

Bangladesh: Administrative Barriers Review

Excerpts from Draft Final Report

January 2006

Foreign Investment Advisory Service
A joint service of the International Finance
Corporation and The World Bank



SouthAsia Enterprise Development Facility
A multi-donor facility managed by the
International Finance Corporation of the
World Bank Group



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1 Bonded Warehouse Licensing Process

Introduction

A bonded warehouse is a facility licensed by the Government of Bangladesh for the deposit and storage of imported goods, mostly intermediary raw materials. In Bangladesh, industries outside the Export Processing Zones (EPZs) can enjoy duty incentives through these bonded warehouses. Under the bonded warehouse facility, companies can import required raw and packing materials and can process the same for re-export, without import duty and with minimum customs formalities.

In Bangladesh, a majority of the bonded warehouse licenses are issued by the Customs Bond Commissionerate (CBC), an agency under the purview of the National Board of Revenue (NBR). CBC is responsible for issuing bonded warehouse licenses for Dhaka and Chittagong divisions only. In the remaining jurisdictions, the local VAT and Customs circles are responsible for issuing a license. The Customs Act, 1969 is the key legislation that governs the process. In particular, sections 13, 32, 84-119, 156 and 202 of the law detail its legal mandate. In addition, SRO 153 (03/08/1999) complements the legislation in place.

The bulk of the licenses issued at the CBC are for Special and General Bonded Warehouses, the majority of the applications coming from industries in the RMG sector, followed by industries in the leather sector.

Text Box 1: Five categories under which a business can apply for and obtain a bonded warehouse license.

1. **Special Bonded Warehouse** (Direct Exporter – owner of the bank letters of credit)
2. **General Bonded Warehouse** (Deemed Exporter – accessories and intermediary items)
3. **Home Consumption Bonded Warehouse** (Domestic Consumption – pays duties on raw materials as is released from the warehouse for production purpose)
4. **EPZ Bonded Warehouse** (even though the EPZs themselves are bonded warehouse facilities, industries within the EPZs need to be registered with the CBC and usually do so through Bangladesh Export Processing Zone Authority)
5. **Diplomatic Bonded Warehouse** (for diplomatic and privileged persons)

Table 1: Breakdown of the number of licenses issued by the CBC as of September 2005

| | 2005 | 2004 | Total till date |
|--|------|------|-----------------|
| Special Bonded Warehouse | 102 | 161 | 3,262 (79%) |
| General Bonded Warehouse | 38 | 80 | 952 (16%) |
| Home Consumption Bonded Warehouse | 0 | 0 | 86 (2%) |
| Dhaka EPZ | 2 | 08 | 105 (3%) |
| Diplomatic Bonded Warehouse | 2 | 0 | 13 (0%) |
| | 144 | 249 | 4,418 (100%) |

Table 2 details the staff strength of CBC. A majority of staff time is spent on the license renewal process and the related audit reports as well as changes to current licenses (e.g. change of address, bank lien, machinery disposal or acquisition, change in ownership/management, new product/change in inputs/raw materials, time extension for use of raw materials) rather than on new license applications.

