

## World Bank Revises Bangladesh GDP Growth Projection from 2% to 3.6%

World Bank has recently revised the GDP growth projection for Bangladesh upward to 3.6 per cent for the current fiscal year 2020-2021. Earlier in January, the multilateral lending agency forecasted 2 per cent GDP growth rate for Bangladesh for the FY2021.

Recently, World Bank in the South Asia Economic Focus said that Bangladesh's gross domestic product (GDP) is expected to increase by 3.6 per cent in 2021 supported by better than expected remittance inflows.

The GDP growth is expected to rise to 5.1 per cent in FY 2021-2022 and to 6.2 per cent in FY 2022-2023. The agency also revised the growth rate upward to 2.4 per cent for the last FY 2019-2020 from its January projection at 2 per cent.

According to the provisional estimate of the Bangladesh Bureau of Statistics, the country's GDP grew by 5.24 per cent in the last FY 2019-2020. Prospects of an economic rebound in South Asia are firming up as growth is set to increase by 7.2 per cent in 2021 and 4.4 per cent in 2022, climbing from historic lows in 2020 and putting the region on a path to recovery.

But growth is uneven and economic activity well below pre-COVID-19 estimates, as many businesses need to make up for lost revenue and millions of workers, most of them in the informal sector, still reel from job losses, falling incomes, worsening inequalities, and human capital deficits.

India, which comprises the bulk of the region's economy, is expected to grow more than 10 per cent in the fiscal year 2021-22 - a substantial upward revision of 4.7 percentage points from January 2021 forecasts. The outlook for Bangladesh, Nepal, and Pakistan has also been revised upward, supported by better than expected remittance inflows.

According to the World Bank report, the improved economic outlook reflects South Asian countries' efforts to keep their COVID-19 caseload under control and swiftly roll out vaccine campaigns. Governments' decisions to transition from widespread lockdowns to more targeted interventions, accommodating monetary policies and fiscal stimuli—through targeted cash transfers and employment compensation programs, have also propped up recovery.





# Legislative Updates

## **“Guidelines for Outward Remittance Repatriation for Payment of Royalty, Technical Knowledge/Technical Know-how Fee(s), Technical Assistance Fee(s), and Franchise Fee(s), 2020”.**

Under section 18 of the Bangladesh Investment Development Authority Act 2016, and paragraph 25 of Chapter 10 of the Foreign Exchange Guidelines, repatriation of royalty, technical know-how, franchisee fee, etc. will require prior permission of Bangladesh Investment Development Authority (BIDA).

Accordingly, BIDA published a guideline namely “Guidelines for Outward Remittance Repatriation for Payment of Royalty, Technical Knowledge/Technical Know-how Fee(s), Technical Assistance Fee(s), and Franchise Fee(s), 2020”. The guideline describes the processes and procedures for payment of royalty, fee(s) for technical knowledge/technical know-how or technical assistance, and franchise fee(s) to foreign collaborator/organization/company.

- Permission would be given to private industrial enterprises defined in Section 15(3) of the BIDA Act, 2016 and registered by BIDA.
- Permission would also be granted for outward remittance for paying fee(s) in the nature of operation and maintenance (O&M) services, payable to foreign Engineering Procurement and Construction (EPC) firms or contractors or companies associated with any public or private project implemented in Bangladesh.

- Permission for remittance repatriation would be granted to, as mentioned earlier, private industrial enterprises registered by BIDA.
- Proposals will be considered on the base of value addition of the transaction. Transaction of no or minimum value addition, transaction made without following arm’s length principle and/or transaction of rudimentary nature will be discouraged. Fee(s) will be allowed to remit by the local companies to their foreign collaborator usually on a yearly basis and may only be relaxed in case of a genuine contractual obligation for any transaction.
- Under the new guideline in case of royalty, technical knowledge/technical know-how, technical assistance fee(s)
  - (a) For projects under implementation, not exceeding 6% of the total accumulated C&F value of imported machineries of the concurrent year(s) before going into commercial operation;
  - (b) For projects under commercial operation, not exceeding 6% of the previous years’ sales (excluding Value Added Tax) as declared in the income tax returns payment can be made directly through Authorized Dealer (AD) Banks in Bangladesh without prior approval from BIDA while complying with the provisions as stated in the concerned contract between the parties which has been pre-endorsed by BIDA beforehand.



