

Laws, Regulations, Formalities, Facilities and Incentives on Investment: A Case Study of Bangladesh

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Abstract

Investment is a crucial phenomenon for economic and industrial development of a country. The main objective of this paper is to highlight the present investment related laws and regulations in Bangladesh. An analysis has been made to depict different aspects and their impacts on formulations, promotions, incentives and facilities support provided by BOI, BEPZA, BSCIC, Ministry of Finance, Bangladesh Bank and National Board of Revenue to both local and foreign investors. A one stop source of all required information to all potential domestic and foreign investors regarding investment laws, regulations, formalities, facilities and incentives in Bangladesh needs to be provided in encouraging the investments at the desired level of the sustainable development. The results of the study indicate that variables related to investment in Bangladesh are highly positive for economic growth and industrial development of the country. Even then, Bangladesh government has to come forward to enhance the entrepreneurial capabilities of investors through providing more liberalized laws, regulations policies, facilities and incentives on investment.

Key words: Laws, regulations, formalities, facilities, incentives, investment, economic growth, industrial development etc.

1.0 Introduction

Bangladesh is a liberal democratic country where people live in harmony and peace. It enjoys broad market oriented economy and offers the most investor friendly regulatory regime in South Asia. Bangladesh provides trainable, enthusiastic, hard working and competent labor force for labor intensive industries. A recent survey of JETRO pointed out that Bangladesh has comparatively lower labor cost than other Asian countries (JETRO Survey 2013). Bangladesh is one of the top exporters of readymade garments to USA and Europe (Daily star, March 23, 2015). Bangladesh is now the 27th most attractive investment country in the world (World Bank, 2013). The New York Times recently termed Bangladesh as “an unlikely corner of Asia” (Mondal-2014). Another report, jointly published by World Bank and IFC titled “Doing Business in Bangladesh” ranked Bangladesh in the 122nd position among 185 countries in case of doing business. The same report has also highlighted Bangladesh in the 25th position in respect of protecting investors, 83th in arranging credit, 95th in started business and 97th in case of payment of taxes respectively (World Bank -2013). The World Bank reported that it is easier in leasing and buying a private land by foreign investors in Bangladesh than India, Pakistan and Sri Lanka. Goldman Sachs branded as Bangladesh is in next 11 lists after the BRICS nations. The market base economy led the Bangladesh to encourage private sector that provides the main stimuli to its economic development.

The investment of Bangladesh is well protected by laws and practices. The existing rules and regulations differ from the nature of investment to investment controlled by the concerned authorities. Major laws affecting investment are the foreign private investment act of 1980; the industrial policies formulated by the government from time to time, the Bangladesh Export Processing Zones Authority Act of 1980, the companies’ act 1994. In addition, foreign investors are also required to follow the regulations of Bangladesh Bank (BB) 2003, the National Board of Revenue (NBR) (for taxation and customs matter), law related to wages and employment, trade union and industrial disputes, working environment, labor administration and related matters, and disputes settlement procedures both for domestic and international concerns.

This paper has been designed to provide information to the potential investors, entrepreneurs and stakeholders regarding the different laws and regulations, formalities required, facilities and incentives and support services provided which will attract inflow of investment and encourage domestic entrepreneurs for setting up their business ventures. In addition, the paper will constitute an aid to policy makers in public and private organizations, researchers, academicians and business community of the country.

2.0 Statement of the Problem

Bangladesh is experiencing a steady growth of GDP around 6% (6.5% in 2014-15). A target of 7% growth of GDP has been established for the period of 2015-16. This requires the increase of investment about 23% to 25% for achieving this growth rate of GDP. As economic growth picks-up, the purchasing power will also grow substantially and in a country of more than 150 million people where even a small middle class may constitute a significant market. Bangladesh is endowed with abundant supply of natural gas, water, and its soil is very fertile. The Geographical location of the country is ideal for global trade with very convenient access to international

sea and air route. The government is highly keen to stimulate the economy and transform a poverty stricken economy to NIEs within short time. Government has reduced bureaucratic control over private investment and opening up many areas. The government has announced three years export, import policies (20012-2015), which are consistent with the market economy

Though a conducive investment environment is prevailed in the country, the present status of both domestic and foreign investment in the country is not satisfactory (Daily Star, June-2015). The investment in Bangladesh is of different forms like private investment, foreign private investment, and investment under BOI, investment under BEPZA, FDI and investment under BSCIC. Different forms of investments are operated and control by their respective laws and regulations.

