

# NEWS LETTER

JULY 2022

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## Bangladesh Is Now The 41st Largest Economy In The World – Says IMF

Bangladesh is now the 41st largest economy in the world, according to new data from the International Monetary Fund (IMF).

Bangladesh and India were the only two South Asian countries considered to be part of the 50 largest economies of the world.



Bangladesh moved up a notch from 42nd in 2021 to 41st position this year, while India remained the sixth largest global economy, the same as last year. However, Bangladesh's gross domestic product (GDP) of \$397 billion this year, which amounted to 0.4% of the global GDP, was lower than last year's \$400 billion figure. Among other South Asian countries, only Bhutan was ranked 163rd with a GDP of \$3 billion, as one of the lowest global GDP contributors.

According to the latest projections, the IMF expects the global economy to reach nearly \$104 trillion in nominal value by the end of 2022. The United States was still the economic leader worldwide, with a GDP of \$25.3 trillion—making up nearly one quarter of the global economy. China followed close behind at \$19.9 trillion. The front-runner in Europe is Germany at \$4.3 trillion, with the UK coming in second place. One significant change since the last reported figures is that Brazil now cracks the top 10, having surpassed South Korea.

Global annual GDP growth for 2022 was initially projected to be 4.4% as of January, but this has since been adjusted to 3.6%. Although growth keeps trending upwards, the recovery that was expected in the post-pandemic period is looking strained. But because of recent conflicts, supply chain bottlenecks, and subsequent inflation, global economic projections are getting revised downwards.

# CASE LAW UPDATE

## Pacific International - v/s- Chittagong Customs Clearing and Forwarding Agent

### **Facts:**

A complaint was brought by Pacific International (Hereinafter 'Pacific') to the Bangladesh Competition Commission (Hereinafter 'The Commission') mentioning that a number of rules of Chittagong Customs Clearing and Forwarding Agent are inconsistent with the Competition Act 2012. The impugned provisions include the mandatory Tender Rules of Ctg C&F on the ground of fixing rate of commission charged by the C&F service provider bidders for tenders. In the backdrop Ctg C&F compelled its members to comply with a minimum fixed rate of commission through its constitution.

Pacific participated as a bidder in response to a tender offered by the director of Urban Reliance Project under Dhaka North City Corporation. The specific grievance of the Pacific was that Ctg C&F requested the project director of Urban Reliance not to engage five C&F enterprises, including Pacific, due to their non-compliance with the fixed commission structure stipulated in the Tender Rules of the Association.

Pacific submitted that the fixed commission in the concerned Tender Rules made the tender process repugnant since it obviated all competition among the bidders. On this ground, Pacific requested the Commission declare the Tender Rules unlawful and invalid under the Competition Act and set them aside.

The respondent, Ctg C&F, stated that the proprietors of C&F businesses formed the trade union. These proprietors are licensed by the Customs House of Chattogram, the Bond Commission of Chattogram, Customs, and the Excise and VAT Commission of Chattogram. The Tender Rules, adopted by the Ctg C&F to assist the National Revenue Board in collecting value added taxes (VAT) from the C&F agents, are mandatory rules for all C&F agents participating in the tender.

### **Issues:**

- a. Whether article 3(17) of the Constitution of the Chittagong Clearing and Forwarding Agents' Association is anti-competitive;
- b. Whether the making and enforcement of Tender Rules by Ctg C&F are contrary to s 15(1) of the Competition Act.

### **Decision:**

On the first issue, the Commission considered that art 3(17) of the Constitution of Ctg C&F provides for fixing a minimum commission to safeguard the business interests of all members of the association. The members were allowed to take steps to enforce the minimum commission.

The Commission found this provision of the C&F Constitution falling under the meaning of a 'cartel', as explained in s 2(e). This was deemed to be directly in conflict with s 15(2)(b) of the Act, because it 'limits or controls production, supply, markets, technical development, investment or provision of services'. It was considered that more appropriate breach was of s15(2)(a)(ii), because art 3(17) of the C&F Constitution amounted to a 'bid-rigging'. As it created favorable conditions for the parties 'by reducing competition for bids or adversely affecting the process of bidding'.

