

THE FIFTH TRADE POLICY REVIEW OF BANGLADESH

Replies to the Questions and Additional Comments

By

Mr. Tipu Munshi, MP
Hon'ble Minister
Ministry of Commerce
Government of the People's Republic of Bangladesh

5 April 2019
Geneva, Switzerland

Distinguished Chair Ambassador TEEHANKEE
Ambassador DE BOER
Excellencies
Ladies and Gentlemen

1. At the outset let me express my sincere thanks to you and in particular to Ambassador De BOER for his valuable observations at the first session. I would also like to register my deep appreciation to the delegates for their comments and encouraging words. Now, I will touch upon the main issues raised by the members in their written and oral submissions. We will respond to the additional written questions in due course.

Excellencies,

2. As I have indicated in my opening statement, Bangladesh has made commendable progress in maintaining a growth-conducive macroeconomic environment and attaining the targets set by ‘Vision 2021’. However, to further accelerate our development and keep the momentum for graduation, we need to address the formidable supply-side constraints to improve our competitiveness in the domestic and global markets. In the process, we deeply recognize the supports of our development partners and welcome the foreign investors.

3. Bangladesh has been pursuing private sector led economic policies since mid-80s. As a result, contribution of the private sector in GDP, investment and employment generation have increased significantly. In 2012, the government’s share in manufacturing value added was only 2.6 percent and the total number of government establishments was only 2.6 percent employment in 2013. In fiscal year 2016-17, the total investment as percentage of GDP was 30.3 percent, out of which 23 percent was from the private sector. The Government rather puts emphasis on private sector development and has undertaken a number of Mega projects such as generating 40,000MW electricity by the year 2030, constructing elevated roads & Padma bridges and e-governance to facilitate private sector led development. We therefore, believe that the statement made at the Secretariat Report needs to be revisited.

4. As we mentioned in our report, the Government has been taking several steps for implementation of the Perspective Plan, 2010-2021. In line with this, the government has adopted Industrial Policies and Export Policies during the review period. While Industrial Policy targets to increase contribution of the industrial sector to 35 percent of GDP and promote inclusive development through diversification of industrial base, Export Policies targets to enhance export to US\$ 60 billion through diversification of export base. For this, the industrial policy focuses on few priority sectors for investment and extends emphasis on development of SMEs, promoting women entrepreneurship and attracting foreign investment.

5. The Industrial Policy also provides various incentives such as tax exemption, accelerated depreciation, concessional rate of interest on current capital; exemption of double tax on royalties and technical know-how fees; uninterrupted supply of electricity, natural gas and energy; etc. The Industrial Policy 2016 does not make any distinction between domestic and foreign investors. Investment in 22 sectors by domestic as well as the foreign investors requires prior permission. These sectors include infrastructure, financial, power, energy, aviation, telecommunication etc. There is no quantitative restriction to invest in these sectors. BIDA has been authorized to redress the grievance on business activities and investment.

6. I also like to note that our tax policy does not discriminate between foreign and domestic firms. The Foreign Private Investment (Promotion and Protection) Act, 1980 ensures fair and equitable treatment to foreign private investment. In respect of foreign private investment, the transfer of capital and the returns from it and liquidation is guaranteed by this Act.

7. Bangladesh has been gradually improving its domestic rules and regulations for making foreign investment environment more attractive. Portfolio investment is allowed for foreign investors. It will be relaxed further, if necessary.

8. The PPP Office supports line ministries to identify, develop, tender and finance PPP projects. It also provides professional, transparent, centralized portal for the interested investors.

9. The Government of Bangladesh has been trying to diversify export for reducing high dependency on apparel sector. It has already identified 12 highest priority & 14 special development sectors and prepared sets of support programs for boosting up exports in these sectors. These programmes include granting project loan at reduced interest rates, income tax rebate, soft terms export credit at lower interest rates, duty draw-back/bond facilities, supports for setting up ancillary industries including infrastructural development for reducing cost of production, expansion of institutional and technical capacities for improving quality of products, duty-free import of equipment for setting up compliant industry, assistance in marketing etc.

10. The Government has also set up sector specific business promotion councils in collaboration with the private sector for leather and leather goods, agro-products, fish, IT services, plastic products and medicinal plants. Beside this, it has initiated Export Competitiveness for Jobs Project with the World Bank support for export diversification. The government's massive program for setting up 100 economic zones will also contribute in boosting up export of non-traditional items. The existing Export Processing Zones are also working to this end.

