in 2017, Bangladesh was its third-largest supplier of clothing.¹⁷

3.5 Key Regulatory Bodies Involved in Trade Facilitation and Border Management

Trade-related policies, rules and regulations to support trade facilitation and border management in Bangladesh are implemented by different ministries and departments of the government. The Ministry of Commerce and its subsidiary offices the Tariff Commission, Export Promotion Bureau, Chief Controller of Import and Export, and WTO Cell along with the NBR, trade bodies, research organizations, academia, and relevant agencies play important roles.

In Bangladesh Land Ports are governed and managed by the "Bangladesh Land port authority". This Authority was established in accordance with the Bangladesh Land Port Authority Act, 2001 in order to facilitate better exportation and importation between Bangladesh and its neighbouring countries. Its activities began under the regulation of the Ministry of Shipping. So far, 23 Land Customs Stations have been declared as Land Ports of which 22 are with India and only one is

¹⁶ The United States suspended Bangladesh from its GSP beneficiary list in June 2013, as it considers that the country does not meet all eligibility criteria. WTO online information. Viewed at: <http://ptadb.wto.org/Country.aspx?code=116>; UNCTAD (2015), *Generalized System of Preferences – List of Beneficiaries*, 1 February. Viewed at:

http://unctad.org/en/PublicationsLibrary/itcdtsbmisc62rev6_en.pdf.

¹⁷ UNSD Comtrade database. UN COMTRADE is the pseudonym for United Nations International Trade Statistics Database. Over 170 reporter countries/areas provide the United Nations Statistics Division (UNSD) with their annual international trade statistics data detailed by commodities/service categories and partner countries. These data are subsequently transformed into the United Nations Statistics Division standard format with consistent coding and valuation using the processing system.

with Myanmar. Moreover, 19 off docks, all around Chittagong port, are also being operated privately.

Also, important to mention in this regard are: the *Bangladesh Standard and Testing Institute* BSTI; Plant Quarantine Department; and the recently formed National Trade and Transport Facilitation Committee (NTTFC).

3.6 Major Services Provided by BLPA

- ▶ Providing services to passengers by means of facilitating passenger movement, removal of obstacles and construction of passenger terminals is among the major responsibilities of the land port authority;
- ▶ Bringing every service including immigration, customs, banking and easier ticketing during car travels under one umbrella is also under the prerogative of the land port authority;
- ▶ Construction and reparation of roads adjacent to borders for transportation of goods, transshipment of goods, and facilitation of yards and shades required for short-term storage of goods and loaded trucks is also among the duties of the land port authority.

In Bangladesh, the Export Policy, unlike the Import Policy Order, is very weak and mostly ineffective in as much as it is not a legally binding policy instrument which could ensure compliance by the respective agencies of the government.¹⁸ In fact, there is hardly any country in the world (including India and many members of the World Trade Organization) which does not follow legally binding export and import policy. However, different kinds of activities taking place at various stages of export and import are governed by separate acts, orders and rules in Bangladesh. Most important of these activities are:

- customs valuation and inspection
- pre-shipment inspection (PSI)
- customs clearance and administration, tariffs (applied and bound tariff)
- duty-free import items, specific duties
- Most Favored Nation (MFN) tariff
- tariff concessions
- tariff preferences
- Rules of Origin (RoO)
- other border charges and levies
- advance income tax (AIT); value added tax (VAT) and advance trade VAT (ATV)
- supplementary duty, regulatory duty
- import restrictions
- state trading, standards and other technical regulations,
- sanitary and phyto-sanitary (SPS) standards
- labeling and packaging
- anti-dumping, countervailing, and safeguard measures.

3.7 International/Regional ‘Law and Policy’ Good Practices

Country Specific Good Practices Case Studies:

Bhutan

¹⁸ In Bangladesh, the import policy order is legally binding because it is promulgated by the government in exercise of powers conferred under section 3 (1) of the Imports and Exports (Control) Act, 1950. But in the case of export policy this power is not exercised. See, Manzur Ahmed, “Integrating export and import policies, making them legally binding”, The Financial Express, November 30, 2018.

Bhutan is a landlocked country in the Eastern Himalayas with a population of 735,553 and an area of 38,394 square kilometers.¹⁹ The country shares borders with the People's Republic of China and India. Along with Nepal, Bhutan is the other landlocked country in the South Asia Sub regional Economic Cooperation (SASEC) region.

In its development policies and strategies, the Government of Bhutan recognizes trade and trade facilitation measures as integral components of the country's path toward economic growth and employment generation. This includes trade and trade facilitation plans and programs being implemented through Bhutan's Five-Year Plans (Gross National Happiness Commission 2018).

In the World Bank's Doing Business 2019, Bhutan ranked 81st out of 190 countries for overall ease of doing business and 28th in trading across borders.²⁰ In the latter respect, it is not only the highest ranked among SASEC countries, but it is also at par with many high-income and upper-middle-income economies. On other hand, the World Bank's 2018 Logistics Performance Index shows that Bhutan ranked 149th out of 160 countries.²¹

In order to facilitate the movement of trucks across SASEC borders, the Bangladesh-Bhutan-India-Nepal Motor Vehicles Agreement was signed in 2015. Bhutan has to yet ratify the agreement, while all other signatories have already done so. The delay in ratification is mainly due to concerns about environmental degradation and the inability of existing road infrastructure to cope with traffic.

Bilateral Trade Agreements: Trade between Bhutan and India is governed by the Agreement on Trade, Commerce, and Transit. The agreement was signed in 1972 and has since been renewed periodically. The latest renewal was signed in November 2016; it came into force on 29 July 2017 and will remain in force for 10 years unless the two countries agree to amend this period on the basis of mutual consent.² Under the agreement, the two countries enjoy free trade and mutual cooperation in matters pertaining to finance and investment.

Bhutan's other trading partners in the region include Bangladesh and Nepal. Bhutan first extended a preferential trading arrangement to Bangladesh in 1980. While no import duties have been imposed by Bhutan on goods from Bangladesh since then, Bangladesh only reciprocated in 2010 across 90 tariff lines. Today, Bhutan's trade with Bangladesh is governed by the Agreement on Trade, which was signed by the two countries in December 2014. Under the agreement, each country provides preferential tariff treatment for specific commodities.

Multilateral Initiatives: At the multilateral level, Bhutan became a member of the World Customs Organization on 12 February 2002. Bhutan was also granted observer status to the WTO in April 1998. Subsequently, the Government of Bhutan decided to accede to the WTO as a full member and submitted its application in 1999, which was accepted by the WTO General Council. In 2014, Bhutan became the 94th contracting party through ratification of the Revised Kyoto Convention on the Simplification and Harmonization of Customs Procedures (RKC), which aims to simplify and harmonize customs procedures.

Policy and Regulatory Framework: Bhutan's trade issues are well documented in the government's (i) Economic Development Policy, 2016 (MOEA 2016); (ii) 12th Five-Year Plan; and (iii) Annual Performance Agreement. On the legislative front, Bhutan enacted the Customs Act in 2017 and embarked on an intensive process of revising relevant legal and regulatory rules and regulations in accordance with the RKC and other international best practices. As part of the legislative policy reform process, various measures are being examined. These include:

- i. provision of transit rights to facilitate international trade and transport agreements;
- ii. harmonization of customs documentation, procedures, and formalities through bilateral and

¹⁹ National Statistics Bureau 2018a.

²⁰ World Bank 2018.

²¹ Ibid.

- regional initiatives;
- iii. integration of cross-border trade facilities such as dry ports, pre-shipment customs clearance facilities, computerized security checks, and quarantine facilities; and
- iv. participation in a framework agreement for paperless trading.

Short-term interventions: These interventions are designed mainly to avoid repetitive processes, reduce costs, and harmonize documentary requirements:

- i. Implement online application and approval, issuance, and renewal of licenses, certificates, and permits for a number of similar processes among government organizations, and between government organizations and stakeholders.
- ii. Establish the electronic exchange of documents (between customs departments in Bangladesh, Bhutan, and India) for transit clearance in India.
- iii. Rearrange the internal workflows of the regional revenue and customs offices.
- iv. Strengthen professional relationships among all parties involved in the trade process.

Long-term interventions: These interventions aim to promote the seamless exchange of information and use of modern tools to facilitate trade:

- i. Introduce the national single window;
- ii. Ensure legal consistency for the introduction of national single window and electronic procedures;
- iii. Ensure transparency in legal, policy, and procedural requirements;
- iv. Establish Authorized Economic Operator and trusted trader programs;
- v. Upgrade the skills of frontline officials, including in information and communication technology, to support implementation of modern tools;
- vi. Improve transport and border crossing infrastructure.

India

Since the opening up of its economy in 1991, India has made significant efforts in trade policy reform, which have led to a major reduction in average tariffs, simplified tariff and quota regimes, and the removal of several import restrictions. As a member of the United Nations, World Customs Organization, and World Trade Organization (WTO), India has benefited from the tools and best practices developed by these organizations, which have served as the basis for introducing trade facilitation initiatives. The Central Board of Indirect Taxes and Customs (CBIC), as the agency responsible for customs administration in India, is a signatory to several international standards and other arrangements such as the following:

- International Convention on the Harmonized Commodity Description and Coding System (HS Convention) and the WTO Agreement on Customs Valuation, which have enabled India to adopt globally harmonized standards to facilitate international trade;
- Revised Kyoto Convention on the Simplification and Harmonization of Customs Procedures (RKC) and a letter of intent for the Framework of Standards to Secure and Facilitate Global Trade (SAFE Framework);²²
- Customs Convention on the ATA Carnet for the Temporary Admission of Goods;
- Customs Convention on the International Transport of Goods under Cover of Transports *International Route* (TIR), Carnets (TIR Convention), and the Customs Convention on the Temporary Importation of Private Road Vehicles to enable the temporary importation of (i) goods for display in exhibitions and professional equipment for temporary use, (ii) cargo in transit and road vehicles, and (iii) personal vehicles; and
- International Convention on Mutual Administrative Assistance for the Prevention,

²² SAFE Framework provide blueprints for modernizing customs administrations by simplifying documentation and procedures through the adoption of a risk-based approach that reduces intrusive inspections, improves compliance by targeting high-risk shipments, and leads to the more efficient utilization of customs resources.

Investigation, and Repression of Customs Offences (Nairobi Convention), which helps customs administrations cooperate in conducting investigations to prevent violations of customs laws.

The Government of India has sought to improve India's ranking in the World Bank's Ease of Doing Business Index, with the objective of positioning India as an attractive destination for investment. As a result, the government has embarked on additional reforms to facilitate the movement of goods across borders. These measures are aimed at:

- reducing cargo release times;
- enhancing process efficiency by implementing modernized procedures;
- integrating digital initiatives;
- achieving better coordination among various stakeholders in the border clearance ecosystem;

Indian Customs Electronic Data Interchange System: The first of these reforms was the automated Indian Customs Electronic Data Interchange System (ICES) that was introduced in 2005 to bring efficiency to cargo clearance processes. ICES are an initiative designed for the exchange and transaction of customs clearance information using electronic data interchange. ICES are responsible for the management of approximately 98% of India's international trade.

Single Window Interface for Facilitating Trade: On 1 April 2017, India launched its national single window project: the Single Window Interface for Facilitating Trade (SWIFT). As part of the government's agenda to improve the ease of doing business, SWIFT enables importers and exporters to file a single electronic declaration online via the ICEGATE portal. The following features of SWIFT have the potential to make a significant impact on trade facilitation:

- i. *Integrated declaration:* Information required for import clearance by government agencies is electronically submitted by importers through an integrated declaration at a single-entry point: ICEGATE. Nine separate forms required by different agencies have been merged into a single form, eliminating duplication and reducing the compliance burden on traders.
- ii. *Automated routing:* SWIFT automatically identifies goods that require clearance by participating government agencies and routes them online to the relevant agencies for regulatory clearance.
- iii. *Integrated risk assessment:* The implementation of SWIFT is being accompanied by the use of risk-based selective examination and testing, significantly reducing the number of consignments that need mandatory testing or certification.
- iv. *Online release:* The trader files a single declaration in SWIFT.

Authorized Economic Operator Program: In India's AEO program, there are multiple tiers of certification with differing levels of compliance requirements and facilitation. To qualify as an AEO, a set of stringent criteria has to be met, including criteria that pertain to legal compliance, quality of accounts maintenance, financial solvency, process security, premise security, cargo security, conveyance security, personnel security, and business partner security.

Direct Port Delivery: Satellite facilities, known as container freight stations (CFSs), were set up and assigned to their respective ports to address increased congestion at ports and a lack of space for physical expansion while freight containers undergo customs clearance.

Deferred Duty Payment: To enable the release of cargo without payment of duty and to improve the speed of clearance. Deferred duty payment benefits are currently extended to importers holding Tier 2 or Tier 3 AEO status.

Convention on International Transport of Goods Under Cover of TIR Carnets: India ratified the TIR Convention on 15 June 2017. The convention further facilitates the seamless movement of goods across one or more borders based on an international guarantee and mutual recognition of customs controls.

Land borders: Unlike seaports and airports, LCSs belonging to neighboring economies generally

operate as a pair; that is, the cargo cleared for export by the LCS of an economy is cleared for import by the corresponding LCS of the partner economy. To improve the infrastructure that supports border trade, the Government of India is developing integrated check posts (ICPs) along the land borders. Five ICPs Atari, Racal, Dogbane, Agartala, and Petrapole have been made operational. ICPs that are under construction at other locations include Dawki and Moreh. The ICPs house all regulatory agencies customs, immigration, border security, quarantine, and food safety, among others together with support facilities like warehouses, parking lots, banks, and hotels under one roof. The Land Ports Authority of India was established as the single agency responsible for the coordinated functioning of various government agencies and service providers at the ICPs, as well as for developing and maintaining the ICPs.

Nepal

In 1971, India (by far Nepal's largest trading partner) and Nepal signed a trade and transit treaty, which was subsequently split into two separate treaties a trade treaty and a transit treaty in 1978. The trade treaty has been renewed several times since then. In 2009, both countries signed a new trade treaty that included a provision for automatic renewal every 7 years. Some of the key features of the landmark trade treaty signed in 2009 include-

- i. exemption from basic customs duties and quantitative restrictions on imports of primary products on a reciprocal basis; and
- ii. duty-free access for Nepalese manufactured goods exported to India without quantitative restrictions on a nonreciprocal basis.

Nepal has been unable to fully benefit from the various preferential schemes to which it is a signatory. Sanitary and phyto-sanitary (SPS) measures, technical barriers to trade (TBT), and Para-tariffs in export markets constrain market access.²³

Nepal Trade Integration Strategy 2016: The Nepal Trade Integration Strategy 2016 emphasizes the country's aim to address trade and competitiveness challenges in the export sector. Specifically, the strategy underscores the following priority areas:

- i. strengthen the trade- and export enabling environment;
- ii. focus on product development and strengthen the supply capacity of priority products;
- iii. strengthen institutional capacity, trade negotiations, and interagency coordination; and
- iv. build and enhance trade-related infrastructure.

The strategy highlighted 19 different strategic outcome levels, comprising 7 outcomes under "cross-cutting issues" and 12 outcomes in the "potential export sector" (MOC 2016). Trade and transport facilitation is a cross-cutting issue with the objective of improving Nepal's export competitiveness. The trade and transport facilitation strategic outcome comprises 16 policy actions as short term (2016-2017) and 5 as medium term (2018-2020). These policy actions to improve trade and transport facilitation encompass a range of reforms related to trade facilitation; infrastructure improvements (e.g., integrated intermodal transport system, airports, domestic connectivity, and road networks); compliance with the Revised Kyoto Convention on the Simplification and Harmonization of Customs Procedures (RKC) and TFA; the introduction of modern customs tools such as post-clearance audit (PCA) and an authorized economic operator (AEO) program; the introduction of national single window (NSW) and electronic data interchange systems; and transport facilitation.

