Bangladesh❖

– Mohammed Abu Eusuf† & Atiur Rahman ††

Bordering Myanmar and India in southern Asia, Bangladesh is situated in deltas of large rivers flowing from the Himalayas, into the Bay of Bengal. It is divided into six administrative regions, with the capital being Dhaka.

Bangladesh became independent in 1971, when it seceded from its union with West Pakistan. Earlier, the whole of Pakistan was a part of India until 1947, when the British departed from the Indian sub-continent after ruling over it for nearly two centuries. Bangladesh is now one of the fastest growing developing economies in the world.

PROFILE	
Population:	156.16 million*
GDP (Current US$):	128.8 billion**
Per Capita GDP: (Current Price, US$)	838*
Surface Area:	147 thousand sq. km
Life Expectancy:	69 years**
Literacy (%):	59.82 (of ages 15 and above)*
HDI Rank:	146***

Sources:
* Bangladesh Bureau of Statistics
** Bangladesh Economic Review 2013
*** Human Development Report 2013

Economy
After independence, Bangladesh followed a policy of import substitution in its industrialisation strategy.

Now, the country has come a long way in terms of trade and exchange rate liberalisation, through the simplification of its import policies/ procedures; the significant relaxation of quantitative restrictions; the noteworthy flexibility of trade in many restricted items; and the considerable rationalisation and reduction of import tariffs.

Despite being one of the densely populated countries in the world and challenges of pervasive poverty, Bangladesh economy is aiming to attain the middle income country status by the year 2021. Bangladesh economy is growing faster than the earlier decades and is aspiring for yet bigger quantum leaps in growth and poverty eradication. Over the past 40 years, nominal gross domestic product (GDP) in US has increased more than eighteen-fold, while the population has increased a little over two-fold. Real GDP growth averaged at around 6.0 percent annually over the last 12 years.

Trade openness has integrated Bangladesh with global economy; with trade/GDP ratio rising from around 20 percent during the1970s and 1980s to 40.7 percent in the financial year 2011. Poverty has come down to 31.5 of the population now, from around 57 percent in the 1990s. From the initial position as a primary goods producing small agrarian economy, Bangladesh has by now transformed into a globally integrated manufacturing economy and a leading apparels and textiles exporter gradually breaking grounds into newer areas like shipbuilding, light engineering, IT enabled services, and so forth.

There is no denial of the fact that both producers and consumers strongly feel the need for a competitive business environment for their mutual welfare and therefore, a competition policy is an internal imperative in Bangladesh, irrespective of the outcomes of negotiations at the WTO.

Policymakers and consumers are aware of this imperative and, hence, keep the issue of formulating a national competition policy and law alive in Bangladesh. A competition law has already been enacted, covering real sector businesses. In the financial sector, regulatory authorities (Bangladesh Bank, Security Exchange Commission, Insurance Development and Regulatory Authority) have of late adopted proactive stance on maintaining competitive environment with safeguards for consumer interests.

❖ Original paper written (2006-07). Updated (August 2012) & re-updated in April 2014

Competition Evolution and Environment

By competition or antitrust policy, economists usually mean intervention by public authorities for ensuring competition in the markets. The basic objectives of competition policies are meant to promote competition, enhance consumer welfare, by preventing restrictive agreements or concerted actions between firms that distort competition in the markets, which are either explicit cartels or tacit collusion. Such policies also deal with monopoly position, and the process of business concentration, such as Merger and Acquisitions (M&As).

Competition regimes are often related to the development strategy of the country. At the time of independence in 1971, Bangladesh inherited a policy of very rigid import substitution as its industrialisation strategy, which continued to be pursued well into the 1970s.

The typical instruments of this inward-looking development paradigm, such as widespread quantitative restrictions on imports, high import tariffs, foreign exchange rationing and an overvalued exchange rate, became characteristic of Bangladesh's then trade and industrial policy environment.

These policies aimed at creating a domestic industrial base in the economy by protecting local firms against foreign competition. Consumer interests were neglected, as it was believed that 'infant industries' would eventually grow up to become more efficient than their foreign counterparts, and that, in the long run, dynamic efficiency gains would outweigh the initial welfare loss.

Although the choice of import-substitution was dominated by macroeconomic concerns about the balance of payments (BoPs) and fiscal balance, even after a decade of highly protected trade regime, both the internal and external balance situation of the country continued to worsen.

Moreover, the import-substitution strategy generated a distorted incentive structure, resulting in an 'anti-export' bias, undermining the potential for export growth.

It was against the backdrop of serious macroeconomic imbalances, of the early 1980s, and the stagnating export performance, that reform policies for stabilisation and structural adjustment were undertaken. Influence from the WB, the IMF, and the worldwide turn against the import-substituting development policies have also constituted important factors in Bangladesh's consideration of a policy reversal.