Distinguished Delegates,

11. I am really happy to note that a number of questions are raised related to possible challenges of graduation. The existing trade support measures adopted by the WTO for LDCs helped to expand our exports. The loss of DFQF market access and flexibilities provided by the WTO will pose enormous challenges for Bangladesh. Towards this end, UN-CDP is going to have an impact assessment study. From our part, we are also conducting a study to know the impact and possible ways of meeting graduation challenges. Upon completion of the study, the Government will review all the relevant policies. Keeping in view that several LDCs are in the process of graduation, I call upon the WTO members to take actions in line with the General Assembly Resolution 59/209.

12. Since long, the Government of Bangladesh has been following the practice of extensive consultation with private sectors including chambers representing foreign investors in formulation of trade and investment policies.

13. Bangladesh strongly believes that discussions on work programme on e-commerce have not been exhausted as of today. Therefore, the WTO committees should conclude discussions of each of the elements of work programme with specific recommendations that we expressed in our submission made before the 11th WTO Ministerial Conference. Regarding discipline on GATS domestic regulation, we feel that negotiations on any necessary disciplines must be within the scope and coverage of the GATS Article VI.4 and it must create trading opportunity for the LDCs and developing countries.

14. Regarding submission of notifications to the WTO, I suppose members consider the administrative constrains faced by Bangladesh like other LDCs. However, according to the update on notification circulated by the Secretariat on 21 February 2018, status of notification by Bangladesh is not as weak as depicted in the report. Bangladesh's compliance with notification obligation under the Agreement on Agriculture is more than 55 percent as assessed by the Secretariat.

15. Bangladesh generally follows the guidelines of CODEX Alimentarius, IPPC and OIE in adopting SPS measures. As of today, no higher level of SPS protection is adopted than that of the relevant international standards. Accordingly, Bangladesh is not required to notify its SPS measures. Bangladesh never imposed any anti-dumping, countervailing or safeguard duty since 1995. It however, has notified the relevant laws and the name of the investigating authority.

16. We have recently submitted few notifications on SPS and TBT. Some others are in the process of preparation. We will submit those notifications soon as per our obligations. In this

regard, I like to inform that Waste Generated Electrical and Electronic Equipment regulation is still in draft stage and is not ready for notification.

17. As of today, Bangladesh is party to four RTAs. Bangladesh has developed FTA guidelines for availing greater market access for trade in goods and services, attracting foreign investment and meeting the LDC graduation challenges. The on-going FTA negotiations are in different stages, i.e. some are in feasibility study stage and some are in negotiation stage.

18. Bangladesh has made notable regulatory reforms through e-governance. These include automation of customs procedures, introduction of Annual Performance Agreement for assessing the services delivered by government organizations, online registration of Joint Stock Companies and Firms, automation of the Office of Chief Controller of Import and Export, Bangladesh Bank. E-filing has been introduced in all Government offices. The Government has also introduced Grievance Redressal System, amended a number of laws and enacted One Stop Service Act, 2018 in ensuring delivery of 31 investment related services from a single point. Number of documentation requirements and service delivery time has been reduced substantially and the fees have been rationalized.

19. The government will create International Taxpayers' Unit for multinational companies to facilitate their activities by the end of 2019. Beside this, the Ministry of Law, Justice and Parliamentary Affairs signed an agreement with the International Finance Corporation on Legislative Impact Assessment in October 2017.

20. Bangladesh is a success story of women empowerment. The major initiatives undertaken by the Government include formulation of the National Policy for Advancement of Women and preparation of National Action Plan. Government and NGOs extend supports like allocation of dedicated loans at lower rate of interest, providing training & marketing supports, participation in fairs, setting up a dedicated woman entrepreneur desk at Bangladesh Bank and reserving 15 percent SME loans exclusively for the women entrepreneurs. As a result, Bangladesh secured 47th position in women empowerment among 144 countries in 2017.

Excellencies,

21. Let me now turn to the questions related to trade policy measures. During the period under review, the government has taken initiative to modernize the customs act. The new customs act will have the provisions for authorized economic operator, post clearance audit, advance ruling, risk management, advance cargo declaration, mandatory electronic payment and reduction of discretionary authority of the officials.

22. Bangladesh, like other LDCs considers tariff as a source of revenue generation and trade policy tool. Tariffs are determined through extensive consultations with stakeholders. Regulatory

duty is imposed by the Government as and when necessary on a temporary basis till the end of any financial year. In addition, under the VAT Act supplementary duties are imposed both on domestic and imported goods keeping in mind the tariff bindings in the WTO.

23. The Government is going to introduce new VAT Act soon. Some basic unprocessed agriculture commodities are exempted from VAT, which is equally applicable for imported and domestic agriculture products. VAT Act does not make any distinction between domestic and foreign investors, neither has any provision for increasing export price of tobacco and tobacco products.

24. Prior permission is required for importation of few agriculture products such as plants and plant products, rice and potato seeds, egg of poultry to ensure that the imported agriculture products are in line with existing laws and regulation.