Customs Reform and Modernization Strategies and Action Plan, 2017-2021: The latest and the fifth iteration of CRMSAP for the period 2017-2021 were approved by the Ministry of Finance (MOF) in January 2017 (DOC 2017). The CRMSAP aims to reduce transaction costs, facilitate trade, develop human resources, and improve revenue collection and border security to support Nepal's economic prosperity. To achieve its objectives, the CRMSAP includes 11 strategies, 92 activities, and 340 tasks for the period 2017-2021. The 11 strategies comprise the following:

²³ Ministry of Commerce [MOC] 2016.

- (i) Expedite legitimate trade facilitation;
- (ii) Promote integrity and good governance;
- (iii) Enhance customs automation and data management;
- (iv) Strengthen human resources management capacity;
- (v) Develop infrastructure and physical facilities;
- (vi) Enhance passenger clearance services;
- (vii) Ensure fair and accurate revenue collection;
- (viii) Strengthen compliance management;
- (ix) Implement an advanced risk management system;
- (x) Protect the safety and security of society; and
- (xi) Streamline coordinated border management.

The CRMSAP identifies the legislative, legal, and administrative measures that the DOC will need to enact for Nepal to be compliant with international standards as identified in the TFA, the RKC, and other relevant international conventions and standards. Activities to achieve this outcome include, among others, a review of documents required for importing and exporting; introduction of a trusted traders program; design, planning, and implementation of an AEO program; development and implementation of advance ruling; improvement and updating of the DOC website; and the conduct of time release studies.

Department of Customs: The DOC has a total of 34 main land customs offices plus a single PCA office and an office at Tribhuban International Airport. Customs offices located at Birganj, Sirsiya (ICD), Bhairahawa, and Biratnagar oversee more than 90% of the volume of trade in the country.

Legal framework: The legal framework to regulate and facilitate trade is governed by the Export Import (Control) Act, 1957 and the associated Gazette Notification. In addition, the Customs Act, 2007 and its associated rules (2007) provide the legal framework for customs operations in Nepal. The MOICS and the DOC, respectively, are entrusted to enforce the Export Import (Control) Act, 1957 and the Customs Act, 2007 and its associated rules and regulations.

Automation: Customs automation in Nepal started in 1996 with the introduction of the Automated System for Customs Data (ASYCUDA) with support from the Asian Development Bank.

Import and export document requirements: The number of documents required for trade activities with India is lower than those required by other trading partners. For imports from other trading partners, eight documents are to be submitted with the import declaration, along with any additional documents that are required as per the prevailing law regarding the recommendation, license, or certificate from any institution. For exports to other trading partners, five documents are to be submitted with the export declaration in addition to any document that is required as per the prevailing law regarding the recommendation, license, or certificate from any institution.

Malaysia

Highlights:

- Malaysia has a powerful national government-industry body, Special Task Force to Facilitate Business (PEMUDAH), to promote trade facilitation. The body provides an open forum for interactive discussion and a platform for pilot projects;
- Malaysia has strengthened collaboration across different border control agencies to step up the fight against cross-border drug trafficking and people smuggling as well as to improve enforcement of the country's territorial waters;
- Malaysia would benefit from a broader international recognition of its national AEO program and air cargo security regime;
- At the policymaking level, the Ministry of International Trade and Industry (MITI) sets general directions for achieving goals of International Trade and Industries;
- The Malaysian government engages also the private sector in trade facilitation discussions and initiatives. Much of this government-industry collaboration takes place at the Focus Group on Trading Across Borders (FGTAB), a form of public-private partnership coordinated

by the Special Task Force to Facilitate Business (PEMUDAH). PEMUDAH involves many working groups (e.g., on efficiency and trading across borders) that provide a forum for an open interactive discussion.

Towards regional e-clearance systems: In 2014, Malaysia launched a new electronic single window system called “uCustoms.” This national single window will connect all relevant Malaysian border control agencies, providing trading companies a single-point access to government services. The Malaysian national single window paves the road towards a future regional ASEAN single window. Capacity building efforts of the World Customs Organization (WCO) are strongly supporting the development of the ASEAN single window.

Mutual recognition (MRAs) of Authorized Economic Operator (AEO) programs: The Malaysia customs has run a fully operational Authorized Economic Operator (AEO) program since January 2010.

Other Good Practices Case Studies:

Bilateral & Multilateral Cooperation Frameworks

Bilateral:

01. USA-Mexico Bilateral Cooperation

The border between Mexico and the United States is the most frequently crossed boundary in the world, with approximately 350 million crossings and over five million cars and trucks traversing the border annually. The boundary is 3,142 km long and along the border there are ten states, four in the US and six in Mexico. The border area is of critical economic importance for both. Being Mexico the second largest destination of US goods and services after Canada, nearly 500 Billion USD worth of goods cross between the countries each year. Approximately 80% of this trade crosses the border via road and rail. In addition, the US imports from Mexico contain as much as 40% US content, which means that the goods often cross the border multiple times in the course of being turned into the final product. Such volumes mean that highly efficient ways of managing the border are compulsory.

In this scenario, many initiatives related to Border Agency Cooperation (BAC)²⁴ took place; the most relevant one is the 21st Century Border Management.

The Joint Declaration on 21st Century Border Management between the US and Mexico was signed in 2010. Its main objectives are:

- i. enhancing economic competitiveness by expediting lawful trade, while preventing the transit of illegal merchandise between the two countries;
- ii. facilitating lawful travel in a manner that also prevents the illegal movement of people between the two countries;
- iii. sharing information that enhances secure flows of goods and people; and
- iv. disrupting and dismantling transnational criminal organizations and penalizing their members and supporters.

²⁴ The key thematic areas of Border Agency Cooperation include policy, process, people, technology, infrastructure and facilities. United Nations Economic Commission for Europe (UNECE) argues that advancing BAC requires efforts at many fronts: legal reforms to create a clear and transparent legal framework; organization to understand specific needs of different stakeholders; technology to enable electronic exchange of information; processes to make government and business processes more compatible; and people to train key personnel to implement the envisioned changes. The figure below illustrates the key differences between an uncoordinated and coordinated approach to border management. There is no standard definition of BAC, and the concept is in fact known by many headings as shown in Table below. The World Customs Organization talks about Coordinated Border Management (CBM), the European Union about Integrated Border Management (IBM), the World Bank about Collaborative Border Management (CBM) and the Organization for Security and Cooperation in Europe (OSCE) about Comprehensive Border Management (CBM). Common to all approaches is that they seek to coordinate activities across a range of border control agencies.

Single entry of trade data and single cargo inspections: The objective of the Initiative is to intercept dangerous individuals, goods and contraband while alleviating congestion. Furthermore, under this initiative, the standardization of a single entry of trade data is expected (importers and exporters only provide information once), reducing the administrative burden and the cost of trade.

Agricultural products and food safety: In June 2015, the Mexican Secretariat of Agriculture, through the National Health Service, Food Safety and Quality and the US Department of Agriculture signed a letter of intent to formalize cooperation for developing mutually compatible electronic certification systems for plants and animals. This arrangement aims to provide increased compliance for the import and export of agricultural products and enhance food safety and bilateral trade.

Risk management and information sharing: The 21st Century Border Management Joint Declaration establishes several areas for collaboration and coordination in risk management:

- i. joint assessments of threats, development of a common understanding of the operating environment, and joint identification of geographical areas of focus for law enforcement operations; and
- ii. the development of complementary risk management strategies aimed at separating high-risk and low-risk shipments and individuals.

Infrastructure development:

Equipment and tools: The Merida Initiative has donated different equipment with the aim of facilitating work in the borders, such as the detection of illicit trade goods.

Public works infrastructure: Both countries also have joint investment in infrastructure. For example, the West Rail Bypass Bridge at Brownsville-Matamoros between Texas and Tamaulipas was opened in August 2015.

Telecommunication infrastructure: Also under the Merida Initiative, a secure, cross-border telecommunications system between ten border cities has been established.

Trusted trader programmes: In 2014, the US and Mexico signed a mutual recognition of trusted traders document. The objective is to grant special privileges to those companies that are certified by the corresponding authority in order to have their trucks at the front line at border crossings.

02. Zambia-Zimbabwe Bilateral Cooperation

Highlights:

The One-Stop Border Post (OSBP) between Zambia and Zimbabwe is considered to be the leading OSBP in Africa, with a high-degree of practical cooperation in place. The main objective of the Chirundu OSBP is to improve efficiency in border management and operations, thus reducing the time and cost of crossing the border.

Reported OSBP benefits in Chirundu include:

- i. improved clearance time of less than a day;
- ii. reduced cost of doing business;
- iii. information sharing among border agencies; and
- iv. drastic reduction of fraud, among several other benefits.

03. Vietnam-Laos BAC Bilateral Cooperation

Highlights

The cooperation in Laobao-Dansavanh border crossing point builds on the Greater Mekong Sub-region Economic Cooperation Program-Trade and Transport Facilitation initiatives-The Cross

Border Transport Agreement (GMS CBTA)-since the year 2005.²⁵ In addition, the legal framework of the Laobao-Dansavanh BCP constitutes a wide range of agreements and MoUs between the national and functional agencies implemented between years 2005 and 2014.

Operational set-up: The model started operations on 25 December 2014 and was officially launched on 6 February 2015. Each party established an inter-agency control station (ICS) and a common control area (CCA) for conducting documentary and physical inspections of goods, passengers and vehicles crossing the shared border. Personnel from the two countries assigned to work at CCA. Submission, lodgment of customs declaration form and other supporting documents and conducting of customs clearance procedures of customs administrations are to be done at the inter-agency control station (ICS) in the country of entry, instead of the ICS in the country of exit.

Organization and Personnel: The Vietnamese and Lao customs, Vietnamese border guards, the Lao police, quarantine and immigration appoint officials to work at both the common control area (CCA) of Laobao and Dansavanh. Regulations on task divisions, working hours, labour policies and legal organizations are stipulated fully in an arrangement between the Vietnamese and Lao Ministries of Finance

Information Technology and Automated Customs System: In general terms, the customs clearance procedures are applied for goods and vehicles in the country of entry. In particular, the procedures are carried out with the Vietnam Automated cargo clearance system (VNACCS) for the goods and vehicles declared by the Vietnamese owner and with the ASYCUDA for the Laos declarations.

04. Uganda-Kenya Bilateral Cooperation

Highlights:

- i. Recently-established One-Stop Border Post (OSBP) at the Uganda-Kenya border makes cross-border trade and travel faster, more reliable and cost-effective.
- ii. Uganda and countries of the East African Community (EAC) have reduced the complexity of cross-border trade and logistics by harmonizing regulations concerning food and agricultural products, simplifying certificates of origin and by establishing a trade helpdesk.
- iii. The World Customs Organization supports Uganda and other EAC countries in launching a regional Authorized Economic Operator Program (AEO)

05. Sweden Norway Bilateral Cooperation

Immigration & Customs: As both Sweden and Norway are parties to the Schengen Agreement, non-EU and Norwegian citizens are not normally required to present for passport control, although identity controls have been stepped up from time-to-time, including for EU and Norwegian citizens. On Sweden's accession to the EU in 1995, an agreement was signed between the European Community and the Kingdom of Norway on customs cooperation. This agreement allowed Sweden and Norway to reach administrative arrangements on customs cooperation.

Border trade and cross border traffic: The border between Norway and Sweden is approximately 1,600 kilometers long with more than 80 crossings. Only fourteen of these crossings have customs offices. The value of trade exports between Sweden and Norway is considerably higher than between Ireland and Northern Ireland. Car traffic is driven mainly by cross-border shopping from Norway to Sweden and day visits are very frequent.

²⁵ As a landlocked country Laos is dependent on the transit traffic from and to Vietnamese ports. Also the Vietnamese industry relies on a variety of raw materials and mining products originating in Laos. In fact, the trade between the countries has increased significantly over the past years.

Border Operations: The Sweden Norway Customs model is considered the most advanced customs solutions in the world, as it is the only model that uses all the basic modern components of the international standards from the World Customs Organization. It is also fully compatible with the World Trade Organization Trade Facilitation Agreement. In addition, it has been operationally tested for several years and it is, from a technical customs perspective, already working on an EU border.

Legal Framework: The legal framework for border operations is given expression in the Swedish and Norwegian customs regulations. The regulations mirror each other in respect of the border crossings between Norway and Sweden. The regulations allow for:

- i. The creation of a 15 kilometer control zone on either side of the border where customs controls can take place;
- ii. That controls can be carried out by the customs authorities of either country on in accordance with their own customs regulations (this includes EU customs regulations for Sweden);
- iii. That customs controls can be undertaken on the other country's behalf;
- iv. The goods to be declared must pass through a customs location;
- v. The sharing of information between Norwegian and Swedish customs.

Authorized Economic Operator: Both Norway and Sweden have Authorized Economic Operator (AEO) programs with Sweden's AEO programs having 289 companies under the three EU classifications. Norway has only 27 participating companies in its AEO programme.

National Single Window: Both Sweden and Norway allow for customs to represent most other relevant agencies at the border (e.g. food health and agriculture agencies) and operate national single windows for submission of customs and other agency information requirements (e.g. permits).

Deferred VAT: In both Norway and Sweden businesses can apply to participate in deferred duty payment regimes and the payment of VAT can also be incorporated into a company's VAT account for later payment.

Multilateral:

06. The economic subsystem of Central America

The economic subsystem of Central America is comprised of six countries: Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama. The Central American BAC model is based on the following eight pillars that need to be achieved in the medium and long term:

- Adoption of international standards that aim to improve information exchange between the authorities by implementing international standards.
- Information interoperability, where the objective is to improve control, institutional coordination and reduction of trade procedures by exchanging information between the corresponding authorities.
- Comprehensive risk management that aims to reduce physical intervention by improving and using risk analysis involving the participation and cooperation of all the customs control institutions and the private sector.
- Reliable operators have the objective of reducing the fiscal risk and increasing supply chain security by certifying reliable operators and mutually recognizing their AEOs.
- Quarantine control that reduces time and cost at borders and increases commercial flow through the region.
- Integration procedures and control aim to implement a border control process that defines the sequence and mode of action and compulsory intervention of control institutions of both countries, following a management based on risk profiles, advance electronic information and joint inspection at the border.

- Infrastructure and equipment that respond to the operational demands of each border post.
- Border community and security, which would ensure that the areas surrounding border crossings have an economic and social environment that facilitate proper functioning and sustainability.

07. Gulf Cooperation Council

Perhaps the most relevant regional initiative within the Arab region is the Gulf Cooperation Council (GCC). The GCC provides a highly relevant platform for BAC, with some best demonstrated practices and important achievements. Established in 1981, it comprises six Arab states on the Persian Gulf, namely Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the UAE. The GCC has taken steps to establish a monetary union and has launched economic projects to promote integration.

The GCC demonstrates advanced collaborative arrangements between customs administrations under the GCC Customs Union that was established in 2003 and has been operational since 2015. In addition, there are provisions for sharing customs expertise through the exchange of customs officers and through common training programs.

08. Association of South East Asian Nations

The Association of Southeast Asian Nations, or ASEAN, is a well-established economic and political organization founded in 1967. From ASEAN's ten members, three belong to OIC nations, namely Indonesia, Malaysia and Brunei. The fundamental objectives of ASEAN include the creation of a single market and strengthening cross-border security. Effective cooperative arrangements and enhanced information exchange across border control authorities will enable the realization of these ambitious goals. ASEAN has already geared efforts towards the harmonization of regulatory and institutional standards and transparency, amongst other things.