While navigating the second issue, the Commission considered that the minutes of the Ctg C&F Association's meeting of 22 March 2010, when the Tender Rules were approved and the notice was circulated, had the effect of bringing to the attention of C&F agents the minimum rate of commission set by the association. The Commission found that Ctg C&F provided a list of minimum commissions to be charged by the C&F agents.

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## CASE LAW UPDATE

### Pacific International - v/s- Chittagong Customs Clearing and Forwarding Agent

Tender Rule 18, as pointed out by the Commission, provided for imposition of fines equivalent to the commission earned by the agent from a contract that does not conform with the minimum commission rules of the association. The Commission shed light upon some instances of actions taken in pursuant of such provisions to enforce the minimum commission requirement, as per their Constitution and Tender Rules. Which also included intimidation and coercion of the C&F agent who didn't comply.

The Commission decided that the relevant Tender Rule and Constitution of the Association, and their enforcement by Ctg C&F, created barriers for C&F agents to charge less than the minimum commission set by the association. The Commission observed that Ctg C&F had been engaging in 'cartel', 'oligopoly' and 'exclusion' of non-compliant C&F agents since 1993 and thereby breached ss. 15(1) and 15(2)(b) of the Competition Act.

Mainly on these reasons, the Commission declared certain provisions of the Tender Rules and art 3(17) of their constitution invalid. Further ordered to amend the constitutional provision with approval from the relevant authority.

### *In Other News*

#### **FDI in Bangladesh Jumped 13% after Two Years**

**- Received \$2.9 Billion in 2021**

Foreign Direct Investment (FDI) in Bangladesh hit a three-year high last year, enabling the nation to stay as the second most favoured destination in the subcontinent after India, said World Investment Report 2022.

Bangladesh got \$2.9 billion last year, registering 13% growth year-on-year and recovering from the drop to \$2.56 billion the previous year caused by the pandemic, according to a recent report released at the United Nations Conference on Trade and Development (UNCTAD). The number of international project finance deals in Bangladesh tripled to 14, reaching \$4.7 billion. The largest project was the construction of a container terminal in Ananda Bazar in Haliahahar, Chattogram for \$2 billion.

Meanwhile, outward FDI from Bangladesh rose nearly seven times to \$92 million in 2021. In 2017, outflow of FDI was the highest – \$142 million – since 1990.

Despite successive waves of Covid-19, FDI flows to the developing countries in Asia grew for the third consecutive year, with developing economies in Asia receiving 40% of global foreign investment inflows, said the report.

In 2021, FDI in least developed countries (LDCs) increased by 13% to \$26 billion and flows remained concentrated, with the top five recipients (Mozambique, Ethiopia, Cambodia, Bangladesh and Senegal, in that order) accounting for 69% of total FDI in the group.

# LEGISLATIVE UPDATES

## Overview on National Employment Policy, 2022

The Ministry of Labor and Employment has recently published the National Employment Policy, 2022 (the "Policy") which has tried to encompass various aspects of employment and how the employability shall be improved in the country through a serious of progress management of employment by employing over 3 (three) crore new people within the year 2030 and the reduce the unemployment rate at the lowest possible rate by the year 2041.

The Policy has stated multiple objectives that are aimed to minimize employment in the country by emphasizing on creating new sectors of employment for all kinds of people including transgender, to make necessary changes, modifications and/or amendments in the rules and regulations concerning labor and employment, eliminating child labor, registration of labors who are engaged in informal sector. The government through this Policy have preferred to adopt a "No one left behind" policy which should ensure the inclusivity of the employability of the country. All these wishes and extreme objectives seem so magical, however, there are certain challenges that should also be taken into account such as- (1) Inadequacy of sector wise modern technology-based training centers, (2) Lack of government and private initiatives to create skilled workers, (3) Not giving due preference to technical and vocational education and training experience in recruitment etc.