# Legislative Updates

- Advance payment of remittances will be allowed, only with prior approval from BIDA. Bangladesh Bank may look into the issues of remittances that are beyond the scope of BIDA and of this Guidelines.
- In case of franchisee fee(s) or any fee/fee(s) more than US\$ 0.1 million USD will be allowed to be remitted in installments. The 50% of the approved claim will be allowed to remit in the 1st year, 30% in the 2nd year, and the rest of the 20% in the 3rd year following the same procedure.
- Similarly, in case of fee(s) payable to contractor(s) in a project regarding recurring payments required by any obligatory agreement, maximum 6% of sales revenue (excluding Value Added Tax) as declared in the previous year's income tax return or VAT return (VAT returns will be considered only for the first year in case of new project) may be allowed. The payment of such fee(s) may be allowed on quarterly, semi-annually and annual basis as stipulated in the agreement. But in order to enjoy this exemption, the contract relating to these payments must be endorsed by BIDA.
- One contract will require endorsement from BIDA only for once and can afterwards be used for multiple remittance transactions as long as these remain within the purview/limit of the endorsed payment schedule of the endorsed contract. However, re-endorsements(s) of the contracts will be required if any change/update/improvement of the contract takes place later.
- Both manual and Online Applications for contract/agreement endorsements and remittance repatriation will be accepted in BIDA. The applications can be made together with relevant documents according to prescribed application format. Online applications can be submitted through BIDA website at [www.bida.gov.bd](http://www.bida.gov.bd) or [www.bidaquickserv.org](http://www.bidaquickserv.org).
- In cases the amount of remittance for the purpose of paying royalty, technical knowledge/ technical know-how, technical assistance and franchise to the foreign collaborators exceeds the limit, prior approval from BIDA will be required before remitting the same through the AD Banks.

## CASE LAW UPDATE

# Md. Anis Miah vs The State (Criminal Appeal No. 6799 of 2011)

### **Brief of the case:**

After completion of investigation in a case involving kidnapping and murder of a child aged seven years, Police submitted a charge sheet under Nari-o Shishu Nirjatan Daman Ain, 2000 ("Ain 2000") read with Penal Code, 1980 ("PC"); against nine including the appellant, a juvenile offender and cousin of the victim, whose age was mentioned 18 years in the charge sheet. During investigation, the police arrested the juvenile offender on 21.02.2010 and on the following day produced him before the Magistrate, where he made a confession purportedly under section 164 of the Code of Criminal Procedure, 1898 ("CrPC").

Thereafter, a judgment and order dated 13.10.2011 was passed by Juvenile Court and Druto Bichar Tribunal No.4, Dhaka in Juvenile Case No. 01 of 2011 finding the appellant guilty under sections 8 and 30 Ain 2000 read with section 52 of the Children Act, 1974 ("Children Act") and awarding him punishment of detention and imprisonment for ten years in total, out of which he would be detained in a certified institute till attainment of 18 years of age and thereafter suffer imprisonment for the remaining period

### **Issues before the Court: Main Issues-**

- What is the legal implication of confession made under section 164 of CrPC by a child in conflict with law?
- Does a Juvenile Court constituted under the Children Act and that of different Tribunals constituted under different special laws enacted before or after the Children Act came in force has jurisdiction to try cases, where children in conflict with law are charged with criminal offences?

### **Collateral issues:**

- Whether the Druto Bichar Tribunal constituted under the Druto Bichar Tribunal Ain, 2002 ("Ain 2002") can suo motu assume the jurisdiction of a Juvenile Court?

- What should be the maximum term of imprisonment in case of sentence for offence punishable with death or imprisonment for life both against a child and the person who crossed childhood during trial or detention?

### **Judgment of the Court**

A full bench of High Court Division of the Supreme Court of Bangladesh, consisting of Mr. Md. Shawkat Hossain J, Md. Ruhul Quddus J and ASM Abdul Mobin J decided this case. Mr. Khandker Mahbub Hossain and Mr. M I Farooqui, both Senior Advocates and Mr. Shahdeen Malik, Advocate of the Supreme Court of Bangladesh assisted the Court as Amicus Curiae. The judgment was given by Md. Ruhul Quddus J on 28.08.2019, which provided following answers to the abovementioned questions:

1. Confession of a child in conflict with law recorded under section 164 of CrPC has no legal evidentiary value and, therefore, such confession cannot form the basis of finding of guilt against him.
2. A Juvenile Court constituted under the Children Act as was in force before and now under the Shishu Ain, 2013 has got exclusive jurisdiction to try the cases, where children in conflict with law are charged with criminal offences. No other Court or Tribunal constituted under any other special or general law irrespective of its age of legislation has jurisdiction to try such cases unless the jurisdiction of Juvenile Court is expressly excluded there.
3. The Druto Bichar Tribunal constituted under Ain 2002 cannot assume the jurisdiction of Juvenile Court in any manner whatsoever.
4. In imposing punishment for offences punishable with death or imprisonment of life, the maximum term of imprisonment against a juvenile offender, or a person who crossed childhood during trial or detention, cannot be more than 10 years.