In the framework of the ASEAN Free Trade Agreement (AFTA), there is focus on customs modernization and standards, as well as technical regulations. Other trade facilitation measures include the establishment of the ASEAN Customs Agreement, the ASEAN Framework Agreement on the Facilitation of Goods in Transit, the ASEAN Framework Agreement on Multimodal Transport, the implementation of the ASEAN Framework Agreement on Mutual Recognition Arrangements, and the ASEAN Single Window Agreement.

09. Eurasian Customs Union

Border Agency Cooperation efforts in Kazakhstan build on the cooperation among the Eurasian Customs Union, a single market alliance between five former Soviet states: Armenia, Belarus, Kazakhstan, Kyrgyzstan and Russia. The same way as the EU Customs Union, the Eurasian Customs Union seeks to strengthen the Eurasian single market by removing barriers for free regional movement of goods, services, capital and people. Operational since 2015, the Eurasian Customs Union imposes a common external tariff on goods from third countries. There are no customs posts between the members of the Union, and the members have agreed on common rules regarding sanitary and phyto-sanitary standards for food and agricultural products.

10. East African Community (EAC) Customs Union

The East African Community comprises Uganda, Kenya, Tanzania, Rwanda, Burundi and South Sudan. The Customs Management Act provides the baseline for cooperation of the respective authorities in customs matters-including trade facilitation issues, standards, plant and animal health, human health, statistics and security-in the six member countries. Customs authorities in these countries have launched common customs modernization programs, common electronic cargo tracking systems and regional Authorized Economic Operators (AEO) programs. They are also working on elimination of duplicate security checks and on making operational of One-Stop Border Posts (OSBP). The initiatives have also facilitated institutional coordination for removal of NTBs – an EAC NTB elimination Act/law has been enacted, as well as re-alignment of national laws and regulations and initiatives for introduction of a Single Window system.

11. OSCE/ UNECE Border Management Framework

With 57 participating States in Europe, Central Asia and North America and 11 Asian and Mediterranean Partners for Co-operation, the **Organization for Security and Co-operation in Europe (OSCE)** is the world's largest regional border security organization. On the other hand The **United Nations Economic Commission for Europe (UNECE)** is one of five regional commissions of the United Nations. Its principal aim is to promote pan- European economic integration, which it pursues by bringing together 56 member States from the European Union, non-EU Western and Eastern Europe, South- Eastern Europe and the Commonwealth of Independent States (CIS), and North America.

OSCE/ UNECE Handbook of Best Practices at Border Crossings: A Trade and Transport Facilitation Perspective is intended for use as a practical guide both for government agencies and for the private sector bodies that are the “users” of border crossing points. All Customs authorities will find a number of recommendations in the guide that will improve their work and will facilitate trade and cross border transport. The Handbook covers the following topics: relevant legislation, legal issues, the role of international organizations, comprehensive border management, participation of and collaboration with users from the private sector, trade facilitation and security, freight processing and goods control policies, risk management, border design, information and inspection technologies, human resource management, financial management, and, finally, performance indicators and benchmarking.

The Handbook is divided into the following areas:

Trade and Customs: The International Legal Framework: Provides an overview of the existing legal framework surrounding international trade, Customs and border management. It briefly introduces some of the key conventions and arrangements that makeup the international legal framework in this field, including the World Trade Organization (WTO) Agreements, the WCO's Revised Kyoto Convention and SAFE Framework of Standards, and the UNECE International Convention on the Harmonization of Frontier Controls of Goods. Consideration is then given to trade agreements such as preferential trade agreements and free trade agreements, with a number of existing multilateral and bilateral examples.

From Domestic to International Cooperation: Increases in cross border transactions and in the importance of global trade for national economies are compelling present-day governments to develop more efficient border management processes. Increasingly, border agencies are developing mutual co-operation and partnerships in order to rise to the new challenges posed by globalization. It presents the OSCE's Comprehensive Border Management Concept, looks at domestic co-operation issues, and then moves on to examining aspects of international cooperation. Integrated Border Management (also known as “Coordinated” or “Collaborative” Border Management), the “Single Window”, the Single Administrative Document (SAD), and the one stop border crossing are the good practices for many developing countries are also prescribed here.

Balancing Security with Trade and Transport Facilitation and Developing Partnerships with Private Industry: Emphasizing the need for governments to find a better balance between security and trade facilitation, this arrangement offers a comprehensive and integrated “whole of government” approach to border crossing point management methods and policy development.

Processing of Freight: Policies for Control, Clearance and Transit: Starts from the assumption that operations at borders are shaped by policies concerning controls, clearance and transit. According to the policies that are followed, there can either be long queues and delays at a border, or cross-border transactions can be fast and safe.

Risk Management and Selectivity: It makes a strong case for Customs and other border management agencies stepping away from their traditional transaction per- transaction document checks and physical inspection techniques and, instead, adopting a risk-based management approach.

Options for the Design of Border Crossing Points: It starts with the assertion that the ideal border crossing point (BCP) should provide for efficient processing of lawful traffic, have facilities for detecting violations, but at the same time offer a good image of the State it is representing.

Information and Communication Technology and Non-Intrusive Inspection: First looks at the role of ICT (information and communications technology) in border management and then considers the international environment in terms of regulation and standards. It then narrows its focus to look at national challenges and specificities, before considering software packages and describing some of the hardware and software available. It introduces the WCO Data Model, the Single Window, and other data technologies available today.

Human Resource Management: In a shift involving new technology and skills, the focus is now more on information management. The process is structured around the first five of a six-step process for developing an HRM strategy. Within each step are shown examples of issues to be addressed and, where possible, best practices and case studies from the Customs/ border agencies field. The sixth step, "Assessing and sustaining organizational competence and performance" is dealt with on performance measurement and benchmarking.

CHAPTER - 4

COMPLIANCE & RESPONSIVENESS

4.1 Awareness and Knowledge of National and Cross-Border Legal & Policy Frameworks

In the context of Bangladesh, lack of transparency, awareness and knowledge of pertinent policies, rules and regulations among key stakeholders severely aggravate the redundant and lengthy clearance processes, multiple documents requirements in different formats and with different data elements. These constraints slows down the pace and progress of a vibrant, conducive eco-system for international trade including increased costs and time of doing trade. These obstacles pose greater barriers to trade than what tariffs, quotas or lack of regulatory provisions do.

4.2 Effectiveness of Existing National Legal Frameworks for Trade Facilitation and Border Management

The Ministry of Commerce and its subsidiary offices the Tariff Commission, Export Promotion Bureau, Chief Controller of Import and Export, and WTO Cell along with the NBR, trade bodies, research organizations, academia, and relevant agencies all contribute in designing the regulatory framework and laying the foundation for how Bangladesh would tackle its national and international trade challenges.

Bangladesh has focused on creating a more favorable environment for trade, including its policy and regulatory regime, over the last few decades. While initial trade reforms focused mostly on trade liberalization, the reduction of import duties, the rationalization of tariffs, the promotion of exports, and removal of visible trade barriers, it has become clear that Bangladesh would have to take significant strides to carve a more pronounced place for itself in the global trade community.

4.3 Implementation of National and Cross-Border Laws and Policies in Trade Facilitation

- Since the ratification of the WTO's Trade Facilitation Agreement (TFA) on 27 September 2016, the Ministry of Commerce has played a key role in mobilizing various government agencies to determine the path forward for the implementation of Bangladesh's TFA commitments.
- To coordinate all trade- and transport-related policies and activities in Bangladesh and to manage all activities and initiatives related to the TFA, the National Trade and Transport Facilitation Committee (NTTFC) was established in January 2018 under the chairmanship of the Minister of Commerce. The NTTFC which comprises 31 members, including high-level officials and representatives of relevant ministries, departments, and trade bodies also provides policy direction to the relevant agencies.

4.4 Compliance with Regional/International Regulatory Frameworks

- One of the major building blocks for Bangladesh in trade facilitation is the increased participation of involved agencies in various bilateral and multilateral trade negotiations, which enhanced access to and knowledge of key trade issues and most impactful international trade practices.
- Initiatives undertaken by development partners including the Asian Development Bank (ADB); International Finance Corporation; United Nations Conference on Trade and Development (UNCTAD); United Nations Economic and Social Commission for Asia and the Pacific; United States Agency for International Development (USAID), and the World Bank-have buttressed major activities aimed at advancing trade facilitation in Bangladesh.
- Bangladesh became a member of the World Trade Organization (WTO) on 1 January 1995.
- Prior to joining the WTO, Bangladesh had become a member of the General Agreement on

Tariffs and Trade in 1972 and the World Customs Organization (WCO) in 1978.

- Bangladesh adopted a range of measures to facilitate trade, including:
 - Abolishing its import licensing system under the Ministry of Commerce in 1984;
 - Becoming a contracting party to the WCO's International Convention on the Harmonized Commodity Description and Coding System in 1987; and
 - Introducing the Automated System for Customs Data (ASYCUDA) at the National Board of Revenue (NBR) in 1994.
- In 2010, Bangladesh signed the letter of intent to implement the WCO's Framework of Standards to Secure and Facilitate Global Trade (SAFE Framework).
- On 28 September 2012, Bangladesh acceded to the WCO's Revised Kyoto Convention on the Simplification and Harmonization of Customs Procedures (RKC). Both events marked instrumental milestones toward improving trade facilitation.
- Bangladesh ratified the WTO's Trade Facilitation Agreement (TFA) on 27 September 2016.
- **LCSs and the NBR Initiatives:** Bangladesh's geography has affected the extent to which the country has been able to promote trade facilitation. Bangladesh borders with India on three sides; Bangladesh's imports and exports with SASEC countries take place largely through LCSs by road, and the rest by rail and by waterways. The NBR oversees the LCSs and their operations; the Board has launched an initiative to develop the infrastructure of these LCSs.²⁶
- **Bangladesh Land Port Authority initiatives:** Another agency that has been active in seeking the improvement of land routes in Bangladesh is the BLPA. Specifically, the BLPA has been looking at infrastructure development initiatives, increasing the efficiency of cargo handling, improving storage facilities, and fostering public-private partnerships for effective and responsive service delivery. A total of 23 LCSs have been designated as land ports. These ports are managed by the BLPA as well as private port operators on a build-operate-transfer basis.²⁷
- **The Bangladesh Standard and Testing Institute initiatives:** BSTI has sought to conclude mutual recognition with regard to accreditation so that its certification is accepted by neighboring countries, thus facilitating trade. While the BSTI has not been able to set up offices at border points due to a shortage of resources, manpower, and institutional capacity, there has been progress in recent years with neighboring countries accepting the product standard certificate issued by the BSTI, thereby facilitating more exports from Bangladesh. Also, The NBR has provided the BSTI access to ASYCUDA World. Through this system, the BSTI can send certificates in favor of importers to Bangladesh Customs electronically, allowing efficient processing of import declarations.
- **Ministry of Commerce:** The Ministry of Commerce has also been working with the Borders without Barriers: Facilitating Trade in SASEC Countries.
- **Plant Quarantine Department:** Responsible for the prevention of entry and establishment of foreign pest regulation in the country, the Plant Quarantine Department manages the

²⁶Only one LCS is involved in trading with Myanmar-Teknaf LCS, which is in the southern part of Bangladesh. Trade with India, Nepal, and Bhutan occurs at 181 LCSs. However, as the infrastructure is lacking at most of these posts, only 20 out of 181 LCSs are deemed functional. There is, thus, vast untapped potential for the development of the remaining LCSs as trade channels to fulfill the country's objectives of trade facilitation vis-à-vis increased regional connectivity, particularly with SASEC partners.

²⁷ The BLPA is also very active in the SASEC Customs Subgroup meetings and other working group meetings, sharing information on Bangladesh's ongoing projects and experiences, and retaining the knowledge needed to remain at the forefront of work that advances regional connectivity.

legal enforcement and regulation of the movement of plant and plant products.²⁸ Plant quarantine certificates for imported products need to be obtained from the Plant Quarantine Department prior to the clearance of goods from customs officials at the border. A shortage of human resources at the department has constrained the establishment of quarantine offices at all border points.

- To summarize, there have been some remarkable initiatives to improve trade facilitation in Bangladesh and achieve specific components of the TFA such as the establishment of the NTTFC, implementation of advance ruling, and launch of the NBR's Customs Portal and Ministry of Commerce's NTP. The enactment of the new Customs Act (drafted in 2018) will be another milestone. Other efforts, such as implementation of the NSW, are in progress. Broadly, it can be said that Bangladesh Customs has taken initiatives to facilitate trade by adopting modernization activities. Other departments have been endeavoring to do the same. The importance of trade facilitation is now well recognized among officials and within the relevant government agencies. It is important to note that the NTTFC can frame policies, provide directives, recommend changes in the terms of references of the agencies, set their roles and responsibilities, and establish a mechanism for monitoring and supervising activities.

4.5 Gender Perspectives in Border Management and Trade Facilitation including Promoting Women Entrepreneurship

Although the use of trade facilitation measures for tackling trade bottlenecks has gained traction in recent times, one aspect which remains largely unexplored is the importance of gender sensitivity in trade facilitation.²⁹ In Bangladesh, however, not much attention has been given to understand the gender impact of services involved in trade facilitation like customs and border management, logistic services, trade infrastructure and transportation. The practice of employing gender differentiated filters on trade policies, port-level procedures, infrastructure planning, and design of trade promotion programs is still far from adequate.

The neglect of gender specific constraints and impediments within the overall frame of trade facilitation has serious implications not just for women's empowerment but also for productivity and growth. The current study endeavored to assess and develop an analytical framework to identify the challenges and impediments faced by women in engaging in cross-border trade, with particular emphasis on demonstrating the importance of gender mainstreaming for trade facilitation measures.

It is commonly recognized today that trade facilitation can be an effective and powerful tool for women's empowerment and improving the economic status of women. In this regard, Bangladesh, and more broadly the BBIN countries, can especially use the provisions under the WTO's Trade Facilitation Agreement (TFA) that aims at expediting the cross-border movement of goods and sets out measures for effective cooperation between customs and other authorities on trade facilitation and customs compliance issues. Many trade facilitation measures contained in the TFA would also directly contribute to meeting the UN's Sustainable Development Goals (SDGs) that all BBIN members have adopted and which have a direct positive impact on women.³⁰

However, the practice of employing gender differentiated filters on trade policies in general, and cross-border trade management and operations in particular (including, e.g., port-level

²⁸ Both sanitary and phyto-sanitary matters are reviewed by this department, including the testing and certification of imported products, as necessary, for entry into Bangladesh. This department has offices at major LCSs such as Burimari, Tamabil, Banglabandha, and Hilli.

²⁹ Nisha Taneja, Sanjana Joshi, Shravani Prakash, Samridhi Bimal, *Trade Facilitation Measures to Enhance Women's Participation in Cross-border Trade in BBIN*, Indian Council for Research on International Economic Relations (January, 2018).

³⁰ WTO, 2017.

procedures, infrastructure planning, gender-sensitive, women-friendly measures and facilities, design and implementation of trade promotion programs including equal and equitable gender representation, and so forth), is almost non-existent in Bangladesh. The present study endeavored, within the limited scope of its mandate, to generate some quantitative and qualitative data on the scale, extent and impact of the issue in the given contexts of the country's international trade.

Trade facilitation is at the core of Bangladesh's on-going trade policy reform initiatives that set the objective of allowing a smooth, seamless and predictable movement of passengers and cargo across her borders. The urgency of finalizing the protocols for the implementation of the MVA in the BBIN sub-region has been reemphasized by all the BBIN States.³¹ It is therefore, vital that there should be adequate representation of women entrepreneurs and small-scale traders in these consultations so that their interests and requirements are considered before finalizing the protocols and policies. Moreover, the domestic policy measures taken by each country can further be integrated into a synchronized regional agenda for gender responsive trade facilitation measures.