The Policy is divided into several categories of policies one being the subject wise employment policy, another one is sector wise employment policy, other being the general policy for all kinds of employment. The Policy has made out subject wise employment policy which has been summarized in the following:

### **SUBJECT WISE EMPLOYMENT POLICY**

The government through the Policy Ensuring technical and vocational education at primary and secondary levels. Also, at all levels of education, Bengali language will be compulsorily used along with standard English teaching and language use.

Additionally, education system shall be made work oriented/vocational. Extension of primary education (class 8th or 12th) and country's education situation, need to ensure minimum compatibility. Specially, a linkage between educational institutions and recruiting institutions will be created. The Policy aims that universities will be strengthened and turned into centers for excellence. along with that, a deep connection will be established between the educationists and the management of the educational institution. Also, students will be taught general work skills and positive work ethics, taking into account the complex relationship between higher education and employment. Increasing the technical skills of the students, soft skills should be ensured during the education.

Adding to that, upgrading the existing technical and vocational education courses, methods and manpower to make the students employable through industrial attachment/internship so that the students can work efficiently by joining the workplace directly from the educational institution or after completing school. In addition to that, National Vocational Education Qualification Framework, National Technical and Vocational Qualification Framework (NTVQF) and Bangladesh Skills Qualification Framework (BSQF) for Vocational Qualifications, Skills and Certification and Monitoring shall ensure that skilled workers are produced etc. A National Career Guidance Council will be constituted comprising for both the public and private sectors

The Council shall undertake various initiatives to motivate, guide and counsel career-oriented people towards proper employment and this shall include networking, arranging seminars and other programs, publishing half yearly and yearly reports. The subject wise policy also includes Youth Employability Programs, Science/Technology and Innovation Skills

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# LEGISLATIVE UPDATES

## SECTOR WISE EMPLOYMENT POLICY

The sector wise allocation of the employment policy encompasses the development and with the focus on multiple important sectors that play vital role in the economy of Bangladesh and the sectors are Agriculture sector, Manufacturing sector, Tourism sector, Use of ICT and BPO, Health care, Ports and shipping sector, Environmentally friendly actions, Infrastructure investment, Art, music and creative arts, Other potential careers, Informal employment, Small and Medium Industries, self-employment. The Policy in the sector wise allocational policies has emphasized largely on ICT and BPO, soft employment skills, informal employment, small and medium industries. Policy will aim to create various opportunities in the all these sectors that should transform the employment sectors referred in the Policy.

## GENERAL POLICY

The has outlined a few general policies including Creation of employment opportunities for vulnerable, disabled and disadvantaged communities, Employment in public service, eliminating gender inequality and ensuring equal opportunities for women, Labor market research, data and employment services, social dialogue and labor relations, Wages of labor, social security, Institutional framework: Implementation monitoring and coordination, Employment in foreign affairs. These policies would try to enhance better employment opportunities for all people including men, women and transgender.

## APPRENTICESHIP GUIDELINES, 2022

The Prime Minister's Office through National Skills Development Authority has recently revealed a Guidelines called the Apprenticeship Guidelines (the "Guidelines").

Apprenticeship is one of the most important adjuncts to prepare the workforce for the world of work, reduce unemployment and increase productivity in view of the demands of the domestic and international labor market. An effective apprenticeship system will play a helpful role in employment and socio-economic development by increasing the competitiveness in global trade by meeting the demand of skilled manpower in the labor market, increasing foreign investment, creating job opportunities in the local and international labor market.

The Guidelines has defined 'Apprenticeship' as a skill training scheme whereby the employer or his representative/employer contracts to engage one or more persons as apprentices to train them systematically in an occupation for a predetermined period of time in industrial and basic training institutions.

This will create advantages for both employer and apprentices. Employers will be able to employ skilled workers and labors when the apprentice becomes fully skilled. On the other hand, an apprentice will be able earn his livelihood at the of learning, acquiring a recognized qualification, gain respect/dignity, gaining respect/status by receiving support from supervisor, real life experience, improving employability, identity recognition, higher skill development, unlocking the potential of financial earning and holiday.