Therefore, since the mid-1980s, Bangladesh has been implementing trade policy reforms with inevitable consequences for the domestic competition regime. Quantitative restrictions on imports were drastically reduced from about 40 percent of all import lines, in 1987-88, to a mere two percent in the 1990s. Tariffs were slashed, from as high as 350 percent in 1992 to as low as 40 percent, in 1999 (currently, it is around 25 percent). Exchange rate restrictions were liberalised greatly with frequent adjustment in the nominal rates.

Previously, the imposition of discriminatory sales taxes on imports, in addition to tariffs, also protected domestic firms. However, together with the trade liberalisation process, the import discriminatory multiple rate sales tax has been replaced by a uniform value-added tax (VAT), which has been imposed on both imports and domestically produced goods.

It goes without saying that the above measures have greatly reduced the protection enjoyed by domestic firms, in the tradable sector of the economy. These firms' monopolistic powers have been severely curtailed by a liberal import regime. How much this has affected the firms in the non-tradable sector is not clear, due to lack of research on the topic. In fact, competition policy is an area of regulatory economics that has received the least attention in Bangladesh.

Overall Policy and Regulatory Framework

The Government of the People's Republic of Bangladesh has recently passed the 'Competition Act 2012'. The law is expected to promote economic development of Bangladesh through creating a better environment for private sectors in terms of efficiency in production and pricing decisions and will benefit both consumers and producers.

As per the provision of the law, a Commission will be established in order to maintain and promote competition through preventing, controlling or eliminating all forms of anticompetitive behaviour from the market, such as agreements or arrangements among enterprises for bid rigging, or combinations, or abuse of dominant positions of market power, which significantly and adversely limit freedom to trade or access to markets or otherwise unduly restrain competition and for matters connected therewith, that are detrimental to consumer welfare and economic efficiency.

This Act shall be applicable to all enterprises that are engaged in providing goods and services for commercial purposes if the Government may, by notification in the Official Gazette, exempt any goods or services or any class of goods or services from the operation of this Act; or the sectors/sub-sectors of goods and services, not opened for the private sector, that are controlled by the government in the interests of safeguarding its sovereign functions and national security shall remain outside the purview of this Act.

The law also establishes a separate Bangladesh Competition Commission under the supervision of one Chairman and a four member body.

Selected functions of the Commission will include:

i. To eliminate practices having adverse effect on competition, promote and sustain competition, protect the interests of consumers and ensure freedom of trade carried on by other participants, in markets in Bangladesh.
ii. Direct any enterprise or association of enterprises or person or association of persons, as the case may be, involved in such agreement, or abuse of dominant position, to discontinue and not to re-enter such agreement or discontinue such abuse of dominant position, as the case may be.
iii. To provide advice and assistance to the government in order to implement the Competition law and regulations.
iv. Taking possible initiatives to increase awareness among the society and publicise the relevant information on competition.

The Competition Act, 2012 is intended to maintain and promote competition, to prevent, control or eliminate restrictive agreements or arrangements among enterprises, or combinations, or abuse of dominant positions of market power, which appreciably and adversely limit freedom to trade or access to markets or otherwise unduly restrain competition and for matters connected therewith, that are detrimental to consumer welfare and economic efficiency.

Institutions, Competencies and Anticompetitive Business Practices

Lack of Legal Provision

Legal provision now exists to protect interest of the consumers in Bangladesh. However, these tasks are not without complications. On the one hand, assurance is needed that consumers are not cheated in any way. On the other hand, special care should be taken that regulatory powers, exercised on private firms and businesses, are not excessive.

Overseeing trading practices will also require knowledge about market structure and product quality, and, above all, will require technical expertise. Some businesses may consider gaining unfair competitive advantage, with misleading claims about their products' value, quality, place of origin and ingredients, a perfectly legitimate means to promote sales.

The ability of the average consumer to verify the product information given to them is extremely limited and, in most cases, impossible to implement. Therefore, in this era of commercialisation, the protection of consumer interests will necessitate much more than the enactment of laws. How the rules of the game are implemented by the Government of Bangladesh is the most important issue at stake.

Presence of State-owned, Inefficient Industries

Over the last decade, the role of SoEs has diminished, with the private sector dominating trade, commerce and industry.

Monopolies

Natural monopolies exist in many sectors where government has an important role.

However, in such sectors in Bangladesh, for example, railways, telephone, and other public utility services, anticompetitive structures have been in existence for so long, that they not only inhibit the modernisation of these services but also hinder private investment.