The emphasis on gender dimension in trade facilitation assumes even greater significance in the context of the host of initiatives that most South Asian countries have unveiled in recent years to promote women entrepreneurship along with talk of forming a SAARC Convention on Promoting Women Entrepreneurship.³² Including the gender dimension in trade facilitation would complement these initiatives and in fact has the potential to be a key driver for women's socio-economic empowerment. According to ILO, while globally the labour force participation rate for women is 49.4 percent, in Southern Asia it is only 28.6 percent as women are systematically affected by gender-based violence, salary gaps, and occupational segregation.³³

The study found that there are very few facilities for woman entrepreneur in the Benapole border.

³¹*BBIN countries agree on quick implementation of MVA*: Dhaka Tribune, Feb 18, 2020.

³² Formation of this convention was declared at a two day conference of the South Asian Women's Development Forum (SAWDF) organized in partnership with South Asia Women's Entrepreneurs Symposium (SAWES) on "Advancing Women's Entrepreneurship in South Asia", on 20-21 September, 2015 in Kathmandu, Nepal.

³³ILO World Employment and Social Outlook: Trends for Women 2017.

CHAPETER-5

CHALLENGES AND REFORMS

5.1 Major Legal and Policy Constraints in Trade Facilitation and Cross-Border management in Bangladesh

- Almost all the land/dry port have common destination i.e. Dhaka city.
- Connectivity mostly based on road transport.
- Till now single window system not established.
- Inadequate laboratory/testing facilities.
- Mostly Single country-based operation.
- Gender perspectives are only seen as a cross-cutting issue.
- Trade Diplomacy hasn't been prioritized as an institutional intervention but rather a need-based activity.

5.2 TFA-Specific Legal, Regulatory and Policy Challenges in Bangladesh

There have been some remarkable initiatives to improve trade facilitation in Bangladesh and achieve specific components of the TFA such as the establishment of the NTTFC, implementation of advance ruling, and launching of the NBR's Customs Portal and Ministry of Commerce's NTP. The enactment of the new Customs Act (drafted in 2018) will be another milestone. Other efforts, such as implementation of the NSW, are in progress. Broadly, it can be said that Bangladesh Customs has taken initiatives to facilitate trade by adopting modernization activities. Other departments have been endeavoring to do the same. The importance of trade facilitation is now well recognized among officials and within the relevant government agencies. It is important to note that the NTTFC can frame policies, provide directives, recommend changes in the terms of references of the agencies, set their roles and responsibilities, and establish a mechanism for monitoring and supervising activities.

5.3 Implementation Gaps and Procedural Hindrances Identified

Difficulties in implementation of relevant policies, rules and regulations originate from:

- Their non-binding nature (e.g. Export Policy, Industrial Policy);
- Lack of coordination and interlinking between relevant policies to address interwoven aspects of export and import;
- Weaknesses in the use of trade policy tools for the development of domestic market-oriented and import-substituting industries;
- Lack of awareness/knowledge/expertise of relevant regulatory frameworks; and
- Lack of initiatives towards strengthening institutional capacities in the areas of trade diplomacy and trade-promoting bodies.

Trade Facilitation measures involve Customs & Other Border/Government Agencies (OGAs) that are involved in trade. Though Customs remains the key player, implementation of trade facilitation requires modernization of both Customs and OGAs. OGAs having major responsibilities include- among others:

- ✓ Chief Controller of Imports & Exports;
- ✓ Plant Quarantine Department;
- ✓ Atomic Energy Commission;
- ✓ Drug Administration Directorate;
- ✓ Bangladesh Standard Testing Institute (BSTI);
- ✓ Bangladesh Export Processing Zone Authority;
- ✓ Port authorities;
- ✓ Bangladesh Bank.

Customs has undergone significant changes since the early 1990s through many donor-funded reform programs. Customs is more advanced in terms of its own modernization including implementation towards paperless trade facilitation measures but OGAs are not so advanced. Therefore, implementation of timely, demand driven trade facilitation measures remains a critical challenge for the OGAs. However, while the OGAs have the limitation of resource constraint for modernization initiatives, both financial and technical assistance from development partners are required in this area.

Implementation of coordinated Border Management and National Single Window has some unique challenges of its own. Border agencies (Customs & OGAs) have different mandates with regard to goods and people crossing borders. Such mandates vary from revenue assurance, migration, phyto-sanitary, radiological, transport, ecological & food safety controls. These agencies tend to work independently, which means:

- They do not have a clear understanding & knowledge of what others are doing;
- Often leads to multiple inspections of the same goods and considerable harassment for traders;
- Especially in the NSW, difficulties in getting on board all stakeholders remains a big challenge; and
- Unwillingness to cede authority to Customs is also another challenge to resolve.

5.4 Requirements of Legislative, Administrative and Policy Reforms Identified

- Stakeholders and respondents of the study commonly felt that significant opportunities exist for improvement of efficiency in different public sector agencies and institutions which facilitate cross-border trade. While considerable works have been done and continue to be implemented for the land ports in Bangladesh at the border points with the neighboring countries, they still need to be further modernized and made operationally efficient based on the gaps and opportunities identified;
- Development of trade-supportive infrastructure such as road and rail networks with major sea and land ports is urgently required;
- It is important to have an updated and detailed database at the Ministry of Commerce which would provide information on overall structure and composition of domestic industries. This would facilitate access to required information and help carry out in-depth analysis on various issues and concerns related to the industrial sectors and SMEs. This database should be made accessible to the private sector;
- Trade analysis, particularly related to market and product development, for which the government often receives support from development partners, should be carried out on a regular basis. In this context, strengthening of the Bangladesh Foreign Trade Institute (BFTI) through recruitment of capable top and mid-level professionals ought to be seen as an urgent task;
- Transaction costs at and behind the border in Bangladesh impact negatively on competitiveness of the country's products. A major focus of the trade policy should be to further improve and broaden relevant trade regulations and logistics to remove the barriers in cross-border trade;
- For enhancing trade at global and regional levels, trade policy should carefully adopt measures such as providing general and customized facilities at border customs stations (e.g. banking, warehouse, quality control and other infrastructure facilities at the border), establishing region-based testing institutions in order to reduce hassle and cost;
- Legal framework related to land port management needs to adopt measures for simplification and harmonization of trade procedures involving various trade partners. For example, establishment of a 'single window' for the submission of trade-related documents, and setting up a committee for managing trade-related grievances should be considered with priority;
- It is important to gradually develop automation system in all border trading points. In order to facilitate local firms in having international presence and to penetrate the international market,

government should provide support for opening exporters' offices, retail sales outlets, warehouse schemes and other support to enterprises to obtain compliance certification as and if needed. These initiatives require formulation of a regulatory and supportive policy framework;

- The existing import and export policies (2015-2018) are required to be updated to meet the challenges of time and should be formulated as integrated import and export regulations under section 3(1) of the Imports and Exports (Control) Act, 1950. This will pave the way for simplification, reduction and removal of red tape-ism and discrimination, unnecessary costs and time. Thus a business-friendly legally-binding policy regime for import and export in a sustainable and predictable manner (not just for 3-5 years) is a must.
- Major strategies of the new export policy, among others, should be incremental growth of exports beyond US\$60.00 billion by 2021 by expediting and implementing appropriate administrative support and facilitation measures as may be specified in the export policy order.³⁴
- Some global practices, strategies and measures for the promotion and facilitation of exports, compatible with the WTO agreements and practiced worldwide, may be specified in the export policy and make it binding on a priority basis. For instance, there should be technical and financial support for obtaining accredited quality certificates for goods and services. Again, the government should withdraw all duty, VAT and SD from all export products and services including all inputs thereof whether imported or locally produced.

5.5 5th Trade Policy & Regulatory measures review

Issues	Relevant Organizations
Tariff, preferential tariff, duties, charges etc.	NBR, <u>Tariff Commission</u>
Custom procedure, PSI, registration, documentation	NBR
TFA	NBR & MOC
SPS Measures, environmental regulation, Health & safety Requirements	MOA, <u>MoFLS</u> , Health, Environment
Standardization, regulation, certification, Tests Requirements	BSTI, <u>MoI</u> , <u>MoC</u>
IPR Infrastructure	<u>MoI</u> , DPDT
Investment codes & guides, investment treaties and agreements, double taxation	BIDA, NBR, <u>MoI</u>
Trade Remedies	<u>MoC</u> , Tariff Commission

5.6 Investment Opportunity in Bangladesh

Bangladesh is considered as one of the attractive destinations for business and investment opportunity due to presence of abundant low-cost labor, investment friendly environment, diversified natural resources and strong macro-economic fundamentals. Bangladesh has been maintaining steady GDP growth of more than seven percent over the last decade. It has been possible due to government firm commitment to patronize private sector and prudent fiscal policy.

Major Sectors

- Apparel- Global garment demand will increase by 65% within the 11years as the global population will increase by 16% at that time;
- Pharmaceuticals;
- Electronics;
- IT;
- Frozen food;
- Leather;
- Light engineering;

³⁴Manzur Ahmed, "Integrating export and import policies, making them legally binding", The Financial Express, November 30, 2018 (republished 12 February 2020).

- Automobiles;
- Agro based industries;
- Construction material including steel Plant;
- Ship building;
- Energy & Power.

Bangladesh Investment & Development Authority

- BIDA Act 2016;
- Promoting & facilitating Investment;
- Policy Advocacy;
- June 23, 2019 BIDA & BEZA opened One Stop services (OSS);
- BIDA to provide 150 services of 35 organizations through the integrated OSS centre.

CHAPTER: 6

LAND PORT REGULATORY FRAMEWORK: GUIDELINE ON REFORM

6.1 General Guidelines for Reform:

6.1.1 Reform Vision: In the recent period, Bangladesh is commended for implementing several national policies, including Vision 2021 and 2041, the National Industrial Policy 2016, the Export Policy 2018-21, and for its efforts in areas of regulatory reform, taxation and improving its business environment, including the One-Stop Shop Act, 2018 (OSS) and promoting trade facilitation. However, in order to keep the growth momentum and address post-LDC graduation challenges, Bangladesh would have to engage further in ongoing legal and regulatory reforms. This would enhance the diversification of Bangladesh's economy and the competitiveness of its industries, as well as improve its business environment and fiscal conditions.

6.1.2 Mission Statement: Accordingly, the present study draws a general conclusion that the trade sector regulatory framework in Bangladesh calls for a comprehensive and coherent in-depth study adopting a tri-fold approach of *simplification, harmonization and standardization*. This approach should aim at assessing the compatibility and compliance of the current legal and regulatory framework as well as identifying areas for reform in the light of Bangladesh's local contexts as well as her international commitments, including the WTO's TFA and relevant bilateral, multilateral and regional arrangements. Overall strategy of all regulatory reform initiatives relating to trade facilitation should in principle purport to leverage optimum benefits from: the traders (imports/exports); administrative authorities (increased efficiency effectiveness and control over international trade transaction, increased revenue); service providers (improved door-to-door logistics; more predictable process); the economy and the society (increased trade in goods and services, promoting competition, technology transfer and increased investment contributing to economic growth, good governance and the country's long term development goals).³⁵

6.1.3 Framework EXIM Policy: This report in the preceding sections mentions about the need for bringing the two separate export and import policies of the country at par on one platform. The reality of the current practice of reviewing and revising the Export and Import Policies,³⁶ which continue to set the main trade policy objectives and measures on a three-year basis, is that they remain relatively unchanged in periodic reviews. Accordingly, the on-going efforts of the Government to formulate a comprehensive trade policy (replacing the EXIM Policies), including production diversification, increased competitiveness, and trade agreement utilization and expansion need to take the new, expanded global agenda of trade facilitation in active consideration. The key argument in favour of consolidating and replacing the two separate policies (Export Policy and Import Policy) by an integrated statute, an Export Import Act, is that this approach of two separate policy documents with varying status are not fully compatible with the fast-changing global and local trade scenario. In this regard, Bangladesh's businesses and experts should be included in the consultation process and dialogue for reform.³⁷

6.1.4 Free Trade Agreements: Bangladesh has very limited options to strike free trade

³⁵ 'Trade Facilitation Reforms and Development and The case of Bangladesh', presentation by Mohammad Farhad, Research Fellow, Bangladesh Foreign Trade Institute at the UNCTAD Multi-Year Expert Meeting on Transport, Trade Logistics and Trade Facilitation (Second Session): Trade facilitation rules as a trade enabler: options and requirements, UNCTAD, Geneva, Switzerland (1–3 July 2014).

<https://unctad.org/meetings/en/Presentation/TLB_TF_2014MYEM_D1_P7_MohammadFarhad.pdf> Accessed 16 June 2020.

³⁶ Export Import Policy or better known as Exim Policy is a set of guidelines and instructions related to the import and export of goods. The Policy is updated every year on the 31st of March and the modifications, improvements and new schemes become effective from 1st April of every year.

³⁷ Asjadul Kibria, *Advocacy for trade policy reform*, The Financial Express (20 Feb 2018) <<https://thefinancialexpress.com.bd/views/advocacy-for-trade-policy-reform-1519140370>> Accessed 17 June 2020.

agreements (FTAs) with most of its potential trading partners.³⁸ These preferential agreements are vital for Bangladesh to remain competitive in the international market.³⁹ In fact, FTAs have now become instrumental in the global trading system as the prospects of multilateral trading systems under the WTO are decreasing gradually. Although there are more than 200 such deals worldwide, so far Bangladesh has not signed any bilateral free trade agreement with any of its trading partners even though a series of initiatives have been taken in this area. An FTA Policy Guidelines 2010 was prepared by Bangladesh Tariff Commission which got approval from the Prime Minister Office in 2012. In 2017, it was announced that the country's maiden BFTA would be signed with Sri Lanka which, to-date, still remains 'proposed'.⁴⁰ Similarly, discussions on signing BFTA with Malaysia, Turkey, Bhutan, Nigeria, Mali, Macedonia, Myanmar and Mauritius are also there.⁴¹ At the policy level, Bangladesh thus needs to form a national free trade agreement committee composing of government ministries and agencies as well as private sector representatives and think tanks. This high-powered policy body is expected to promote, formulate and guide country and region-specific bilateral and regional free trade agreements for the country.⁴²

6.1.5 Human and Labour Rights Standards: Another important dimension of the recommended strategies for regulatory reform in the trade sector relates to the fact that for continuation of the GSP scheme in the post-graduation period, Bangladesh will have to follow some stringent conditions like ratifying the 27 UN Conventions⁴³ and make improvements in four important areas: good governance, labour rights, human rights, and environment protection. The overall trade legal regime of Bangladesh would thus be required to reflect compliance with the global standards and norms in these areas.

6.1.6 Post Brexit Strategy: Likewise, to ensure its trade and economic interests in the post-Brexit era Bangladesh should take a strong proactive role in establishing a bilateral free trade arrangement with EU and separately with UK and initiate to form Commonwealth free trade area to bring together a community of countries with the energy and drive to develop fair, resilient and universally acceptable solutions to global trade, economic and environmental problems.⁴⁴

6.1.7 TIR Convention, 1975: Bangladesh should also consider implementing the TIR (*Transports Internationaux Routiers*) Convention of 1975.⁴⁵ To streamline the economic and speedy global connectivity by ensuring frequent flights, ships and land routes transit facilities through Bandar Abbas to CIS-Russia, Bangladesh should become party to the Convention

³⁸ For a detail analysis of the opportunities and challenges in this regard, see Khondaker Golam Moazzem, Mehruna Islam Chowdhury and Saifa Raz, *Bilateral Free Trade Agreements (FTAs), Opportunities and Challenges for Bangladesh - Framework Issues*, CPD Working Paper 107 (2014).