25. The Public Procurement Act, 2006 and the Public Procurement Rules 2008 contain provisions ensuring transparency in government procurement that include circulation of public procurement plan at the website and publishes tender in two national newspapers, CPTU website and in UN Gallery allowing sufficient time to prepare and submit tenders. In addition, the Government has introduced electrotonic government procurement called e-GP.

26. In procuring the services, the government gives 7.5 percent preference to the domestic service supplier over Foreign Service suppliers. The government has not yet considered becoming observer of the WTO Government Procurement Agreement.

27. Bangladesh Competition Commission applies uniform rules to both national & foreign companies. Non-discriminatory rules are also applied for both private enterprises & State owned Enterprises. In doing so, the Commission follows all global best practices.

28. Bangladesh as such does not have any acts and rules for regulating the prices of necessity goods and agricultural products that could affect the market forces. Trading corporation of Bangladesh and Bangladesh Food Directorate often sell some essential commodities including rice to poor and vulnerable people of the country at affordable prices for ensuring their food security.

Distinguished delegates

29. As an LDC Bangladesh is exempted from the TRIPS obligation, yet the Government updated copy right, trademarks and GI laws and rules incorporating the provisions of the TRIPS Agreement. The Government has recently adopted the Innovation and IP Policy 2018 through extensive consultation with the stakeholders for promoting IP rights and raising awareness

keeping in mind graduation from the LDC status. The Customs Act contains provision to inspect, seize, and detain shipments of any counterfeit or pirated goods.

30. The trade mark is protected under national law and protection is granted if it is registered in our country. Geographical indication Act ensures GI protection for domestic as well as foreign goods. An e-filing system for trade mark applications is in place since January 2018. DPDT has a plan to open its database for the public. General Council decision of 30 November 2015 waived all LDCs including Bangladesh from the obligation of 70.8 and accordingly Bangladesh does not maintain mail-box since then. The Government is now having consultation with stakeholders on joining the PCT and Madrid System.

31. Let me now response on sectoral policies.

Agriculture and Fisheries

32. Bangladesh provides minimal domestic supports that include expansion of irrigation facilities; research on production of improved quality and high yielding varieties of seeds, introduction of short-duration crops, Integrated Pest Management (IPM) etc. These activities are covered under the Green Box subsidies and will be notified accordingly.

33. Major focuses of Bangladesh in fisheries subsidies negotiation are to ensure exclusion of aquaculture and inland fisheries from the discipline; exemption from obligation on providing subsidies to unreported and unregulated fishing unless capacity is developed through technical assistance; not to consider fish in overfished condition due to absence of assessment; exemption from obligation on artisanal and small- scale fishing within EEZ, exemption from obligation on prohibition of subsidies for capacity building, transition period for graduated LDCs etc.

Energy Sector

34. The energy sector is already open to foreign investment. Till September 2018, FDI stock in the energy sector stands at US\$ 3,679.82 million. Bangladesh has extensive mechanism to quarterly collect and publish the FDI inflow in the country.

35. Existing policy encourages private sector to generate electricity under PPP and Independent Power Plant arrangements. Power Grid Company of Bangladesh Ltd. is responsible for operation, maintenance and development of transmission system all over Bangladesh. At present, six organizations are responsible for electricity distribution countrywide. More than 50 percent power is generated by private sector and 90 percent of population has access to electricity. The power sector master plan targets to generate 24,000 MW by 2021.

Manufacturing Sector

36. The Government of Bangladesh has recently adopted policy with time bound action plans for active pharmaceutical ingredients and reagent production and export. Active Pharmaceuticals Ingredients (API) Park has been established. Since Bangladesh meets 98 percent of local demand of pharmaceuticals products with domestic production, till today Bangladesh did not require to use Paragraph 6 System for import of pharmaceuticals. As of today, no WTO Members have approached to Bangladesh to import medicine using the WTO's Paragraph 6 System.

37. To reduce negative environmental impact of leather industry, the scattered tanneries have been shifted to the BSCIC Leather Industrial Estate with a facility of Central Effluent Treatment Plant. The Government has taken project for building clinics and accommodation for the workers engaged in leather sector.

Service sector

38. You may recall that during the WTO Hong Kong Ministerial Conference, *recognizing the particular economic situation of LDCs*, Ministers agreed that *they are not expected to undertake new commitments*". Accordingly, Bangladesh is not expected to undertake any new commitment in trade in services. However, Bangladesh may consider increasing its commitment under GATS upon the conclusion Doha Development Agenda.

39. Bangladesh Bank has been regularly reforming its rules and procedures. Currently, it is implementing a project on risk-based supervision. Currently, World Bank and IMF have undertaken Financial Sector Assessment Program for assessing its regulations. A loan disbursement policy has been adopted for preventing future non-performing loan. In addition, a number of committees have been formed for analyzing the problem of existing non-performing loans.