After the Rana Plaza building collapse in April 2013, the government amended the labor law in July of the same year and allowing full freedom of association in factories outside the EPZs. As a result, there are 203 trade unions have been registered from January to July in 2013 due to the amendment to the labor law. The government moved to amend the EPZ law under pressures from the USA government as the Obama administration suspended the Generalized Systems of Preferences (GSP) status, citing serious shortcomings in labor rights and working conditions. The US government slapped 16 conditions on Bangladesh, including amendment to the EPZ law to gain back the GSP status. Thus, the cabinet of Bangladesh approved a draft law protecting EPZs workers' right to association on July 7, 2014 with a provision that at least 30% of the workers of a factory within the EPZs will have to apply for registration of union. But foreign investors do not want trade unionism in EPZs because of potential agitation or demonstration that will hamper production and overseas trade in specialized areas. A Japanese investor in CEPZ said that we are worried about protecting our investments as the cabinet agreed to amend the EPZs law, which will allow unionism in the EPZs. Japanese investors also pointed out that we do not want any new unionism because we already have a workers' Welfare Committee. This committee is enough to protect the interest the workers (Daily Star, Oct. 10, 2014). Another Korean investor in Dhaka Export Processing Zone said that we are already concerned over compliance issues demanded by international retailers with rapid changing business environment (Daily Star , Oct. 26, 2014).

3.0 Objectives of the Study

The primary objective of the study is to highlight the present status of various regulations, formalities required, facilities and incentives provided by different authorities involved in stimulating investment in Bangladesh. The specific objectives of the study are:

- I. To point out the different acts, policies and regulations that governs investment in Bangladesh.
- II. To identify common formalities and documents required for establishing industrial/ business venture in Bangladesh.
- III. To depict the formalities and procedures maintained by BEPZA, BOI, and BSCIC.
- IV. To know the incentives provided by different agencies for investment in Bangladesh.
- V. To evaluate the problems faced by investors in setting industries in Bangladesh.
- VI. To provide suggestions how to overcome these problems.

4.0 Methodology

The study is based on mainly both primary and secondary data. Secondary data have been collected from publications of BOI, BEPZA, BSCIC, Bangladesh Bank, Publication of planning commission, national and international Research Journals, News paper articles, World Investment Report, and Papers presented by eminent scholars in national and international seminars on investment. Personal interview and field investigation techniques were adopted in collecting primary data. A structure questionnaire was used in collecting primary data from High official of BEPZA, BOI, and Business Leaders from FBCCI, BGMEA and Chittagong Chamber of Commerce in order to elucidate problems recognized and their severity. Attempts were made to use up to date data to make the study more viable.

5.0 Analysis

5.1 Legal Framework for Investment

The Investment in Bangladesh is regulated by foreign private investment (promotion and protection) Act, 1980 (Act. No. XI of 1980). Major laws related to private investment both foreign and local are listed below:

1. The Foreign Private Investment (Promotion and Protection) Act of 1980
2. The Bangladesh Export Processing Zones Authority Act of 1980
3. The Investment Board Act of 1980
4. The companies Act of 1994
5. The Bangladesh Private Export Processing Zones Authority Act of 1996
6. The Import and export Policy Order 2012-15
7. The Industrial Policy 2010
8. Policy and Strategy for Public-Private Partnership (ppp), 2010
9. Special Economic Zones Act of 2010

In addition, foreign investors are required to follow the regulations of the Bangladesh Bank and the National Board of Revenue for taxation and customs matters.

5.2 General Formalities and documents required for establishing a new industrial unit in Bangladesh

1. Trade License from City Corporation.
2. Tin Certificate from income Tax Office.
3. Chamber Certificate from Chamber Office.
4. VAT Certificate from Custom Office.
5. Bank Solvency Certificate from any Bank.
6. Govt. Permission from Board of Investment.
7. Land deed Agreement – of the proposed factory.
8. IRC = Import Registration Certificate from CCI/ DCCI Office.
9. ERC = Export Registration Certificate CCI/ DCCI Office.
10. Nationality Certificate from Local Commissioner.
11. Govt. fees as per investment as pay order in favor of BOI
12. Lay out Plan of the Factory.
13. Factory License firm Factory Inspectors Office.
14. Fire License from Fire department.
15. P.D.B./Gas connection if required – also from P.D.B/Gas department.
16. In Corporation Certificate in case of Limited Company.
17. Environment Pollution Certificate from EPC. Department.