³⁹ Shahiduzzaman Khan, 'Signing of FTAs with trading partners essential', The Financial Express, 25 April 2020.

⁴⁰ It may be noted in this context that in September 2019, The Ministry of Industry and Commerce in India urged the Central Government to establish a bilateral trade agreement with Bangladesh in line with the Indo-Sri Lankan Free Trade Agreement that would boost bilateral trade in the North Eastern region of India. The call detailed about the infrastructure facilities of the four Land Custom StaAtions (LCS) in Assam with Bangladesh and Bhutan and urged to upgrade the same with Electronic Cargo Tracking System and Central Quarantine System. The ministry said that this will boost the trade and reduce the congestion at the land ports.⁴⁰ Initiatives and progress in this regard need to be followed up by Bangladesh. Bikash Singh, Initiate a bilateral trade agreement with Bangladesh in line with the Indo-Sri Lankan FTA: Assam Industry Minister, The Economic Times, 12 September 2019.

⁴¹ See, ADB, Asia Regional Integraion Center, Tracking Asian Integration (Free Trade Agreements): Available at: <https://aric.adb.org/fta-country>

⁴² Asjadul Kibria, Advocacy for trade policy reform, The Financial Express, 20 February 2018: <<https://thefinancialexpress.com.bd/views/advocacy-for-trade-policy-reform-1519140370>>

⁴³ 15 Core human and labour rights UN/ILO Conventions and 12 Conventions related to the environment and to governance principles; The relevant GSP+ conventions (Annex VIII of Regulation (EU) No 978/2012 of 31 October 2012); http://trade.ec.europa.eu/doclib/docs/2012/october/tradoc_150025.pdf

⁴⁴ Md Khairuzzaman Mozumder, Mohammad Abu Yusuf and Manzur Ahmed, Foreign trade strategies-2030 and beyond, The Financial Express, 24 August 2018.

⁴⁵ The Customs Convention on the International Transport of Goods under Cover of TIR Carnets (TIR Convention, 1975) is one of the most successful international transport conventions and is so far the only universal Customs transit system in existence. To date, it has 76 Contracting Parties, including the European Union. It covers the whole of Europe and reaches out to North Africa and the Near and Middle East. UNECE (2020): <https://www.unece.org/tir/welcome.html>

without having to undertake any additional obligations other than its commitment under WTO.⁴⁶

6.1.8 Belt and Road Initiative and CCA: Bangladesh should also integrate itself with the “Belt and Road Initiative” (B&R or BRI)⁴⁷ and adopt of a Customs Cooperation Agreement to facilitate trade amongst the member countries as envisaged in the WTO TFA (especially Article 12) including gradual harmonization of customs documentation and clearance procedure for transit and transshipment of goods across borders of member countries.

6.1.9 IPR Legal Framework: Although Bangladesh has in recent time sought to strengthen intellectual property rights (IPR) protection by passing new or amending existing legislation on geographical indications and trademarks, further changes and developments are expected in regulating patents, designs and plant variety and farmers' right protection.⁴⁸ Several research and policy advocacy initiatives on the global registration of IPRs categorically suggests that Bangladesh should immediately join the three international treaties on patent, trademarks and industrial design.⁴⁹ These treaties are: Patent Cooperation Treaty (PCT),⁵⁰ Madrid Agreement on Trade Marks (Madrid system)⁵¹ and Hague Agreement on Industrial Designs (Hague system).⁵² Without signing these agreements, it is complicated and expensive to file any international patent or trademarks application from Bangladesh. It is strongly argued by several advocacy platforms that membership of these systems will enable Bangladesh to grant global IPR registration to its local products which will substantially enhance its value-added global trade. Several traders' organisations and think tanks including the Federation of Bangladesh Chamber of Commerce and Industry (FBCCI) have been advocating for signing these two Agreements.⁵³

6.1.10 A Single Specialized IPR Agency: A closely relevant recommendation that emerge from several research, studies and advocacy platforms stated above call for *a single dedicated specialised entity* under the Prime Minister's Office (PMO) which should be headed by a senior secretary of the government to strengthen, streamline and ensure most effective functional efficiency of IPR regime in the country.⁵⁴

⁴⁶ Supra. It is to be noted that the TIR is governed by the TIR Convention, overseen by United Nations Economic Commission for Europe (UNECE) which facilitates multimodal journey conducted by truck, containers transported by rail, river, or sea. Accession to TIR Convention would create TIR corridors, linking Iran-Russia-CIS countries-Central and South Asia as well as China with Bangladesh. However, sufficient safeguards under Articles 45, 57 and 58 of the TIR Convention may be invoked if Bangladesh is not willing to cede transit rights.

⁴⁷ The Belt and Road Initiative (BRI or B&R), formerly known as One Belt One Road (OBOR), is a global development strategy adopted by the [Chinese government](#) in 2013 involving infrastructure development and investments in nearly 70 countries and international organizations. "Belt" refers to the [overland routes](#) for [road](#) and rail transportation, called "the *Silk Road Economic Belt*"; whereas "road" refers to the [sea routes](#), or the [21st Century Maritime Silk Road](#). The initiative is called as "a bid to enhance regional connectivity and embrace a brighter future". Kuo, Lily; Kommenda, Niko. ["What is China's Belt and Road Initiative?"](#). *The Guardian*. [Archived](#) from the original on 5 September 2018.

⁴⁸ WTO Review April 2019, WT/TPR/S/385 (Bangladesh) p.11
<[www.wto.org/english/tratop_e/tpr_e/s385_sum_e.pdf](#)>

⁴⁹ Eg, Manzur Ahmed and Mohammad Abu Yusuf, *Joining global Intellectual Property Right protection systems*, The Financial Times, 12 May 2018 Available on: <[www.thefinancialexpress.com.bd/views/joining-global-intellectual-property-right-protection-systems-1526190260](#)>

⁵⁰ The Patent Cooperation Treaty or PCT 1978 makes it possible to seek patent protection simultaneously in each of a large number of countries by filing only a single 'international' patent application with a single patent office (the 'receiving office') in one language having effect in all the countries party to the PCT.

⁵¹ The 'Madrid Agreement Concerning the International Registration of Marks 1989' and the 1996 protocol relating to the agreement, generally termed as the Madrid System, is a convenient and cost-effective solution for registering and managing trademarks worldwide by filing only a single application and pay one set of fees to apply for protection in up to 116 countries.

⁵² The Hague Agreement Concerning the International Deposit of Industrial Designs provides a practical business solution for registering up to 100 designs in over 62 territories through filing one single international application.

⁵³ Also, Bangladesh Enterprise Institute (BEI) has designed the 'Trade Policy Advocacy Agenda 2018' joined by the CIS-Bangladesh Chamber of Commerce and Industry, International Business Forum of Bangladesh (IBFB), Bangladesh Chamber of Industries (BCI) and Bangladesh Plastic Goods Manufacturers and Exporters Association (BPGMEA); Asjadul Kibria, *Advocacy for trade policy reform* (n 6).

⁵⁴ In this context, it may be noted that the Department of Patents, Designs & Trademarks (DPDT) under the Ministry of Industry is currently serving as the country's IP office which oversees the industrial IPRs along with Geographic Indication (GI). Copyright office is functioning under the cultural ministry to oversee the legal protection of the creative works like literature and music.

6.1.11 WTO GPA: Bangladesh should consider joining the WTO Government Procurement Agreement (as an observer), and participate actively in the joint statement initiatives on e-commerce, investment facilitation, MSMEs, and women empowerment agreed at the 11th Ministerial Conference in Buenos Aires (2017).⁵⁵

6.1.12 Competition Policy: Consumer protection and competition policy are vital for a country's economic growth and development. Competition is an age-old phenomenon and a key to survival in any market driven economy. It ensures that markets operate more efficiently, competitively and in the interest of consumers.⁵⁶ With the adoption of the Competition Act, 2012 a competition policy regulatory and institutional framework has been established in Bangladesh.⁵⁷ The legislation covers most areas of relevance, except for practices related to those goods and services which are controlled by the Government in the interest of national security and not open to the private sector; matters relating to import and export cartels (including exclusive dealership arrangements) are yet to be dealt with. An in-depth analysis in implementing a reform process needs to take these issues in consideration.

6.1.13 Customs Modernization Action Plan 2019-22: Bangladesh for its achievements in trade facilitation, including the implementation of the Authorised Economic Operator system, as well as measures to make customs formalities and procedures simpler, more transparent and more efficient, introduced the new Customs Act, initiating the implementation of National Single Window (NSW) to be available for traders by the end 2021, establishment of National Enquiry Point (NEP) for customs, development of Advance Ruling (AR) System, setting up a Risk Management (RM) Directorate and conducting Time Release Studies as well as rolling out the Customs Modernization Action Plan 2019-22 (in July 2019).⁵⁸ However, as observed by the WTO: 'despite praise for the use of mainly *ad valorem* tariff rates, some concern was raised regarding the overall gap between the simple averages of bound rates and MFN applied rates and the lack of predictability that this gap could lead to. Consequently, Bangladesh was encouraged to find ways to provide more certainty to importers and traders and consider taking tariff liberalization action'.⁵⁹

6.1.14 Gender Dimension: With regard to greater participation of women traders and entrepreneurs in cross border trade, It is vital to ensure that policy measures and regulatory reforms in the trade sector take cognisance of women's perspectives wherein it is not just possible but also profitable for women to enter and successfully engage in international trade. The following two provisions of WTO's TFA can be used to add the gender dimension in to the trade legal regime in Bangladesh: (a) that all interested parties must be consulted and given the opportunity to give comments on rules and protocols before they are enforced; therefore, this consultative process with regard to the design of the various protocols should be made more gender inclusive (Article 2); and (b) that the agenda of the National Trade Facilitation Committees (NTFs) recommended by the TFA in BBIN member countries can be made gender responsive by

⁵⁵ Bangladesh, which is not a member of the WTO Agreement on Government Procurement (GPA), continues to use public procurement to benefit domestic suppliers through price preferences of up to 7.5% in the case of works and up to 15% in the case of goods. Its procurement regime remains centralized, and is operated through an electronic government procurement system, whose coverage is being expanded.

⁵⁶ Khan Ferdousour Rahman, *Competition policy and consumer protection* (2009); The Financial Times, 5 Nov 2009; www.thedailystar.net/news-detail-112831 Retrieved 21 June 2020.

⁵⁷ The Act purports to promote, ensure and sustain a congenial atmosphere for the competition in trade, and to prevent, control and eradicate collusion, monopoly and oligopoly, combination or abuse of dominant position or activities adverse to the competition.

⁵⁸ The National Board of Revenue (NBR) and Bangladesh Investment Climate Fund (BICF II), implemented by IFC and funded by Department for International Development (DFID), have jointly organized Publication Ceremony of the Customs Modernization Strategic Action Plan 2019-2022 in July 2019 in Dhaka. The publication outlines a comprehensive development plan for Bangladesh Customs with time-bound, evidence-based and results-driven activities to be implemented in the next four years.

⁵⁹ WTO, *Trade Policy Review- Bangladesh: Concluding remarks by the Chairperson*, (3-5 April 2019): <http://www.wto.org/english/tratop_e/tptr_e/tp485_crc_e.htm> Retrieved 20 June 2020.

making sure there is adequate representation of women traders and women entrepreneurs (Article 23).

6.1.15 Adopting the GEOAT: For the above stated initiatives on gender dimensions, possible steps are also needed to adopt the World Customs Organization (WCO)'s Gender Equality Organizational Assessment Toolkit (GEOAT) as the analytical framework for future work on mainstreaming gender equality in the customs reform and modernization process. Key legislations relating to cross border trade need to address such important issues as women friendly border crossing points; infrastructure like separate toilets for women, common areas and better roads; efficient and helpful banking and foreign exchange facilities; help and monitoring desks for women; discounted warehousing and storage facilities for women; digitization of processes and introduction of a single window electronic interface; marketing and support services to women for accessing cross-border markets; introduce gender disaggregated database.

6.2 Reforming the BLPA, 2001: An Illustrative Guideline

6.2.1 Multi-Sectoral Coordination Mechanism: The Bangladesh Land Port Authority Act, 2001 (BLPA) does not make any clear provisions regarding the modality of engagement and *modus operandi* of a coordination mechanism between different ministries and agencies involved in cross border trade. A separate section in the Act is needed to clarify this position including given roles of the Board in the overall trade promotion and management process of the country. Accordingly, given the fact that land port management as part of the country's overall trade economic advancement now adopts a broad, comprehensive approach, composition of the Board should be expanded to ensure greater participation of other agencies involved in the process.

6.2.3 Constitution of the Board: Currently, as per Section 6 of the BLPA Act, 2001 ("Constitution of the Board"), the Board consists of one Chairman and six Members (three full time and three part time) of whom only one-part timer shall be a private sector business representative. Out of the five public service officers to be appointed as members of the Board, only one position is specified to be from the internal resource's division, other positions (to be selected and appointed by the Government on contractual basis) are not specified. It is desirable that composition of the Board specifically include representation from the key ministries and departments including (but not limited to) NBR, Industry, Commerce, Agriculture, Food and Road.

6.2.4 Representation of Traders and workers: Also, based on the same rationale, representation of the trading bodies and workers should be ensured in the Board. To take a comparative regional practice in this regard from neighbouring India, Section 3 (3) (e) of the Indian Land Port Authority Act, 2010 (Composition of the Authority) includes: [(e) two representatives, one of whom shall be from recognized bodies of workers and the other shall be from traders, to be appointed by the Central Government;].

6.2.5 Women Membership: Similarly, as stipulated in Articles 2 and 23 of the WTO TFA, the composition of the Board should include one reserved membership of women entrepreneur. This can be done by inserting the following words in Section 6 (1) @ [Composition of the Board]: "[T]hree temporary members of whom one shall be a woman entrepreneur to be nominated by the Women's Chamber of Commerce and Industry."

6.2.6 Women Empowerment Fund: Provisions should also be made in the Act in creating and managing a women empowerment fund as per the provisions of Article 21 of the TFA and as agreed at WTO's 11th Ministerial Conference in Buenos Aires (10-13 Dec 2017). It is stipulated that the capacity building funds should include specific assistance to female entrepreneurs to improve the ability of women traders to meet customs requirements and to take advantage of preferential trade agreements (Article 21 TFA).