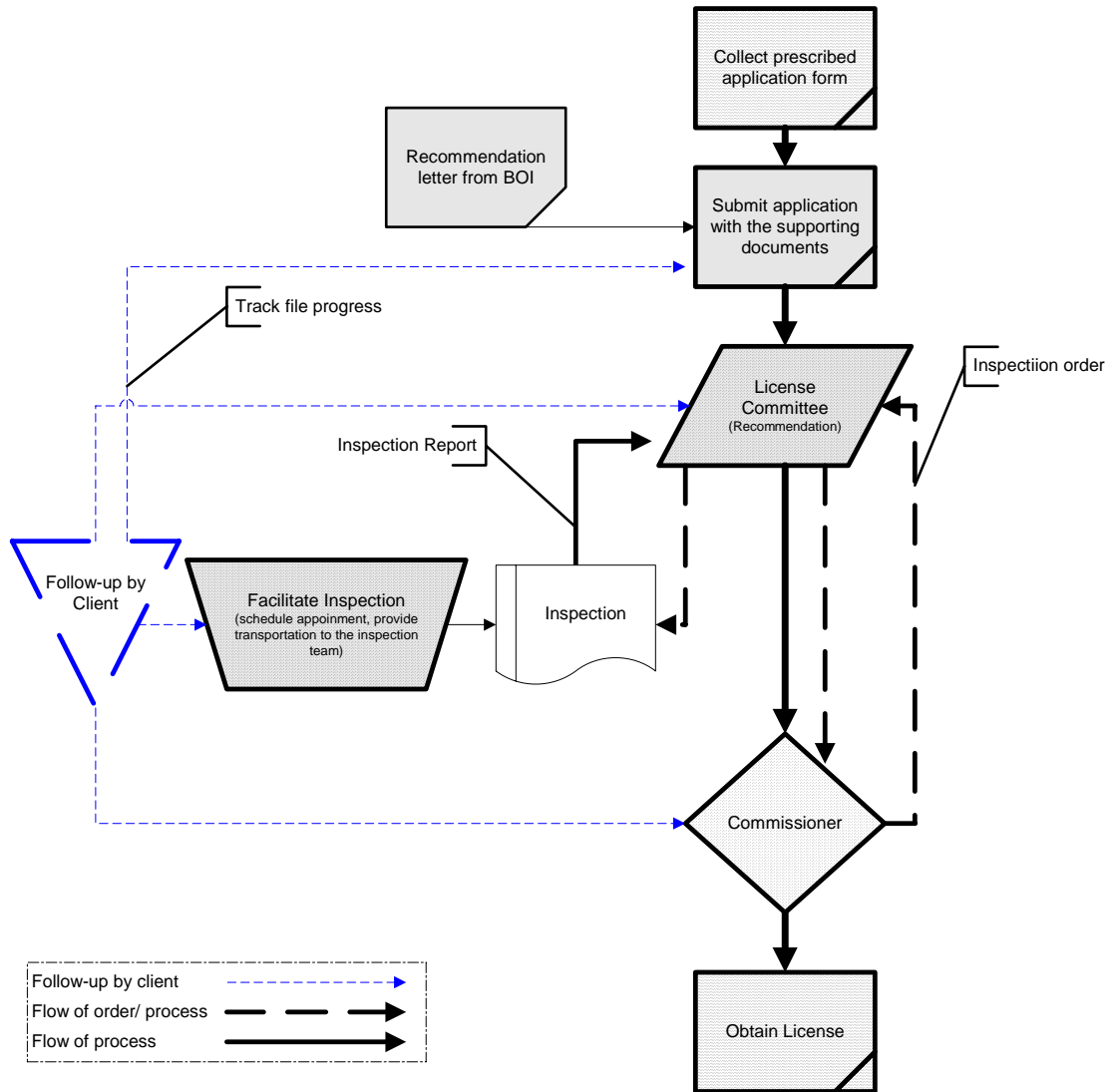
Table 2: Total Staff Strength at the CBC

| | Dhaka Office | | Chittagong Office | |
|-------------------|----------------------|-------------|----------------------|-------------|
| | First Class Officers | Total Staff | First Class Officers | Total Staff |
| Sanctioned | 29 | 193 | 10 | 66 |
| Actual | 26 | 152 | 8 | 44 |

Bonded Warehouse License Process

An application for a new license at CBC has to be accompanied by a recommendation from the Board of Investment (BOI). To obtain a recommendation from the BOI, a firm must be registered with BOI, and then submit six to eight supporting documents along with an application for the recommendation in a prescribed form to BOI.

Chart 1: Flowchart of the Bonded warehouse licensing process



As part of the recommendation process, a BOI officer (the equivalent of or senior in rank than an assistant director) must physically inspect and verify the submitted application. Based on the inspection a brief, is prepared which is presented at the Executive Council Meeting. The Executive Council makes the final decision whether a letter of recommendation may be issued by BOI in support of the applicant. There are two cells at BOI (one for foreign or joint venture and another for domestic investors) to facilitate this process. The entire process of obtaining a BOI recommendation, including registration with the agency, usually can take up to two months.

Once a BOI recommendation is obtained, the company can then submit a bonded warehouse application to CBC. The bonded warehouse application requires submission of 25 to 28 required supporting documents, including 20 from 12 different institutions. Upon receipt of a license application, the license division checks the submitted documents and opens a file against the application and forwards it to the License Committee. The Committee forms an examination team consisting of one or two inspectors and one superintendent. Usually the applicant is responsible for making arrangements and providing transportation for the examination team. The examination team carries out a physical inspection and submits a report of their findings to the inspection committee within seven to fifteen days.

The license committee verifies the inspection report with the submitted documents and forwards the file with their recommendation to the Commissioner. Based on the recommendation of the license committee, the Commissioner makes the final decision regarding the issuance of the license. If approved for a license, the applicant has to appear in person before the issuing authority to sign a bond against their license.

Table 3: Number of licenses granted and rejected at CBC

| | Applications received | Licenses granted | Applications rejected |
|--------------|------------------------------|-------------------------|------------------------------|
| 2005 | 190 | 144 | 65 |
| 2004 | 394 | 249 | 176 |
| TOTAL | 584 | 393 | 241 |

*- number of applications received is less than the sum of licenses granted and rejected due to carryover of pending files from the previous fiscal year.

Number of documents required

Companies are required to submit in excess of 25 documents with their application to CBC and around 8 documents to BOI. The documents submitted for BOI verification and recommendation also have to be resubmitted for verification at this agency.

Text Box 2: Most commonly cited reasons for rejecting an application at CBC

At CBC, compared to the number of licenses granted, the number of rejections is quite high (Table 3). Most commonly cited reasons for rejections, in order of frequency, include previous liability of owners/directors, incomplete or inadequate documentation, and false declarations.