A long procedural formalities and bureaucratic complexities are faced by the entrepreneurs while setting new industrial units. Besides these, there are a lot of procedures and documents required in getting different certificates that takes a longtime. Entrepreneurs became frustrated and disheartened in establishing ventures/manufacturing units. Moreover, the following supporting documents are required and the following procedures are the needed to maintain & get environmental clearance certificate

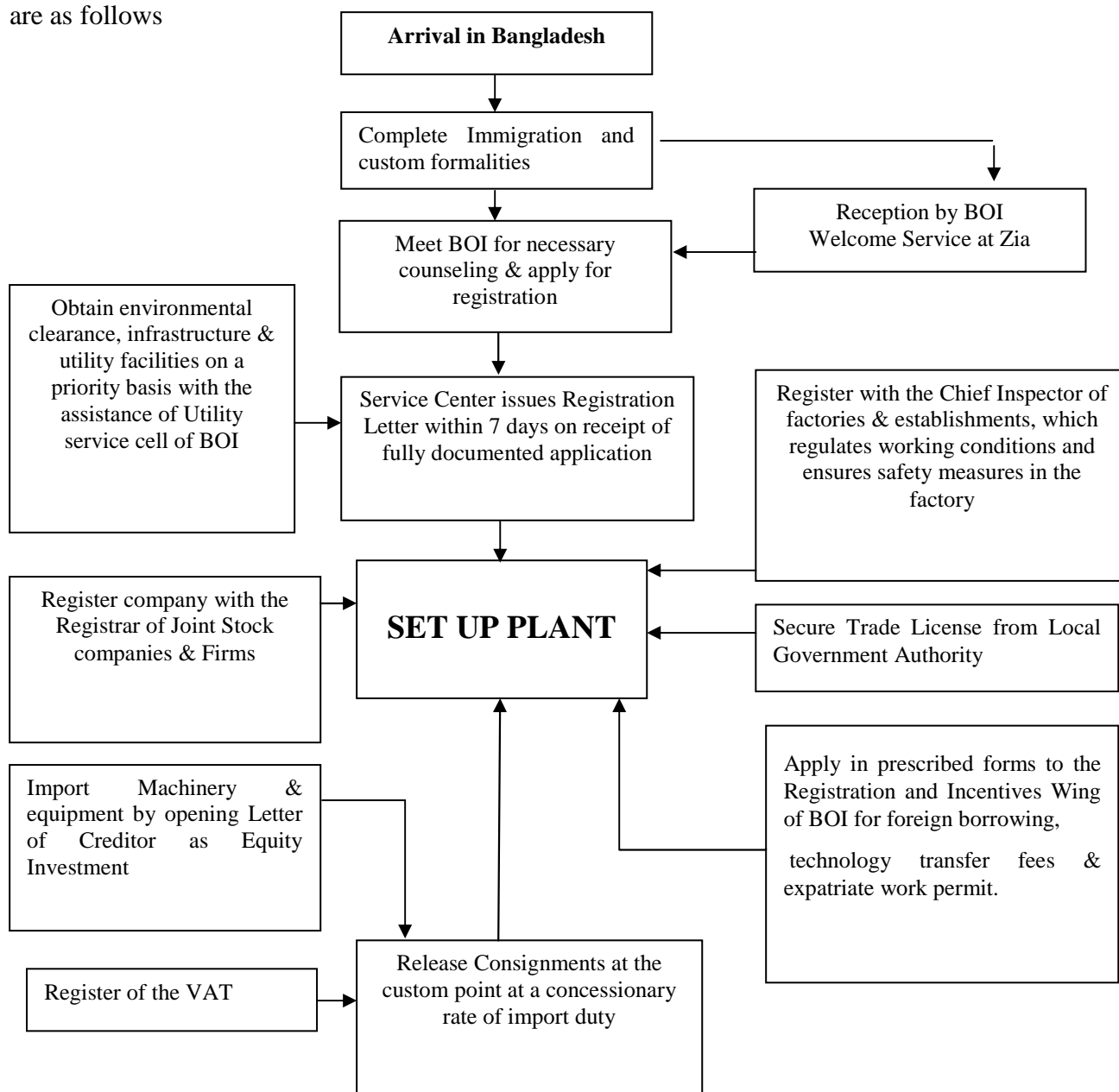
1. No Objection Certificate from local authority
2. Project Profile (On business letter head)
3. Layout plan
4. Cadestrial /Cadestra Map with Dag & Khotian
5. Process Flow Diagram (on business letter head)
6. Registration of BOI (if required)
7. Rent Agreement (if required)
8. Initial Environmental Examination (IEE Report) (If required)
9. Environmental Management Plan (EMP Report) (If Required)
10. Environmental Impact Assessment (EIA Report) (If required)
11. Copy of Treasury Chalan