6.2.7 Powers and Functions of the Board: Section 8 of the BLPA Act, 2001 briefly outlines the powers and functions of the Board. However, the Act does not elaborate the specific tasks that the Board, or its affiliated departments and agencies, has been entrusted with especially in the light of the underlying development and promotional mandates that the incumbent authority is expected to undertake embedded in the WTO TFA. We may take the example of the Indian Land

Port Authority Act, 2010 in this context that categorically details the “Functions of Authority” (Section 11) and”(Responsibilities and powers of other agencies)” (Section 12).⁶⁰

6.3 Way Forward:

6.3.1 Other Issues: Finally, some other issues that need to be included in a comprehensive regulatory reform study include climate change vulnerability, efforts at improving workers' safety, diversification of the economy, policies to encourage privatization, expansion of special economic zones, power generation capacity, transport infrastructure development, regulatory guidelines for pharmaceuticals and medical devices, support to the textiles sector, development of the ICT sector, liberalization of trade in services and challenges to the banking sector.⁶¹

6.3.2 The Pipeline SASEC Project: The Asian Development Bank (ADB) has recently committed

⁶⁰ Section 11 of the ILPA Act, 2010: Functions of Authority.-(1) Subject to the provisions of this Act, the Authority shall have powers to develop, sanitize and manage the facilities for cross border movement of passengers and goods at designated points along the international borders of India.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the Authority may

(a) put in place systems, which address security imperatives at the integrated check posts on the border;

(b) plan, construct and maintain roads, terminals and ancillary buildings other than national highways, State highways and railways, at an integrated check post;

(c) plan, procure, install and maintain communication, security, goods handling and scanning equipment at an integrated check post;

(d) provide appropriate space and facilities for immigration, customs, security, taxation authorities, animal and plant quarantine, warehouses, cargo and baggage examination yards, parking zones, banks, post offices, communication facilities, tourist information centers, waiting halls, canteen, refreshment stalls, public conveniences, health services and such other services, as may be deemed necessary;

(e) construct residential buildings for its employees as well as residential accommodation for staff deployed at integrated check posts;

(f) establish and maintain hotels, restaurants and restrooms;

(g) establish and maintain warehouses, container depots and cargo complexes for the storage or processing of goods;

(h) arrange for postal, money exchange, insurance and telephone facilities for the use of passengers and other persons at integrated check posts;

(i) make appropriate arrangements for the security of integrated check posts and provide for regulation and control of movement of vehicles, entry and exit of passengers and goods in accordance with the respective law concerning them;

(j) ensure prevention and control of fire and other hazards and other facilities as deemed necessary;

(k) regulate and control the movement of vehicles, and the entry and exit of passengers, transportation workers, handling agents, clearing and forwarding agents and goods at the integrated check post with due regard to the law, security and protocol of the Government of India;

(l) co-ordinate and facilitate the working of agencies who have been engaged to undertake various activities at the integrated check posts, in accordance with the respective law, for the time being in force;

(m) develop and provide consultancy, construction or management services, and undertake operations in India and abroad in relation to an integrated check post;

(n) form one or more companies under the Companies Act, 1956 (1 of 1956) or under any other law relating to companies for efficient discharge of the functions imposed on it by this Act;

(o) take all such steps as may be necessary or expedient for, or may be incidental to, the exercise of any power or the discharge of any function conferred or imposed on it by this Act:

Provided that sovereign functions of the Authority shall not be assigned to any private entity;

(p) set up joint ventures for the discharge of any of the functions assigned to the Authority; and

(q) undertake any other activity at the integrated check post in the best commercial interests of the Authority.

Section 12 of the ILPA Act, 2010: Responsibilities and powers of other agencies.—(1) The respective border guarding forces deployed at the borders of India shall be responsible for security around an integrated check post.

(2) The Authority may, whenever considered necessary so to do for ensuring the peace and security at an integrated check post, seek the assistance of armed force, Central para military force or State police as per the provisions of the law for the time being in force.

(3) The Customs, immigration, quarantine and other officials shall co-ordinate with the Authority for the effective discharge of its functions.

(4) Notwithstanding anything contained in any provisions of this Act, the Customs, immigration, quarantine officials, the border guarding forces and the police shall discharge their functions in accordance with the law for the time being in force.

⁶¹ See, WTO, ‘Trade Policy Review: Bangladesh’, 3-5 April 2019, Concluding Remarks by the Chairperson

<www.wto.org/english/tratop_e/tpr_e/tp485_crc_e.htm> Accessed 17 June 2020.

to help Bangladesh ease trans-border and regional trade through facilitating infrastructural development and regulatory reforms under the South Asia Sub-regional Economic Cooperation (SASEC) project. Some five ministries and agencies will be involved with the trans-border project under which they will build infrastructure in land ports and reform customs rules and regulations. One of the objectives of the reform is to facilitate simplification of customs for foreign trade procedures in land port areas.⁶² It is expected that the feasibility studies and pre-project works being planned by the ERD in this regard will lead to a clear guideline for further compliant, responsive and progressive trade policies and regulatory reform in relation to land port management in Bangladesh.

⁶² FHM HUMAYAN KABIR, *Cross-border trade under SASEC: ADB to support BD's reform*, The Financial Express, 26 December 2019.

CHAPTER: 7

FINDINGS AND RECOMMENDATIONS

Based on the general and specific findings from the overall study, the following recommendations are made for an updated, adapted and contextualized policy, strategy and regulatory framework that are expected to support and promote an accelerated and sustained cross-border operations and management in Bangladesh:

Inter-Agency Coordination: Advisory Committee of the Benapole Land Port holds meeting once in a month with a view to improve the coordination, cooperation and collaboration with the different border agencies including the private sector. However, there is still a need for a Lead Agency or a Single Integrated Agency, viz. Bangladesh Customs, to coordinate various operations at the border point. In this context, co-location of the offices of different agencies under one roof, such as Benapole land port, could be a model for the other land ports. Relevant policy framework accompanied by regulatory norms and principles need to be formulated and placed in to implementation to support this coordination umbrella.

Institutional Reforms: Digitalization for setting up a 'Digital Corridor' is needed for effective and efficient land port management. National Broad of Revenue is implementing the National Single Window (NSW) under the Bangladesh Regional Connectivity Project-1 and the whole process will be effective after the full operation of NSW.

Infrastructure and/or Logistics: Regulatory provisions should be made to ensure adequate infrastructure and logistics (such as, Yard, Warehouse, CC Cameras, etc.) for better management and operational efficiency of the land ports.

Digitalization and ICT Facilitation: Bangladesh has signed to implement the Paperless Trade at the border points. It is now essential to strengthen the institutional and regulatory mechanisms for coordinating stakeholders of cross-border paperless trade for Facilitation of Cross-border Electronic Data Exchange. Also, a concerted coordination of initiatives by development partners/donors is necessary for pairing of Benapole and Petrapole digitization for improvement of port infrastructure.

Laboratory Facilities: Need based Testing Laboratories for conformity assessment of standards of products need to be installed at all land port points based on specific trading criteria and demand. Thus, for instance, a full-fledged office of the Bangladesh Standard and Testing Institute (BSTI) can be set up at the Benapole land port.

International promotions: Besides support for participation in international exhibitions and market promotion, dedicated physical or virtual display spaces in Bangladesh Missions abroad for Bangladeshi products need to be implemented. While export houses will display their products there, the government may cooperate and facilitate on cost sharing basis.

International IP Protection: To create brand value, some technical and financial support is necessary for obtaining global registration of industrial IPR (Intellectual Property Right or trademark, patent and design). It will facilitate value added marketing of Bangladeshi products and services; develop capacity of individuals, institutions and organizations on innovation and creativity; promote awareness, skills and knowledge about IP among the people of the country; establish and strengthen linkages between the national innovation system and the market; provide policy guideline for innovation and commercialization of intellectual property; build national capacity to facilitate beneficial integration of the national IP system with global IP system; and improve the efficiency and transparency of IP offices and modernise their services; address IP related emerging issues and take initiatives for commercialization and exploitation of intellectual property.

Formulation of Rules, Procedures and SOPs: The government may make imports and exports rules & procedures, not inconsistent with Imports and Exports (Control) Act, 1950 as it stands

amended for carrying out the purposes of the import and export policy order. An updated and amended 2018 draft proposal of the 1950 Act has been submitted by the think-tank Bangladesh Enterprise Institute to the Ministry of Commerce.

Policy and Regulatory Guideline/Manual: A compiled policy and regulatory guideline/ Standard Operating Procedure (SOP) for cross border land port management need to be formulated. It is crucial to circulate and promote awareness and knowledge of relevant policy and legal framework in this field especially among the primary stakeholders involved at the delivery points.

Modernization the Companies Act is essential for attract FDI. Need policy reform, reducing the cost of business, skill development, addressing the infrastructural challenges. Streamlining the company registration process. Setting up two or more permanent court benches to resolve the company cases and special tribunal can be set up. Focus on easing share transferring process, taxation policy, reducing fees etc. Simplification of all clauses of the company law, automation of RJSC, BB, SEC, NBR, BIDA, City Corp is essential

Paperless Trade: No changes in law and regulations relating to paperless trade are necessary prior to ratification to the Framework Agreement. After the adoption of the Framework Agreement, Bangladesh may enact new law(s) or revise existing relevant law(s) to enable electronic exchange of electronic data and documents based on its own priorities and resource availability (as per Article 12).

Accelerated TFA implementation: TFA implementation roadmap need to be periodically reviewed and further developed by setting appropriate targets, indicators and monitoring tools. Also, Regional TFA Support Schemes can be initiated at relevant regional meetings.

Extended operational/service support: Round the clock operation at both sides of the land ports especially customs and immigration facilities need to be ensured. Thus, for instance, a three-shift policy can be introduced at both sides of the ports.

Automation and Liberalization: Automated documentation process, rationalization of fees, tariffs and charges should be ensured with a view to increase the trade volume. Also, both countries should liberalize their port restrictions, tariff barriers and positive-negative lists as well as improving their port facilities.

Economic viability/integration and other trade facilitation good practices: True Economic viability can be carried out at each land port and regional/other good practices, such as the Indian demand-based trade facilitation initiatives, can be explored by Bangladesh for better results. External economic integration with India, Nepal and Bhutan and BBIN Motor Vehicle Agreement can be implemented.

Ease of Doing Business: For sustainable port management and to increase the ranking of ease of doing business, automated cargo locking system, vehicle scanning system, fork lever crane, container services etc. can be introduced to save time, cost and system-losses. Also, to take a specific instance, in the north-eastern part of the land port of Akhaura, separate state level discussion can be initiated by both the government with a view to improve the banking facilities.

Greater Role of the Private Sector: Trade Policies and regulatory frameworks of the country needed to pave the way and promote greater participation of the private sector in land port operations and management aimed at increased competition and competitiveness.

Avoidance of overlaps and repetitions: Custom Sub-Group and Land Port Sub-Group across the border should be more active about the overlapping of checking, clearance and certification regulations and/or practice by customs, BGB, BSF and other agencies, which causes additional time and costs to trading.

Multi-modal transport system: Multi-modal Transit/ Transshipment and linkage with land port, road, rail, sea and air connectivity is crucial for trade facilitation. In this regard adequate policy and regulations need to be formulated to facilitate Multi-modal transport systems. Also, members from the BGB and Police can be incorporated in the National Trade and Transport Facilitation Committee (NTTFC).

Investment and other incentives: It is important for trade facilitation to emphasize on and promote short, medium and long term robust investment to improve land port management and operations. This study finds that providing concessional rates on utility charges (electricity, gas, water and digital services) has not been considered irrational. Making operational of factoring services should also be effectively ensured and export-oriented MSMEs (micro, small and medium enterprises) and rural entrepreneurs should be financed through Venture Capital Fund on a priority basis. Export Development Fund (EDF) may be raised annually by at least 30 per cent to finance import and domestic procurement of inputs for the exporting industry.⁶³

PRC and other safety net for traders: Exporters also need to be bailed out from the volatility of exchange rate fluctuations by compensating them against respective export Payments Receipt Certificate (PRC) at the rate for each currency to be assessed periodically (weekly/monthly) by Bangladesh Bank.

Promoting Service Sector Trading: In the recent periods, there has been a specific emphasis on service sector trading in Bangladesh. Accordingly, formation of *Services Export Promotion Council (SEPC)* for promoting and overseeing the sustainable expansion of exports in services sectors is thus important for Bangladesh's trade and economy.

Market Diversification and Trade Diplomacy: Diversification of export markets under an appropriate and effective foreign trade policy is essential to ensure predictable and sustainable destinations for her export products and services. Trade diplomacy contributes significantly in creating reasonably level playing fields through balanced negotiation in bi- and multilateral arrangements, continued networking and market research on local, regional and global trade and economic trends.

⁶³Manzur Ahmed, "Integrating export and import policies, making them legally binding", The Financial Express, November 30, 2018 (republished 12 February 2020).

CHAPTER- 8

CONCLUSIONS

The Government of Bangladesh under the WB financed the Regional Connectivity Project is imitating legal and policy review initiatives that are proposed to provide policy feedback to the government for advancing the concept of cooperation in trade, transport and transit facilitation. These will also promote policy advocacy for issues related to women traders, and facilitate policy coherence between national development priorities and international obligations on trade facilitation.

In the context of Bangladesh, Lack of Transparency, awareness and knowledge of pertinent rules and regulations among key stakeholders, redundant and lengthy clearance processes, and multiple documents requirements in different formats and with different data elements increase the costs and time of doing trade. These obstacles pose greater barriers to trade than tariffs and quotas do.

There is a need to review and evaluate current trade related Laws and harmonizing each other and follow the international good practices including the trade facilitation measures for sustainable graduation.

To achieve Bangladesh's trade and economic development agenda as well as Vision 2021-2041 and SDG-2030 goals and overcome the challenges of LDC (Least Developed Countries) graduation, it is imperative to reform and streamline its supply and demand-side trade and economic policies and business friendly regulatory regimes along with hard and soft infrastructure. 'An integrated import and export policy order is one of the most important policy instruments in this regard'.⁶⁴

A key conclusion drawn by this study relates to the fact that the WTO TFA is in line with the concept of Ease of Doing Business. Implementation of FTA will lead a country into Better Performance in Ease of Doing Business Index. For example, the concept of Single Window Services in the TFA is in line with the concept of One Stop Service (OSS) of Ease of Doing Business. Other indicators of TFA like publication and availability of relevant information, e-payment, process automation, impartial-transparent and non-discriminatory implementation of roles, cooperation between boarder agencies etc. are also similar concepts in trade facilitation and Ease of Doing Business.

It is thus particularly emphasized in the findings and recommendations that proper implementation of the TFA will promote the simplification, modernization and harmonization of trade processes to reduce cost and time, boost trade flows and increase the world GDP growth.⁶⁵ Both TFA and Ease of Doing Business point out that the future of efficient trade lies in the modernization of electronic platforms, international cooperation at both the customs and borders, efficient risk-based inspections and simplified documentary requirements.

Accordingly, to materialize these initiatives, particular focus is needed on harmonizing export, import and customs related policies, laws, rules and regulations with regional trade partners as

⁶⁴Manzur Ahmed, "Integrating export and import policies, making them legally binding", The Financial Express, November 30, 2018.

⁶⁵ As the World Trade Report 2015 concludes that it has the potential to reduce trade costs by an average of 14.3 per cent and increase exports by \$1 trillion per year. Another study says that the implementation of TFA will lead to an increase in export diversification: Estimating the benefits of the Trade Facilitation Agreement, World Trade Report 2015; also, The Independent, Editorial, 2 December, 2019 (Ease of doing business through implementation of WTO Trade Facilitation Agreement: The reduced bureaucratic complexity and corruption is also expected to lower average time to import, Md. Joynal Abdin).

well as standards and guidelines developed at the global levels. To this end, a comprehensive Trade Policy is of essence that specifically addresses unique issues related to land port trading. Equally important is a regulatory and procedural framework (such as SOP) for better coordination among various components of the macro-economic policies that are considered necessary to pursue and sustain strategic trade policies effectively. Various policy instruments deployed in fiscal, monetary and exchange rate arena ought to be better coordinated with those of the trade policy.