40. To address and monitor the operational and managerial risks, Bangladesh Bank has issued comprehensive risk management guidelines, such as credit risk management, asset-liability management, internal control & compliance management, operational risk management, foreign exchange risk management, environmental risk management and money Laundering and terrorist financing. It has also established several monitoring tools to oversee the performances of the banks and non-bank financial institutions using on-site and off-site supervision mechanisms.

41. To ensure compliance, Bangladesh Bank independently appoints observer for specific commercial bank having poor CAMELS rating or suffering from poor corporate governance. There is well-defined Terms of References for the observers. The observers submit detailed

report of the meetings and provide instant feedback to Bangladesh Bank. They independently express their opinion to Bangladesh Bank for necessary actions. There are examples, where appointment of observers led to better corporate governance, bringing down non-performance loans and improving financial position of the concerned bank.

42. For granting licenses, Bangladesh Bank follows a transparent and systematic process. It assesses the requirement of setting up new banks based on the pre-set criteria. Upon getting license, the bank-companies must follow the prudential regulations, guidelines and instructions of Bangladesh Bank.

43. The requirements for establishing a locally incorporated entity or branches of a foreign bank are almost same as that of the local banks. However, a foreign bank has to submit additional documents such as commitment of the parent bank, clearance from the regulatory authority of the parent bank, copy of the license issued by the home country and last three years audited financial statements for setting up branches.

44. As per Guidelines for Foreign Exchange Transactions, branches of foreign firms and companies, foreign banks, financial institutions and insurance companies operating in Bangladesh may remit profits abroad through their nominated Authorized Dealers without prior approval from Bangladesh Bank. Authorized Dealers are also allowed to remit dividends to the non-resident shareholders without prior approval from Bangladesh Bank. Therefore, no bureaucratic burden is associated with repatriation of any kinds of returns from the foreign investments including profits.

45. The Industrial Policy 2016 designates the insurance as one of the controlled sectors that require prior permission for investment. It is mandatory to set up a company in Bangladesh to obtain an insurance license. There is no opportunity to provide cross border insurance services. At present, the Government does not have any plan to make any changes of the existing policy.

46. Insurance sector could not achieve expected level of growth because of inadequate public awareness. The recent growth of state-owned life insurance may be attributed to the increasing trend of public confidence in state-owned life insurance. The objective of the Insurance Sector Development Project is to strengthen the institutional capacity of the regulator and state-owned insurance corporations and increase the coverage of insurance in Bangladesh through creating public awareness.

47. To stabilize the capital market and develop confidence among investors, Bangladesh Securities and Exchange Commission disseminates price sensitive information, conducts campaigns, publishes printed and online brochures and booklets. It has also established Financial Literacy Department and sends SMS alert to beneficiary owner account holders.

48. The Bangladesh Securities and Exchange Commission maintains a publicly available database for monitoring the activities of the companies and protecting the interest of the investors, prevention of any fraudulent activities and smooth growth of the capital sector. The information preserved in the database provides helps to monitor the performances and financial health of a company. It has also a Central Depository System which works like a bank for shares instead of money.

49. Bangladesh Telecommunication Regulatory Authority is yet to develop modalities for utilization of the fund collected to meet universal service obligation, which would ensure availability of services in remote areas.

50. Development of road and rail transport infrastructure is the top priorities of the government. Accordingly, a number of First Track and Mega Projects have been undertaken by the government where the lead contractors are foreign firms. In addition, the government also invites PPP in developing transport infrastructure where no restriction exists on participation of foreign firms.

51. The Bangladesh Flag Vessels (Protection) Ordinance, 1982 ensures that at least 40 percent of sea-borne cargo is to be carried by national flag vessels, in conformity with the UNCTAD Code of Conduct for Liner Conferences. The provision applied in Bangladesh is irrespective of the type of vessels. However, in keeping with the needs of the country's foreign trade, these provisions of the Ordinance are relaxed time to time through general waiver.

52. The Government has taken a number of projects for improving the port capacities and meeting growing demands of the country. Out of these, Laldia Terminal project will be implemented through PPP Model, proposals from private sector for establishing Bay Terminal project is under consideration and Matarbari Port project will be implemented with the support from JICA.

53. Private sector is engaged in terminal and berth operation services, cargo and container handling services along with the operation of 10 Gantry cranes in Chattagram port. In addition, 17 dry ports, in close vicinity of Chattagram Port are operated by the private sector.

54. I hope, I have covered most of the points raised by the distinguished members. Once again, I would like to appreciate your kind interest in Bangladesh's trade policy, your active participation and your constructive suggestions.

I thank you.