5.3 Formalities and Investing Procedures in EPZs

The concept of EPZs was introduced in Bangladesh to attract foreign investment with special protection. Thus, an attempt has been made to highlight the formalities and investment procedures of EPZs in below:

Requisites/Steps	Fees and Rentals Items	Fees in USS
a. Project Proposal Form	Application form	45
b. Bank Solvency Certificate	Registration Fee	250
c. Memorandum of Association	6 month Rental (Land)	2200
	a) Dhaka, Chittagong, Comilla, Adamjee Karnaphuli b) Mongla, Ishwardi,, Uttara (Nilphamari)	1000
d. Articles of Association		
e. Certificate of Incorporation		
f. Joint Venture Agreement	6-month Rental (Factory Building ofr 1500 m.)	4125
	a) Dhaka, Chittagong, Comilla, Adamjee Karnaphuli b) Mongla, Ishwardi,, Uttara (Nilphamari)	2500

The following are procedures followed for set up business at a glance in Bangladesh by BOI are as follows



Source : BOI

5.4 Investment Facilitation and Promotion Agencies in Bangladesh

The Role and importance of private sector investment in accelerating industrial development of Bangladesh were significantly identified and outlined and put into the policy framework of the Government in early 1980s. Formal legislative move was made through enactment of the Foreign Private Investment (Promotion and Protection) Act. The following are the key investment promotion and facilitation agencies of Bangladesh.

Communication in Bangladesh		
Agency	Areas of Concern	Investment Type
a. Bangladesh Small & Cottage Industries Corporation (BSCIC)	Small cottage industries	Domestic
b. Bangladesh Export Processing Zones Authority (BEPZA)	Exported Oriented Industries located in EPZs	Domestic & FDI
c. Board of Investment (BOI)	All other industries including promotion of the above	Domestic & FDI
d. Bangladesh Economic Zones Authority (BEZA)	Established New industrial Area	Domestic & FDI
e. Privatization Commission	Privatization of Public Enterprises	Domestic
f. Public Private Partnership (PPP) Office	Partnership with National & International Investment Community	Domestic & FDI
g. SME Foundation	Small & Medium Enterprises Promotion by Technical & Financial support	Domestic

To facilitate and promote private sector infrastructures, two other GOB owned Companies-Infrastructure Investment Facilitation Center (IIFC) and infrastructure Development Company limited (IDCOL) are serving.

5.5 Incentives provided by Bangladesh Export Processing Zones Authority (BEPZA)

Under the BEPZA Act. 1980, EPZs are provided infrastructural facilities, administrative and support services to the investors along with rewarding incentives. BEPZA runs 8 EPZs and facilitates investment by local and foreign firms to produce goods for exports. Now there are 428 industrial units operating in EPZs and invested US\$ 402.58 millions in FY 2013-14, where it was US\$ 328.53 millions in FY 2012-13, which is increased 22.54% in FY2013-14 than FY 2012-13. It is mandatory to form a workers' welfare committee at every factory in EPZs. The WWC is to form in collaboration with six important stakeholders viz Bangladesh government, World Bank, American Federation of Labor Congress of Industrial Organization, US embassy of Dhaka, International Labor Organization and BEPZA. The major incentives & facilities provided by BEPZA are listed value:

Fiscal Incentives	Non- Fiscal Incentives	Infrastructure & Facilities
Concessionary Tax for 5 years after completing initial 10 years	100% Foreign equity allowed	Fully serviced plots
Duty free import of machinery & raw materials	Unrestricted exit policy	Ready factory building
Avoidance of Double Taxation based on DTTs	Full repatriation facilities of dividend and capital at the event of exit	All types of Utilities
All other incentives as provided by BOI	Import of raw materials allowed on Documentary Acceptance basis	Warehouse and Secured Bonded Area
	Intra and Inter-zone export is allowed	Business Support Services
	Subcontracting within EPZs permitted	Administrative Services
		Customs Clearance at plant site
		Workers Dormitory Enclave
	Recreational Amenities	
	10% Sales to Domestic Tariff Area	

Different support services like telephone, electricity supply, port facilities, customs, banking and insurances facilities, Security and Exchange Commission (SEC), C & F agents, shipping facilities, investors club, medical centre, school and college services are also provided to the entrepreneurs by BEPZA and BOI.