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WTO Cell, Ministry of Commerce
Bangladesh Regional Connectivity Project-1

3 Nos. of Studies Suggested by NTTFC under BRCP-1

“Agenda 2: Analysis of laws and regulation governing border operations”

1.0. RESPONDENT CATEGORY:

(Code: 1=Security (BGB), 2=Immigration, 3=Custom (NBR), 4=Land Port, 5=Transport, 6=Trader or Association, 7= Ministry of Commerce, 8=Sanitary and Phyto-Sanitary agency)

2.0. PART A: GENERAL INFORMATION

- 2.1. Name of the respondent:.....
- 2.2. Name of the Organization:.....
- 2.2. Address: a) Present:.....
b) Permanent:.....
- 2.3. Contact No:..... E-mail ID:.....
- 2.4. Parent Ministry/Department:.....
- 2.5. Location/Work Place:.....
- 2.6. Major destination of the Land Port: (Code:1=Benapole, 2=Banglabandha, 3=Burimari,4= Akhaura)

3.0. PART B : TECHNICAL INFORMATION

A.	Immigration Only
1.	What are the critical laws, rules, regulations and policies in border operations for trade facilitation in Bangladesh and how do they relate to international good practice? Please describe:.....
2.	How are these act, laws and regulations facilitating Bangladesh traders as well as the international trade? Please describe:.....
3.	How these domestic legal frameworks for trade and development harmonize with the bilateral and regional trade agreements? Please describe:.....
4.	What is the good practice elsewhere in terms of organizations/laws/ rules/regulations to facilitate better management in border? Please describe:.....
5.	How are the laws aligned with the trade related international agreements and conventions and how do they relate international good practice? Please describe:.....
6.	Do you suggest any reform in the legal framework / government policies in order to promote the efficient border management? Please describe:.....
7.	What kind of legislative reform are needed for custom, quarantine land port and AEO offices?.....
B.	For Custom (NBR) Only
1.	What are the critical laws, rules, regulations and policies in border operations for trade facilitation in Bangladesh and how do they relate to international good practice? Please describe:.....
2.	How are these act, laws and regulations facilitating Bangladesh traders as well as the international trade? Please describe:.....
3.	How these domestic legal frameworks for trade and development harmonize with the bilateral and regional trade agreements? Please describe:.....

4.	What are the good practice elsewhere in terms of organizations/laws/ rules/regulations to facilitate better management in border? Please describe:
5.	How are the laws aligned with the trade related international agreements and conventions and how do they relate international good practice? Please describe:
6.	Do you suggests any reform in the legal framework / government policies in order to promote the efficient border management? Please describe:
7.	What kind of legislative reform are needed for custom, quarantine land port and AEO offices?.....
D.	For Land Port Authorities Only
1.	What are the critical laws, rules, regulations and policies in border operations for trade facilitation in Bangladesh and how do they relate to international good practice? Please describe:.....
2.	How are these act, laws and regulations facilitating Bangladesh traders as well as the international trade? Please describe:
3.	How these domestic legal frameworks for trade and development harmonize with the bilateral and regional trade agreements? Please describe:
4.	What are the good practice elsewhere in terms of organizations/laws/ rules/regulations to facilitate better management in border? Please describe:
5.	How are the laws aligned with the trade related international agreements and conventions and how do they relate international good practice? Please describe:
6.	Do you suggest any reform in the legal framework / government policies in order to promote the efficient border management? Please describe:
7.	What kind of legislative reform are needed for custom, quarantine land port and AEO offices?.....
E.	For Trade or Association only
1.	How are these act, laws and regulations facilitating Bangladesh traders as well as the international trade? Please describe:
F.	For only Ministry of Commerce
1.	What are the critical laws, rules, regulations and policies in border operations for trade facilitation in Bangladesh and how do they relate to international good practice? Please describe:.....
2.	How are these act, laws and regulations facilitating Bangladesh traders as well as the international trade? Please describe:
3.	How these domestic legal frameworks for trade and development harmonize with the bilateral and regional trade agreements? Please describe:
4.	What is the good practice elsewhere in terms of organizations/laws/ rules/regulations to facilitate better management in border? Please describe:
5.	How are the laws aligned with the trade related international agreements and conventions and how do they relate international good practice? Please describe:
6.	Do you suggest any reform in the legal framework / government policies in order to promote the efficient border management? Please describe:

7.	What kind of legislative reform are needed for custom, quarantine land port and AEO offices?.....
G.	For only Sanitary and Phyto-sanitary agency
1.	What are the critical laws, rules, regulations and policies in border operations for trade facilitation in Bangladesh and how do they relate to international good practice? Please describe.....
2.	How are these act, laws and regulations facilitating Bangladesh traders as well as the international trade? Please describe:
3.	What kind of legislative reform are needed for custom, quarantine land port and AEO offices?.....
H.	For all Respondents
1.	Do you think, different government policies, laws, rules, regulations of the relevant agencies are favorable for better management at the border? (Code: 1=Yes, 2=No)
2.	If no, then please suggest how the border management could be made more effective and responsive to the laws?
3.	Do you think government policies are favorable for doing business? (Code: 1=Yes, 2=No)
4.	If no, then what are the reasons behind it? Please describe:

Name of the Enumerator:

Date:

Signature:

Government of the People's Republic of Bangladesh
WTO Cell, Ministry of Commerce
Bangladesh Regional Connectivity Project-1

“Agenda 2: Analysis of laws and regulation governing border operations”

1.0. PART A: GENERAL INFORMATION

- 1.1. Where FGD take place:.....
- 1.2. Time:.....
- 1.3. What types of respondent participated in the FGD:

2.0. PART B : TECHNICAL INFORMATION

- 2.1. What are the good practice's elsewhere in terms of organization/laws/rules/regulations to facilitate better management at the borders?
- 2.2. What are the organizations involved in trade facilitation through their border management tasks in Bangladesh and how do they relate to international good practice?
- 2.3. What are the critical laws, rules, regulations and policies in border operations for trade facilitation in Bangladesh and how do they relate to international good practice?
- 2.4. How are the laws aligned with the trade related international agreements and conventions and how do they relate international good practice?
- 2.5. How are these laws facilitating trade for exporter and importer in Bangladesh and how do they relate to international good practice?
- 2.6. What adjustments or modifications are required for making these laws efficient, effective and harmonized for trade facilitation?
- 2.7. What kind of legislative reform are needed for custom, quarantine land port and AEO offices?

Participant list

Sl. No.	Name of the respondent	Designation	Name of the department	Mobile no.	Signature
01.					
02.					
03.					
04.					
05.					
06.					
07.					
08.					
09.					
10.					

Name of the enumerator:

Date:

Signature:

Name of the Supervisor

Date:

Signature:

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“Agenda 2: Analysis of laws and regulation governing border operations”

2.0. PART B : TECHNICAL INFORMATION

- 2.1. What are the good practice's elsewhere in terms of organization/laws/rules/regulations to facilitate better management at the borders?
- 2.2. What are the organizations involved in trade facilitation through their border management tasks in Bangladesh and how do they relate to international good practice?
- 2.3. What are the critical laws, rules, regulations and policies in border operations for trade facilitation in Bangladesh and how do they relate to international good practice?
- 2.4. How are the laws aligned with the trade related international agreements and conventions and how do they relate international good practice?
- 2.5. How are these laws facilitating trade for exporter and importer in Bangladesh and how do they relate to international good practice?
- 2.6. What kind of legislative reform are needed for custom, quarantine land port and AEO offices?
- 2.6. What adjustments or modifications are required for making these laws efficient, effective and harmonized for trade facilitation?

Signature of the Key Informant with official Seal

Signature:

Office seal:

Name of the enumerator:

Date:

Signature:

Relevant National Laws, Rules & Policies:

- Export Promotion Bureau Ordinance, 1977
- Bangladesh Tariff Commission Act, 1992
- Foreign Private Investment Promotion & Protection Act, 1980
- The Competition Act, 2012
- The Patent and design Act, 1911, amended in 2016 by CC
- Copyright Act 2005, Rules 2006, Trade Mark Act, 2009
- New Custom Act, 2018 and Old 1969 Act
- BSTI amendment Act, 2018
- Quarantine Regulation Act, 2018
- Food safety Act, 2018
- Land Port Authority Act, 2001
- Bangladesh Land Port Authority Employee Service Regulation, 2004
- C&F Agent Licensing Rules, 2016
- The Baggage Rules, 2018
- SRO of AEO
- Public Procurement Act, 2006 & Rules 2008
- Company Act, 2018
- Imports and Exports (Control) Act, 1950.
- The Importers, Exporters and Indenters' (Registration) order, 1981.
- Review, Appeal and Revision (Order), 1977.
- Import Policy Order (presently 2015-2018).
- Export Policy 2018-21
- [The Bangladesh Economic Zones Act, 2010](#)
- Bangladesh Export Processing Zones Authority Act, 1980
- Bangladesh EPZ Labor Ordinance, 2019
- EPZ Workers' Welfare Association and Industrial Relations Act, 2010

Other Relevant Acts, Rules, Orders and Circulars:

- One Stop Service Act, 2018
- One Stop Service Rules, 2018
- Customs (Economic Zones) Procedures, 2017 (No. 42/2017/Customs/199)
- The Customs (Economic Zones) Procedures, 2017 (Standing Order No. 42/2017/Customs/199)
- Amended Bangladesh Economic Zones Act, 2015
- Income Tax Exemption on Dividend, Share Transfer, Royalties – SRO No. 299-Law-IT-2015
- Declaration of Mongla EZ as warehousing station-SRO No 263-Law-2015-53-Customs
- Bangladesh Economic Zones Act, 2010
- SRO No: 264-Law/2016 Declaration of Meghna Economic Zone

Appendix-4: List of Key Laws, Policies, Bilateral & Multilateral Agreements, etc.

- Private Economic Zone Policy 2015
- Exemption of Declared EZ from Exercising BOI Act
- VAT on Electricity-SRO No. 168-Law-2015-735-VAT
- Tax Holiday for EZ Industrial unit-SRO No 226. Law- IT-2015
- Tax Holiday for EZ Developer-SRO No. 227-Law-IT-2015
- Remission of Land Dev. Tax SRO No 05-Law-2016
- Income Tax Exemption on Dividend, Share Transfer, Royalty-SRO No. 299-Law-IT-2015
- Income Tax-Individual-SRO No. 298/Law-IT/2015
- Exemption of Union Parishad Tax-SRO No. 333/Law/2015
- Exemption of Land Development Tax-SRO No. 05/Law/2016
- Declaration of Mongla EZ as warehousing station-SRO No 263/Law/2015/53/Customs
- Guidelines for Foreign Exchange Transactions (Bangladesh Bank)
- VAT on Electricity SRO

Terms of Reference

Consultancy/Research firm for conducting 03 studies suggested by NTTFC in FY 2018-19.

Background

The Government of the People's Republic of Bangladesh has received an SDR 150 million Credit from the International Development Association (IDA) - a member of the World Bank Group - for financing the cost of the Bangladesh Regional Connectivity Project I (BRCP-I), being jointly implemented by the Bangladesh Land Port Authority (BLPA), National Board of Revenue (NBR) and Ministry of Commerce. The second component of this umbrella project is being implemented by the Ministry of Commerce as a separate technical assistance project. The overall objective of this technical assistance project is to strengthen trade related institutional capacity in order to ensure active and sustainable cooperation between multiple trade-related stakeholders and economic empowerment of women traders.

This technical assistance project consists of following three (3) components:

- Component A: Develop (pilot) programs to support female traders and entrepreneurs. This component will pilot activities to help address barriers to women becoming more integrated into regional and global supply chains and trading opportunities.
- Component B: Capacity Development Support for the National Trade and Transport Facilitation Committee. The inter-ministerial National Trade and Transport Facilitation Committee (NTTFC) has been set up to coordinate all trade and transport-related policies and activities in Bangladesh, and will also serve as the Advisory Committee for the Project.
- Component C: Improvements to Bangladesh Trade Portal and to set up a National Enquiry Point for Trade. The Bangladesh Trade Portal (BTP) was launched in March 2016. This component will support further upgradation of the BTP to expand its functionality to include information of relevance to potential Bangladesh exporters and to ensure that content is kept up to date. This component will also set up the National Enquiry Point for Trade, which will help Bangladesh to meet a key requirement of WTO Trade Facilitation Agreement.

The Ministry of Commerce intends to apply part of the IDA Credit for procuring consultancy services from qualified research/consultancy firms or institutions/individuals to conduct three studies selected from the list of studies identified under NTTFC activities of the project (Component B). These studies aim to develop in-depth understanding about three relevant areas of trade facilitation and are directly linked with the activities of three implementing agencies of the BRCP-1 umbrella project.

RFP SD 01 NTTFC BRCP1 MOC

Section 7. Terms of Reference 80

2. Scope of Consultancy Services:

The project will conduct the following three studies in 2018-19 fiscal year that are critical for export promotion and trade facilitation:

- Agenda 1: Review of collaborative border management-institutional mechanisms for
- Agenda 2: Analysis of laws and regulations governing border operations;
- Agenda 3: How comparable countries are addressing implementation of TFA.

These studies will be conducted under a single package to explore best output from the study.

The detail scope of the proposed studies is given below:

Agenda 1: Review of collaborative border management-institutional mechanisms for coordinating across Sectors/ministries and across countries

Border clearance processes are among the most important and problematic links in the global supply chain. According to Doing Business data, it takes three times as many days, nearly twice as many documents, and six times as many signatures to import goods in poor countries than it does in rich ones. Delays and high transaction costs at the border undermine a country's competitiveness by increasing the cost of exports and reducing reliability of supply. Therefore, trade facilitation reform that improves border management procedures has become an important development issue, as shown by the increased levels of investment in trade facilitation reform by governments and the development community alike.

Traditionally, the major tasks of border management related to export and import trade of a country includes:

- Protection and prevention of loss of revenue through smuggling and improper filing of trade documents;
- Protection of the health and well-being of the community through preventing illegal entry of harmful medicinal products and other psychotropic substances;
- Protection of flora and fauna and preventing entry of the same which would be detrimental to the agricultural interests of the country; and
- Prevention of illegal entry and exit of arms, explosives and other materials of like nature.

Border management involves many agencies, such as security, immigration, trade, customs, transport, sanitary and phyto-sanitary agencies and port authorities. Given the complexity of the issue, the improvement of border management may entail strong political commitment, active involvement of border agencies, sustainable financial and technical inputs, and maximum use of international instruments.

As a result of the complex nature of the requirement of many agencies at the border, interagency cooperation and coordination is required to ensure a safe and efficient border management. Besides ensuring that border security is not compromised, an effective border management can generate monetary and non-monetary benefits for the business community and result in the furtherance of legitimate trade. The benefits may include but are not limited to the following:

- Saving of compliance costs arising from simplification and harmonization of processes, procedures and formalities (preparation and submission of required documentation);
- Saving of costs for services related to transportation, cargo handling, warehousing and cargo examination;
- Saving of time arising from expeditious border and customs clearance, inspections and other forms of frontier control.

As mentioned earlier, the categories of controlling agencies involved in border management is similar in all the countries concerned. They may differ in the naming of the organization. The services include, the Frontier service, Customs service, Ministry of Shipping and its port authorities, Ministry of Agriculture in the capacity of veterinary and phyto-sanitary control, Ministry of Health (for sanitary and epidemiological control and in some vested responsibility for radiation control), and Ministry of Transport (Standards organizations for the assurance of conformity to national standards may also play a part). In the main, some of the organizations are not required to be physically present and can be well-served by evidence of documentary controls. Coordination and collaboration can take the form of empowering a single authority at the border crossing to function for the agency concerned. Clear guidelines and procedures will, however, have to be established. Adequate and continuous training must also be provided to the empowered agency. Coordination can also take the form of constant and regular meetings and dialogues between agencies to share and exchange information and reduce the over-lapping of responsibilities. An appropriate and clear definition of responsibilities for the border agencies may lead to efficient border management. Otherwise, it will cause confusion and abuse of authority. Without appropriate and clear definition of responsibilities, one agency may take actions without consulting other relevant agencies, or exercise authority in the areas which should be regulated by other agencies.