Even within the sectors of natural monopoly nature, public-private sector collaboration can help improve the standard of services. This can result in increased competition as private sector firms will be involved and, consequently, consumers will be benefited from improved products and services at low cost.

Box 1: Anticompetitive Business Practices in Sugar Market

The sugar industry is one which is often dominated by the state, which may establish, support, protect, own, subsidise and control the industry in order to create and maintain rural livelihoods. Sugar is an important agricultural product in many countries, and part of the staple diet in most, as well as being a source of rural livelihoods. As a result, the state is heavily involved in the sugar industry in some countries, including Kenya and Viet Nam. In Bangladesh, the state-led sugar industries exhibit low productivity and poor performance, and the use of obsolete technology and inefficient farming methods mean poor cane yields and sugar outputs. Therefore, the country is struggling to compete and survive in the face of competition from sugar that is either privately produced or imported. It needs substantial level of costly government subsidisation, which is unlikely to be sustainable in the long run, thus jeopardising many livelihoods.

Source: http://www.odi.org.uk/resources/docs/6056.pdf

In addition, there are some other issues that lead to anticompetitive practices in Bangladesh (Bangladesh Tariff Commission, 2004) such as:

- mergers, price fixing and manipulation of supply (through collaboration among importers, local manufacturers, suppliers etc.);
- exclusive dealing and tying arrangements (e.g. doctors' advice to use services from only particular diagnostic centres; teachers' advice to buy educational accessories from particular outlets; and also, visa fees for some foreign embassies need to deposited specifically at the Standard Chartered Grindlays Bank);

- bid rigging (pre-arranged and threat driven);
- price discrimination (dumping and charging different prices for identical products);
- bribery and gifts (e.g. bribing tax officials to avoid taxes); and
- extortion (e.g. sellers extorted by a purchasing agent).

Consumer Protection

As with any other country, the political economy of protection is also important in establishing a suitable competition regime in Bangladesh. It is through chambers, business organisations, and connections with the bureaucrats and politicians, that the producers (or firms) promote their business interest. This results in lobbying the government for more protection, either in the form of increased tariffs or subsidies, or restricting competition.

Box 2: Anticompetitive Behaviour in the Banking Sector

Banking sector of Bangladesh demonstrated resilience in the face of recent global economic crisis attributable to improvement in key financial indicators of the banking industry over the last decade.

With a view to maintaining soundness, solvency, efficiency and stability in the financial system, Bangladesh Bank (BB) initiated a number of policy measures including greater emphasis on risk managements in the banks, periodic review of stability of the banks and the banking industry through stress testing, strengthening financial inclusion of under-served/un-served productive economic sectors and population segments, encouraging enhanced Corporate Social Responsibility (CSR) activities and Green Banking initiatives.

Specialised Commercial Banks (SCBs) now contribute a smaller part of the banking sector. In 2011, the SCBs held 27.17 percent of the total industry assets against 28.3 percent in 2010. Private Commercial Banks' (PCBs) share rose to 60.82 percent in 2011 against 58.80 percent in 2010. Non-performing Loans (NPLs) of the overall banking sector and also of SCBs have declined from 26.77 and 31.84 percent respectively in 2000 to 6.1and 11.27 percent respectively in 2011.

Under the financial inclusion campaign of the Bangladesh Bank, both SCBs and PCBs are actively participating in financing of agriculture, SME, renewable energy and other productive sector projects.

In contrast, consumers are not formally organised at all, and due to the lack of an effective association or civil society groups, little can be done to actively promote consumer interests.

The existing consumers' associations have not been particularly successful in raising the concerns of the consumer at the higher level. As a result, policy makers most often see strong lobbying in favour for demands of business protection, whilst hardly encountering popular public stances countering these protective demands.

It is advisable, therefore, for an effective competition policy to concentrate on developing consumer associations, so that debates and discussions can take place between parties with opposing views. This will generate important points and information to help the policy makers decide on measures to improve competition and enhance consumer welfare.

Concluding Observations and Future Scenario

Moreover, competition policy is not a panacea for promoting competitiveness. This depends, to a significant extent, on factors, such as human capital, institutional infrastructure, ethical business codes and commitment to good governance. The civil society too, has an important role to play in raising consciousness, regarding vices of anticompetitive practices. Education, media and social organisations have a role in mobilising a society for an appropriate competitive regime.

Besides, there is also a danger of excessive competition, which may have adverse socio-economic implications. There is, therefore, a need for open public debate on these issues, and continuous monitoring of the impact of competition on the weaker sections of the economy, particularly on small and medium-sized enterprises (SMEs). Simultaneously, there is a need for the realistic assessment of the extent to which multinational corporations (MNCs) are following the disciplines of competition law. Indeed, participatory governance should also be at the heart of any move to regulate competition.

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