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# LEGISLATIVE UPDATES

A person shall be qualified as an apprentice if the following conditions are met:

- Must be a citizen of Bangladesh;
- Must be minimum 16 (sixteen) years of age;
- All physically and mentally healthy men and women;
- Third gender, disabled persons will also be considered for this benefit if they are considered suitable for the apprenticeship profession;
- Candidates should have 8th standard or honors or minimum Bengali, able to read and write in English, basic maths i.e. simple addition, subtraction, addition, division, measurement and digital literacy as applicable must be known in applicable cases;

An apprentice under the basic training can be employed as per relevant profession from 01 (one) month to 06 (six) months. In case real life experience an apprentice may be employed from 06 (six) months to 2 (two) years.

The financing of the apprentice can be made either from the National Human Resource Development Fund (NHRDF) or from the fund called Corporate Social Responsibility fund of the relevant corporate entity. At the very first year of employment of the apprentice 50% of the pay of the lowest tier of the pay scale of permanent staff employed in similar apprenticeship occupations and in the second year 60% of the pay of the lowest tier of the pay scale of permanent staff employed in similar apprenticeship occupations. Employer shall also hold an insurance policy for the apprentice.

The Guidelines mentions that the National Board of Revenue (NBR) shall be able to necessary steps in the matter of expenses incurred by the employer related to apprentice program. Additionally, the employer or owner shall keep record and make register of the apprenticeship whereby the daily or weekly work list shall be recorded.

In the Form-1 mentioned in the Schedule of the Guidelines a standard form of Agreement has been given that will be executed between the employer or owner and the apprentice.

Also, a standard Certificate of Apprenticeship has been given in Form-3 of the same Schedule of the Guidelines. Therefore, after successful completion of the apprenticeship, an application for assessment shall be made to the relevant authority for assessing the apprentice. If the outcome of the assessment is positive, then the relevant authority shall furnish a certificate of apprenticeship to the concerned apprentice.

# Data Protection in Start-ups: Securing Bangladesh's Future Regime



The modern world is increasingly reliant on digital technology. Businesses in all categories, like any other, have been digitized. Every piece of information and every piece of data in a company or organization is no longer kept on paper. Rather, they have become a part of the larger digital realm. Having said that, these data are also susceptible under the wrong circumstances. Needless to say, data management and record keeping are critical components of running a business, particularly a start-up. In the wrong hands, these can be disastrous for any company or brand.

Let us first define data protection before delving into the specifics. Data protection is the process of preventing critical data from being tampered with, lost, or corrupted. In today's world, data can be stolen and used in a variety of ways to harm a prospective business plan or an upcoming brand. As a result, as the amount of data collected and stored continues to grow at a rapid pace, data protection becomes increasingly important.

Data security is particularly important for small companies and startups because data breaches and losses can result in significant financial losses. If a company fails to secure sensitive data and allows data breaches to occur, its reputation may suffer. Total revenues may suffer the consequences of disgruntled customers as a result of its tarnished reputation. Businesses can face fines for failing to meet security standards, putting financial strain on a small business that may not be able to withstand.

There can be a few issues which may result from not having proper data protection. Credibility is one of the most serious consequences of failing to secure data which then can result in the loss of confidence among clients and consumers which may also result in the clientele losing their faith.

The second, and perhaps most obvious, issue is the possibility of financial losses. It is very common in modern times to lose a significant sum due to a data breach. Clients' or customers' losses must also be compensated, which will inevitably result in additional collateral losses for the business owners.

Third, data loss is extremely damaging to any business, especially startups. When personal and sensitive data is compromised as an outcome of a data breach, the company and any affected patrons may face severe penalties.

With the dangers now laid out, let's look at what small businesses can do to safeguard their data to ensure an uninterrupted venture. Developing proper data protection policies for a company is one of the most effective ways to begin securing data. These policies ought to be straightforward to make sure that understands what is expected of them. When security risks arise, these policies must outline the corrective actions that staff can take.