Good inter-agency coordination is essential to effective border management. For example, if the frontier and customs services operate at the border crossings on a daily basis (24/7), the other agencies must also do likewise. Lack of such coordination and juxtaposition of working hours will be detrimental and can lead to doling up border clearance and may add substantially to the costs of the importer/exporter. Intra-agency coordination is also equally important. The failure for the same agency with various posts and offices spread around the country, either at border posts or inland offices, failing to harmonize their procedures or failure to receive pertinent information from each other, can lead to incompetency of actions taken. Prompt communications and exchange of information will play a positive role not only for officials of controlling government agencies involved in border management but also for the trading community.

Apart from collaboration among domestic agencies there is also need to have an effective bilateral cross-border cooperation and multinational cooperation on border management issues. Multinational cooperation would also include the cooperation with relevant international organizations in creating, adopting and implementing different international standards and best practices harmonizing and adding effectiveness in coordinated border management.

Given the coordination and collaboration among local border clearing agencies and cooperation between border clearing agencies of neighbouring states are critical for effective trade facilitation this study has the following objectives to understand the current situation of collaboration of border management agencies as well as finding ways to create an enabling and coordinated institutional mechanisms for domestic coordinated border management processes.

1. What are the good practices utilised elsewhere to facilitate better management at the borders (e.g. Norway and Sweden/EU border, Switzerland and France/EU border)? Good practices should reflect applicable handbooks/guidelines for collaborative border management.¹²
2. Against that good practice template,
 - 2.1. what is the current status of coordination and collaboration among border agencies in Bangladesh?
 - 2.2. how is the intra-agency coordination mechanism in different border management agencies?
 - 2.3. how is the inter-agency coordination mechanisms among different border management agencies?
 - 2.4. what is the status of cross-border agency cooperation? What is the level of local cooperation between officials of both sides of the border, bilateral cooperation between neighbouring states and multinational cooperation?
 - 2.5. provide recommendations to establish an effective and efficient coordinated border management system (including identification of leading organization and capacity building needs) in Bangladesh.

Agenda 2: Analysis of laws and regulations governing border operations

Trade facilitation has emerged as a key factor for international trade efficiency and the economic development of countries. This is due to its impact on competitiveness and market integration and its increasing importance in attracting direct foreign investments. Over the last few decades, countries have made significant progress in lowering trade tariffs and dismantling quota systems. International trade has increased and manufacturing has become more global, with developing, emerging and transition economies connecting with international supply and value chains in terms of both their exports and imports. The worldwide distribution and sourcing cycles, along with just-in-time and just-in-sequence logistics services and the emergence of e-business, has created pressure on governments to ensure efficient, fast and reliable border crossing and clearance procedures. Governments started to realize that their export economies heavily depend on efficient import processing, hence the need to have a holistic approach for a more efficient management of end-to-end trade transactions. Lack of transparency about rules and regulations, redundant and lengthy clearance processes, and multiple documents requirements in different formats and with different data elements, increase the costs and time of doing trade. Today these obstacles are seen as posing greater barriers to trade than tariffs and quotas do. Hence, it is more important than ever to achieve trade facilitation to enhance administrative efficiency and effectiveness, reduce costs and time to markets, and increase predictability in global trade.

In order to achieve the goal of trade facilitation there is a need to make trade across borders (imports and exports) faster, and cheaper and more predictable, whilst ensuring its safety and security. In terms of focus, it is about simplifying and harmonizing formalities, procedures, and the related exchange of information and documents between the various partners in the supply chain. There are great potential gains from trade facilitation for both governments and the business community. Public entities will profit in terms of enhanced trade tax collection, better use of resources and increased trader compliance. A more efficient and transparent delivery of public services will allow the administration to maintain high security levels and effective government control, while diminishing opportunities for corruption. Traders will gain in terms of higher predictability and speed of operations and lower transaction costs, resulting in more competitive exports on global markets. For countries as a whole, reducing unnecessary delays and costs attracts investments, and supports growth and job creation.

The fundamental principles of trade facilitation are transparency, simplification, harmonization, and standardization. While the transparency within border operations promotes openness and accountability of a government's and administration's actions, simplification of laws and regulations governing border operations eliminates all unnecessary elements and duplications in trade formalities, processes and procedures. Harmonization promotes the alignment of national procedures, operations and documents with international conventions, standards and practices. It can come from adopting and implementing the same standards as partner countries, either as part of a regional integration process or as a result of business decisions. The principle of standardization facilitates the process of developing formats for practices and

procedures, documents and information internationally agreed by various parties of border operations. Standards are then used to align and, eventually, harmonize practices and methods.

In order to facilitate effective border operations, there is a need to have an enabling environment that involves different types of interventions and activities addressing the various dimensions of the government. This includes regulatory reforms aiming at a clear, concise, transparent legal framework. However, it requires an in depth analysis of law and regulations that are critical for border operations. It will include laws and regulations of different agencies that are involved in trade facilitation and border operations. This study has therefore aimed to conduct a study to do an elaborate analysis of regulatory regime that encompasses activities of different organizations. This study will explore the answers and guide the government through preparing recommendations in the following areas of regulatory regime of border operations:

- a. What are the good practice's elsewhere in terms of organizations/laws/rules/regulations to facilitate better management at the borders?
- b. What are the organizations involved in trade facilitation through their border management tasks in Bangladesh and how do they relate to international good practice?
- c. What are the critical laws, rules and regulations in border operations for trade facilitation in Bangladesh and how do they relate to international best practice?
- d. How are these laws aligned with the trade related agreements and conventions and how do they relate to international good practice?
- e. How are these laws facilitating trade for exporters and importers in Bangladesh and how do they relate to international good practice?
- f. What adjustments or modifications are required for making these laws efficient, effective and harmonized for trade facilitation?

Agenda 3: How comparable countries are addressing implementation of TFA

The WTO's Trade Facilitation Agreement (TFA) has a key role to play in helping developing and least developed countries to reduce their trade costs linked to handling imports and exports. Many of the rules in the TFA are designed to be beneficial to businesses, especially SMEs. However, concerns remain in developing and least developed countries about whether they have the resources and expertise to implement many of these rules and procedures, for which they will need technical and financial assistance from the international community.

In order to translate the challenges of TFA implementation into opportunities the Ministry of Commerce needs to know the short term requirements in the categorization and notification of TFA provisions as well as in estimating the financial and technical resources required to implement their category C commitments. It also needs to build the capacity of the institutions in addressing the challenges. The ministry may also need to build strong partnership with the private sector. The ministry will also need to prepare an implementation roadmap for each of the TFA priority measure, for instance: Advance Ruling Systems, Authorized Economic Operators and Post Clearance Audit, National Enquiry Points, among others. Subsequently, the MOC will need to estimate the costs and resources required for implementation of prioritized TFA measures and to approach donors to raise funds to mobilize technical assistance. The MOC has therefore planned to conduct this study with the following objectives:

- a) Identification of current status of Bangladesh in implementation of the TFA;
- b) Identification of gaps between the agreement and present 'situation in implementation of the TFA;
- c) Identification of requirements for complete implementation of TFA;
- d) Identification of status and best practices of regional countries in implementation of TFA and the measures they are taking to advance the implementation process;
- e) Comparison between Bangladesh and other regional countries in implementation of TFA;
- f) Recommendations for addressing the implementation challenges.

3. Timeframe of the Services:

The duration of the assignment is anticipated to run for a period of six months commencing on the date of signing the agreement. The Consulting Firm shall report to the Project Director or his assigned official for any clarification with regard to the assigned responsibilities or any issues that need to be mitigated.

Sl.No.	Report/ Deliverables	Expected date of Delivery
01	Inception Report	Within 02 Week from contract signing
02	Literature review and data collection	From Week 03-20 from contract signing
03	Presentation of the draft findings in a Workshop	Within 21 weeks from contract signing. All cost of the workshop will be borne by the Consultant.
04	Submission of the Final Reports	Within 24 weeks of contract signing

4. Expected deliverables from the firms/institutions:

The consultancy firm will at least submit the following reports for each of the studies to the project authority:

- a) Inception Report
- b) Draft Report
- c) Final Report

The Inception Report (IR) will contain scopes, methodologies and work plan for each of the studies separately and in detail. The IR must have an elaboration of study questions and objectives. This elaboration should follow the detail of research methodologies to be applied for each of the studies. The detail plan of quantitative and qualitative analysis and methods for data analysis will also have to be included in the inception report. The methodologies should include justification for choosing a particular method of data collection, sampling design and indicators, data sources, detail of data collection methods and a set of data collection instruments to be used in each of the studies, detail of field survey or study and limitations in study. The inception report should also contain the detail of key persons engaged in the study and their specific responsibilities. It should also contain the plan for monitoring and evaluation of study progress by the research firm and the client's representatives. The work plan also needs to be detail so that the client understands how the studies will reach to final stage of report writing.

Draft Final Report (DFR) will contain detailed findings, qualitative and quantitative analysis on findings. The structure of DFR should at least contain executive summary of the study, introduction, literature survey, methodology of the study, findings of the study, discussion and analysis, recommendations and conclusions, references and annexures. This study will have three separate DFRs. Report should be delivered in English version.

The Final Report (FR) of the study should be submitted to PIU on agreed formats before the end of the contract period. The report should at least contain executive summary introduction, literature survey, methodology, findings, discussions and analysis, lesson learned, recommendations/suggestions, conclusions, references and database in the annexure. The FR should also have a discussion about the observations of the stakeholders including clients and their answers. This study will have three separate FRs. Report should be delivered in English version.

All reports will be evaluated by the technical committee of the project and fit recommendations of the technical committee will have to be reflected in the reports before finalization of the same.

The consultant will arrange for proof reading, if required to maintain the quality. All field notes and the data set should be submitted as annexure with the final report. Follow up meetings will be held time-to-time between the contracted agency/consultant and BRCP MOC. Ten (10) printed copies of each of the final reports should be submitted along with soft copies. During the implementation, any other information that

is important may be added deleted during discussion periods, which may become an integral part of the TOR.

5. Methodology of Study

Sampling: Depending on sub-components and components, the sampling unit will be decided in consultation with the implementing agency(s). A sample frame including number participants in different data collection methods will be developed using standard sampling framework for each study topic according to agreed catchment area(s)/ principles r discussion with the implementing agencies.

Document Review: The studies will have a large number of document reviews to do analysis and comparison among regulatory regimes.

Questionnaire: The survey questions will be developed and agreed with the related implementing agency(ies). Testing of the questions will be required.

Key Informants Interviews:

To verify data collected from beneficiaries, group or individual interviews with informants will need to be organized. Approach to selecting KII and guide is to be elaborated by the firm.

Focus Group Discussion:

The survey team can use the FGDs tool. The FGDs will complement the data generated from the survey questions and through other methods. The FGDs will be carried out in mix separate male/female groups as appropriate and will be carried out based on an elaborated guide approved beforehand by the related implementing agency(ies). Detailed documentation of the proceedings of the FGDs will be maintained.

Public Consultations

These studies will also include public consultations at selected locations with the relevant stakeholders in discussion with the implementing agency (ies).

Data Analysis and reporting

The data will be processed in SPSS or similar data processing software. The qualitative data will be analyzed by using NVIVO or other similar software. Privacy of the survey data will be strictly maintained by the consultant/firm.

6. Consulting Firms qualification and experiences

The interested consulting firm should provide evidence of the following in their applications:

The Consulting firm shall have the legal capacity to enter into the contract;

- The firm should have at least 07 years of general experience in providing consulting services out of which at least 03 years of experience in national and international trade related research or studies for public and private sector;
- The firm should have successfully completed at least one service contract related to national and international trade including border management operations of Bangladesh within last 5 years;
- The firm should have experience in working with development partner's funded projects (IDA financed project experience would be desirable);
- The required average annual turnover of the consulting firm shall be at least Tk. 30 Lac in last three years;
- A capacity statement on available training facilities, IT equipment, logistics support, transport and office space;
- Undertaking that the firm has not been blacklisted or debarred by any Government Organization or by IDA;
- List of key professional staff including proposed core team for the assignment, showing qualification and experience including the projects/assignment on which they have worked, their role in the assignment/project and duration of their engagement with the assignment/project.
- **Required Documents:** The company must submit the following documents:
 - a) Company Registration, Up to date Tax payment certification and VAT registration certificate;
 - b) Audited Financial statement (last 03 Years);
 - c) Company Brochure.

7. Team Composition and their Qualifications

The proposed services under this Terms of Reference shall be carried out by using a firm (Consultant) with adequate experience in designing and delivering the expected output of the study. The firm should propose the structure and composition of its team members. It should list the main disciplines of the assignment, the key experts, technical and support staff. An indicative team structure may be as follows:

- A. A: Team Leader-1.
- B. International Trade Expert-1;
- C. C: Legal Expert-1.

Position	Duration (man months)	Qualification, Experience and Responsibility
Team Leader-01 No.	06	<p>Team Leader (TL) must have a minimum of 15 years of general experience out of which at least 10 years' relevant prior experience. He must have relevant Master's degree from a recognized university preferably in International Trade, Trade Law, Business Administration or other related areas. She/he must have experience in working with trade regulating agencies and familiarity with trade environment and related international agreements. Must have experience of working with complex, multi-system environments in public sector.</p> <p>The Team Leader will take the overall responsibility for the execution of the assignment in accordance with the TOR and also for the coordination of all professional inputs. She/he will be responsible to the Employer and maintain close contact with Project Director (Employer's representative) to ensure that the contract is implemented in accordance with the World Bank guidelines. The Team Leader will act as the Consultant's authorized representative for both the design and implementation supervision phase and make decisions on all matters pertaining to the consulting services.</p>
International Trade Expert-01 No. (National Consultant)	06	<p>The incumbent must have a minimum of 15 years of general experience out of which at least 05 years' relevant experience in international trade areas. She/he must have relevant Master's degree from a recognized university preferably in International Trade, Trade Law, Business Administration, Operations Management, IT Management or other related areas. She/he must have experience in trade facilitation, logistics, infrastructure/connectivity assessment and planning. She/he must have least 8 years customs and border management experience. She/he should have familiarity with trade and transport issues in South Asia with specific exposure to overland trade, and cross border goods movement. She/he should have strong written and verbal skills in English Knowledge and understanding of business practices of trade regulating agencies.</p>
Legal Expert-01 No.	06	<p>The incumbent must have a minimum of 10 years of general experience out of which at least 05 years' relevant experience in trade related laws. She/he must have relevant Master's degree from a recognized university preferably in Law or Trade Law or International Trade or other related areas. She/he must have experience of working with trade regulating agencies. She/he should have strong analytical skills and understanding of trade regulating rules and regulations of Bangladesh.</p>

The Consulting firm will also propose program support staff as per their work plan.

8. Payment

Payments shall be made in line with agreed-on outputs according to the following schedule:

- Inception Report: Ten (10%) per cent lump-sum of contract price shall be paid upon submission of the Inception Report duly accepted by the Client.
- Draft Final Report: Forty (40%) per cent lump-sum of contract price shall be paid after submission the draft report duly accepted by the Client and
- Final Report: Fifty (50%) per cent lump-sum of contract Price shall be paid after submission the final report duly accepted by the Client.
- All relevant taxes and VAT shall be deducted at source at the applicable rates by the Government of Bangladesh.

9. Miscellaneous

The firm (consultant) will facilitate monitoring of studies by the employer, and World Bank officials. The project will provide to the Consulting firm all key program documents & reports such as:

- Relevant extract of Technical Assistance Project proposal (TAPP), if required;
- Sharing relevant up to date project information for a better understanding of the project;
- Providing timely feedback to the consulting firm on inception report, questionnaire, sampling, training module, draft reports etc.;
- Any logistic support such as transportation as well as office space will not be provided by the client.



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