## PROCEDURES FOR EXPORT

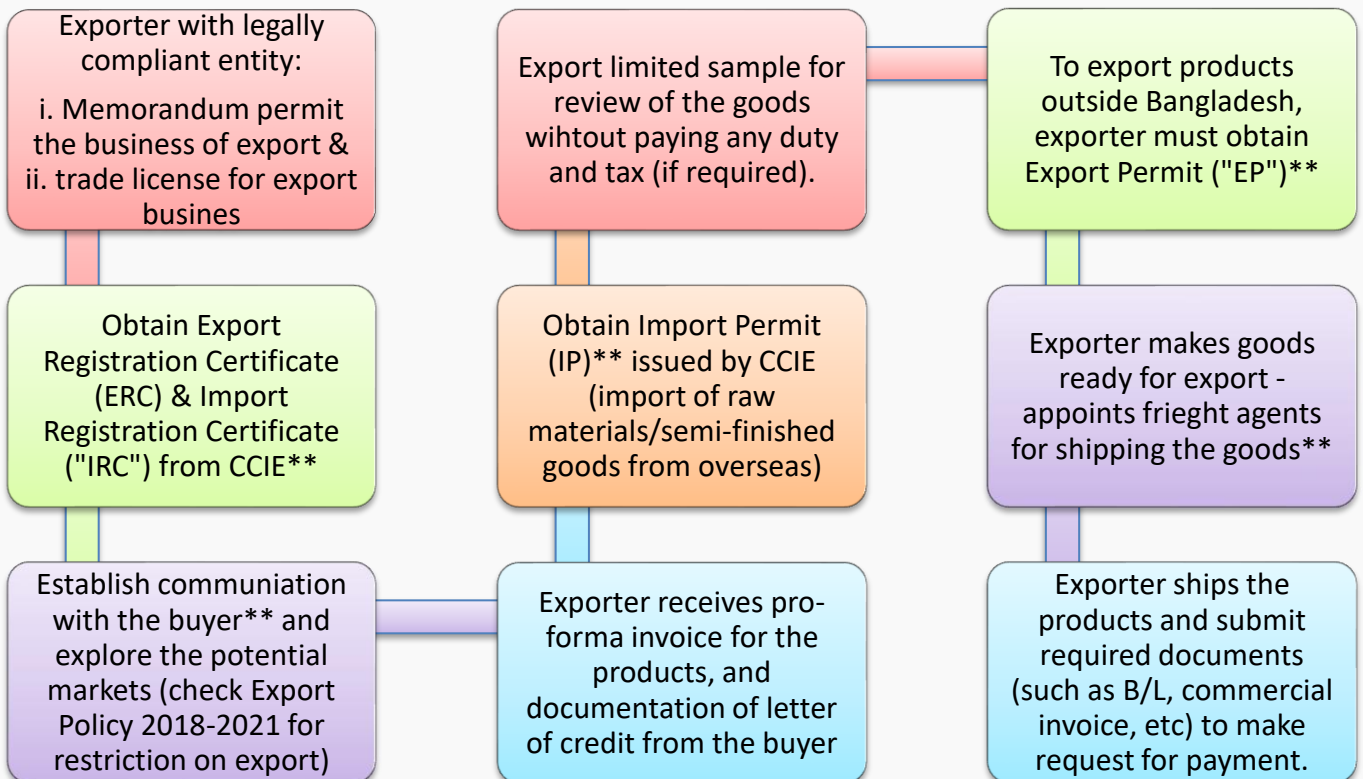
Bangladesh’s gross domestic product (GDP) has seen consistent growth of over six percent since 2005. Also, Bangladesh is one of world’s fastest growing economies, export being the main weapon for such economic growth. This export oriented economy is mainly dominated by the country’s RMG manufacturing. In such circumstances, it is profitable to be aware of the export procedure of the country, if one has enough resources to carry out the export business, which would eventually contribute to the economy of the country to a mentionable extent.



Export mechanism is governed by the Imports and Exports (Control) Act 1950, Customs Act 1968, the Export Policy 2018-2021, the Foreign Exchange Regulation Act, 1947 (including allied Guidelines on Foreign Exchange 2018), Bonded Warehouse Licensing Regulation 2008.

Statutory Regulatory Orders (SROs) and circulars published by the concerned regulators from time to time. It is worth mentioning here that issuance of regulatory permission and/or approval and associated customs clearance activities are governed by two authorities i.e. Chief Controller of Imports and Exports (“CCIE”) and the Office of the Commissioner of Customs authorized by the National Board of Revenue (NBR).

### PROCESS MAP OF EXPORT



## Import Permit



\*\* Supporting documents for obtaining Import Permit:

- i) Proforma invoice
- ii) Commercial invoice
- iii) Packing list
- iv) Bill of lading (B/L)
- v) Letter of Credit (L/C), if necessary
- vi) Certificate of Origin (if necessary)

\*\* Supporting documents for obtaining Export Permit

- i) Commercial invoice
- ii) Packing list
- iii) EXP form certified by Authorized Dealers (Ads)
- iv) Letter of Credit (L/C), if necessary
- v) Certificate of Origin (if necessary)

## Export Permit



\*\* Cost & Freight (C&F) agents are required to ensure clearance of Customs for export by submitting the following documents:

- i) Export Contract/ Export L/C
- ii) Commercial invoice
- iii) Packing list
- iv) EXP form
- v) Certificate of Origin of export goods (issued by Export Promotion Bureau or Chamber of Commerce and Industry);
- vi) VAT registration certificate
- vii) TIN Certificate

A.S  Associates  
*Every Legal Help*

Suite No D-5, Mukti Bhaban (3rd Floor)  
21/1 Purana Paltan, Dhaka-1000, Bangladesh

Phone: +880-2-9561540

Email: [info@as-associates.net](mailto:info@as-associates.net)

[www.as-associates.net](http://www.as-associates.net)