5.6 Facilities and Incentives provided by BOI

BOI was established to encourage, facilities and promote investment in private sector both local and foreign under the Investment Board of Act of 1989. It provides all sort of information required by an investor. The following facilities and incentives are provided by BOI to investors and Non-Resident of Bangladeshis

1. Investments of NRBs treated at par with FDI and enjoys facilities similar to those of foreign investors
2. NRBs can buy newly issued shares/ debentures of Bangladeshi Companies
3. A quota of 10% has been fixed for NRBs in primary public shares
4. They can maintain foreign currency deposits in the Non-residents Foreign Currency Deposits (NRFD) account
5. On fulfillment of certain conditions "Important Non- Resident Bangladeshi (INRB) is selected.
6. Tax exemption on royalties, technical know-how fees received by any foreign collaborator, firm, company and expert.
7. Tax exemption on the interest on foreign loans under certain conditions.
8. Avoidance of double taxation in case of foreign investors on the basis of bilateral agreements.
9. Exemption of income tax up to 3 years for the foreign technicians employed in industries specified in the relevant schedule of income tax ordinance.
10. Tax exemption on income of the private sector power generation company for 15 years from the date of commercial production.
11. Facilities for full repatriation of invested capital, profit & dividend.
12. 6 months multiple entry visa for the prospective new investors.
13. Re-investment of repatriable dividend treated as new investment.
14. Citizenship by investing a minimum of US\$ 5,00,000 or by transferring US\$ 10,00,000 to any recognized financial institution (non-repatriable).
15. Permanent resident ship by investing a minimum of US\$ 75,000 (non-repatriable).
16. Tax exemption on capital gains from the transfer of shares of public limited companies listed with a stock exchange.
17. Special facilities and venture capital support will be provided to export-oriented industries under "Thrust sectors"

5.7 Facilities and Incentives provided by BSCIC

BSCIC was established by parliamentary legislation which was amended in 1992 to adopt the industrialization and investment policies of the country. It provides comprehensive services to development and expansion of

small and cottage industries for economic development of the country. The followings are major facilities and incentives provided by BACIC:

1. Identification & selection of entrepreneurs;
2. Entrepreneurship development;
3. Project selection for the entrepreneurs on the basis of his education, professional background, financial solvency and past experience;
4. Preparation of project proposals;
5. Project appraisal (Technical, Financial, Economic and Management);
6. Credit arrangement, and supervision of credits
7. Supervision of project implementation;
8. Infrastructure development and allotment of developed plots to the entrepreneurs.
9. Management and skill development;
10. Design, prototype development and distribution;
11. Research and development;
12. Evolve appropriate production process, adoption and transfer;
13. Assist entrepreneurs in quality control and quality improvement;
14. Prepare marketing study and provide marketing assistance (including exports);
15. Initiate integrated programs through Co-ordination with other agencies involved in SCI development;
16. Publication of information materials on SCI;

5.8 Incentives provided by others Government Agencies

Bangladesh Government is to stimulate the economy and transform a poverty-stricken economy to Newly Industrialized Economies (NIE) by 2021. Government has liberalized the industrial and investment policies in recently years by reducing regulatory requirements and opening up many areas. Bangladesh Bank has introduced globally accepted approaches to value such firms. Foreign investors will now get higher returns to sell their shares. Bangladesh Bank has also adopted two more methods like market value approach and income approach or discounted cash flow approach. Bangladesh Bank will accept any of three approaches or an average of three in valuing the shares, depending on the nature of the company. Substantial incentive program has also been implemented which is presented below:

Approval Authorities	Major Fiscal Incentives	Major Non-Fiscal Incentives
Ministry of Finance	Tax Holiday	Remittance of royalty technical know-how, technical assistance fee
Bangladesh Bank	Accelerated Depreciation Allowance (ADA) instead of tax holiday	100% Foreign Equity allowed
National Board of Revenue	Accelerated Depreciation Allowance	Unrestricted Exit Policy
	Concessionary duty on imported machinery	Full repatriation facilities of dividend and capital at the event of exit.
	Avoidance of Double Taxation	Permanent Residence Permit on investing US\$ 75,000 and Citizenship offer for investing US\$ 5,00,000

6.0 Findings

According to the survey of World Economic Forum, inadequate infrastructure, corruption inefficient bureaucracy and continue to haunt entrepreneurs in Bangladesh are major problems for attracting investment especially FDI. Recently, Japanese Prime Minister visited Bangladesh and pointed out one of the key impediments that Bangladesh did not have a “one step service office” to ensure hassle free completion of necessary formalities for investors to start new businesses. Thus, an attempt has been made to identify the problems relating to investment that are enlisted below (Appendix 1):