Moreover, there are legal remedies and pathways which can be adopted in case of data breach. The very Constitution of Bangladesh can be a great weapon for data protection. While the constitution does not expressly mention anything about right to privacy, it still can be resorted to when read with other fundamental rights such as right to thought and conscience, freedom of speech etc.

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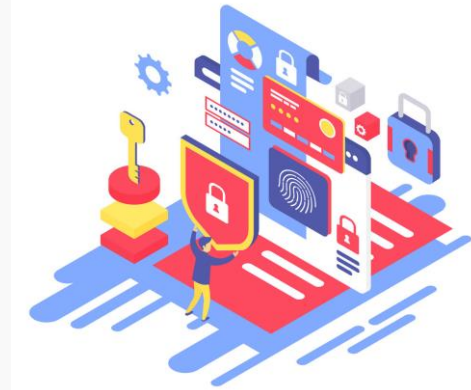
## Data Protection in Start-ups: Securing Bangladesh's Future Regime



Various courts of the country have referred to the privacy of data when passing their opinions in similar instances. There is also the Digital Security Act of Bangladesh which provides that in case any data or digital device is accessed illegally and with illegal means, the perpetrators are to be punished severely. Right now, the Digital Security Act is the most reliable law available.

The very concept of data protection, especially in the corporate realm, is still an emerging scene and rather a new aspect to say the least. As mentioned above, the Digital Security Act was enacted in 2018 which is perhaps the strongest weapon to fight against data breaches. Although the law itself is ambiguous and does not yet specify anything regarding any issue which may arise in a corporate data breach; the general provisions, however, provides a fair chance for remedies and compensation in case of a data breach.

The Digital Security Act is the only legal regime which helped in the formation of the Digital Security Agency, a dedicated institution which oversees the enforcement of the rules set forward by the statute. The agency also works as a medium to connect with various other departments of the government for a better outcome. With the formation of the statute and the enforcement agency, the legal pathways and the access to the related services and justice have been made much easier.



These provisions of the law are enforceable upon any natural person or companies or institutions. Furthermore, the law addresses the critical information infrastructure of any such person or institution to be within the ambit of itself. Even if an act of data or information breach takes place from outside of Bangladesh, the Digital Security Act can be enforced to exact punishment and to provide remedies to the aggrieved.

There have not been many cases to draw a precedent upon the law and to signify its implications to the fullest. The language of the statute remains vague in many respects. However, as vague as it may be, it is still the only law which is consistent with time. In case of any occurrence of data breach, resorting to the court by referring to the provisions of the Digital Security Act read with the Constitution will solidify the chances for a remedy. Also, the Digital Security Agency can be brought upon should the necessity arise for further information in such situations.

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## Data Protection in Start-ups: Securing Bangladesh's Future Regime



Various courts of the country have referred to The Government of Bangladesh has also undertaken to create a law, namely the draft data protection law. This framework is supposed to deal with different aspects of data protection in much detail. One of its purposes also entails establishing data protection as a form of right. However, this new regulation has a few limitations such as too broad application, security for locally stored data being at risk and inadequate consent and notice regime.



Even the Digital Security Act is vague in terms of the intricacies. Although the law comes equipped with penalties and compensations for different digital misconduct; it lacks the detailed provisions. In other words, it is a requirement for the law to be optimized enough so as to deal with intricate difficulties faced by startups and small businesses. The overall ambiguity is a ground for improvement. Perhaps even a new and different law would suffice to address the threats in this growing industry.

The laws in Bangladesh for data protection may seem inadequate. However, regulations are there and in effect as well for startups to resort to. True that to some extent these laws can be improved and amended given the time, however the legal regime at hand can be utilized to the advantage of such small businesses.

In recent years, there has been a significant increase in the number of startup businesses. These businesses have been bringing fresh thoughts that will undoubtedly help the economic growth in a variety of ways. Data protection is critical for surviving the evolving technological battle in business and marketing. Ensuring that all such small ventures have a working understanding of data protection, what it entails, and how it can be avoided.



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