1. Bureaucratic Red Tapism : 100% respondents seriously reported this problem
2. Poor infrastructure facilities: 100% respondents seriously reported this problem
3. Excessive procedural formalities: 66.67% respondents stated this problem
4. Political unrest: 100% respondents seriously stated this problem
5. Inadequate privatized industrial base: 66.67% respondents reported this problem
6. Corruption: 100% respondents seriously stated this problem
7. Uninformed and unpredictable tax structure: 66.67 % respondents reported this problem
8. Manpower and training issues: 66.67 % respondents viewed this problem
9. Absence of strong and stable capital market: 66.67% respondents pointed out this problem
10. Image- problems: 66.67 % respondents stated this problem
11. Inadequate research and Development facilities: 33.33% respondents viewed this problem
12. Poor credit rating agencies: 33.33 % respondents pointed out this problem
13. High corporate tax: 33.33 % respondents viewed this problem
14. Lack of coordination in between investment policies and implementations: 66-67% respondents stated this problem
15. Absence of efficient and effective banking system : This is stated 33.33% of the respondents

7.0 Recommendations

Foreign investors desire to bring all the promotion agencies that deal with foreign investors under the umbrella of the BOI so that they can start business quickly without any hassle. They strongly requested the BOI given the authority to grant the major permissions such as trading, import, bond and factory licenses, environmental clearance, TIN and VAT registrations, certification for the safety and tax exemption that are required for setting up a business. Thus, a set of recommendations has been made as remedial measures in overcoming the aforesaid problems that are faced by investors in Bangladesh:

1. Sustained socio-political stability
2. Development of infrastructure facilities

3. Development of capital market
4. Increase of efficiency and effectiveness in banking system
5. Development of skilled manpower.
6. Decrease in the corporate and other taxes and determination foreign exchange rates through market mechanism
7. Development of private sector industrial bases
8. Establishment of regional and sub-regional zones
9. Increase the functioning of independent commissions against corruptions
10. Creating of living environment for foreign investors
11. Rebuild the image
12. Continuity of investment policy
13. Improvement of investment climate
14. Removing the bureaucratic complexities
15. Government service will be result oriented
16. Reduction in corruption and hidden costs.
17. Consistent electricity, gas and water supply.

8.0 Conclusion

There are many hinders of attracting investment. Information asymmetry is one of them. Lack of information increases uncertainty that reduces attractiveness of potentially lucrative investments. This study attempted to give a one stop source of all required information to all potential domestic and foreign investors regarding investment laws, regulations, formalities, facilities and incentives in Bangladesh and thereby encourage level of investments to the desired level of the country. Main focus was on establishing manufacturing organizations in the country. Attempts are also made to suggest how to minimize bureaucratic complexities for expedite the investment in the country. Necessary policy directives given in the paper will provide meaningful guide to all the stakeholders related to establishing ventures in Bangladesh. Bangladesh government has to come forward to enhance the entrepreneurial capabilities of investors through providing more liberalized laws, regulations policies, facilities and incentives. The recommendations given in this paper definitely help to improve investment climate in Bangladesh. This, in turn, gives a positive message to the both domestic and foreign investors about the investment friendly environment prevailed in Bangladesh. Concerned authorities involved with investment also get guidelines how to make continual improvement and reform in the policies, regulations, formalities and required activities that will be supportive for attracting more inflow of FDI into the country.

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Appendix # 1

Problems of Investment identified by Respondents

SL. No.	Problems recognized by respondents	No of respondents	% of the respondents
1	Bureaucratic Red Tapism	30	100%
2	Poor infrastructure facilities	30	100%
3	Excessive procedural formalities	15	66.67%
4	Political unrest	30	100%
5	Inadequate privatized industrial base	15	66.67%
6	Corruption	30	100%
7	Uninformed and unpredictable tax structure	15	66.67%
8	Manpower and training issues	15	66.67%
9	Absence of strong and stable capital market	10	33.33%
10	Image- problems	15	66.67%
11	Inadequate research and Development facilities	10	33.33%
12	Poor credit rating agencies	10	33.33%
13	High corporate tax	10	33.33%
14	Lack of coordination in between investment policies and implementations	15	66.67%
15	Absence of efficient and effective banking system	10	33.33%

(Field Study)