Scope to reduce the number of documents/steps

Since a list of service providers was not available, the survey was administered amongst a total of 22 companies in Dhaka that had recently applied for and received a bonded warehouse license. A majority of the respondents (86%) felt that there was scope to streamline the process by doing away with the need to resubmit the documents that have already been verified by BOI when obtaining the bonded warehouse recommendation from BOI.

Time taken to obtain a bonded warehouse license

CBC officials reported that the average time taken at the agency to process a complete application is around 30 working days. Table 4 summarizes the average, minimum and maximum number of working days reported by the respondents to obtain a bonded warehouse license. Application and Preparation in the table below includes time needed to prepare documents prior to submission of the application to BOI, to obtain the recommendation from BOI, and to obtain a license from the CBC. On average it took about 25 days at BOI, and another 108 days at CBC to complete the process.

In addition, it takes about another month for a firm to get registered with BOI. Registration with BOI is a necessary prerequisite in order for a business to request such a recommendation from BOI.

| Table 4: Time taken to obtain a bonded warehouse license | | | | | | | |
|---|---------------------|---------------------|--------------|---|---|---|--|
| Number of working days | Agency - BOI | Agency - CBC | Total | Applicat ion and Preparation - BOI | Applicat ion and Preparation - CBC | Applica tion and Preparation - Total | |
| Average | 25 | 108 | 133 | 59 | 167 | 226 | |
| Minimum | 2 | 7 | 9 | 13 | 27 | 40 | |
| Maximum | 60 | 280 | 340 | 105 | 480 | 585 | |

Scope to reduce process time

All respondents stated that the process time could be reduced by an average of 110 days representing a savings of nearly 48% from the current level.

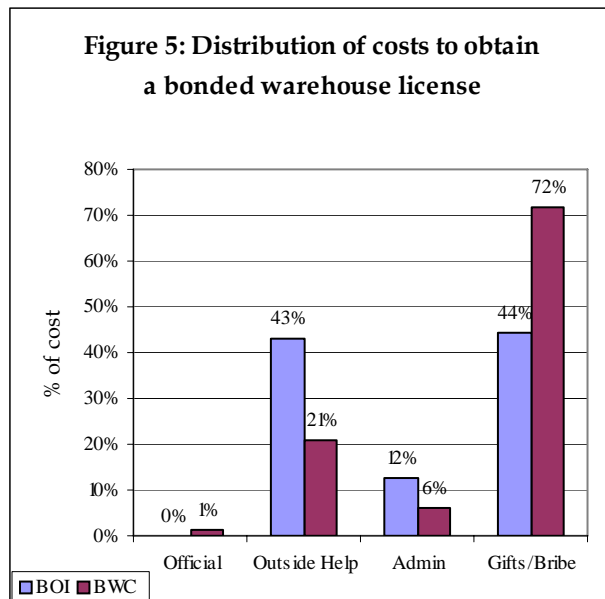
Cost to obtain a bonded warehouse license

Table 5 summarizes the total cost incurred by surveyed businesses to obtain a bonded warehouse license. According to the respondents, it costs an average of Tk. 408,608 to obtain a bonded warehouse license. Of this, 94% of the cost was related to expenses at the CBC.

| | Average | Min | Max |
|--------------|----------------|----------------|----------------|
| BOI | 23,145 | 13,400 | 60,000 |
| CBC | 385,462 | 97,150 | 699,600 |
| Total | 408,608 | 110,550 | 759,600 |

A further breakdown of costs reveal that 60% of the cost related to BOI, and 75% of the cost related to CBC represented gifts/bribes.

According to the survey, 82% of the respondents reportedly paid gifts/bribes to BOI officials, and 95% paid gifts/bribes to CBC officials. Overall, the value of the gift/bribe was higher at CBC. Each company paid an average of Tk. 10,273 to BOI officials and Tk. 276,417 to CBC officials. According to the respondents, while the gift/bribe was paid to lower grade officials at BOI, it had to be paid to CBC officials at all grade levels.



Specific recommendation to lower unofficial fees

All the respondents identified unofficial payment as a problem in processing a bonded warehouse license at both the agencies. However, the magnitude of such payments was more severe at CBC than BOI. Lack of enforcement of internal controls gives CBC officials significant power to extort money from applicants. Respondents stated that without appeasing the CBC officials, the bonded warehouse license would cost them much more owing to the delay associated with the processing. Also, because the license is time sensitive and a commercial requirement for these businesses to operate, they have few alternatives other than to acquiesce to the demands placed upon them by the agency officials.

Reducing the number of steps/documents fared high on the respondents' list of recommendations to reduce unofficial fees. The surveyed businesses believed a reduction of steps would reduce the total process time and increase the total unofficial payments that have to be made. It was reported that a sum of Tk. 500 has to be paid to peons to move a file from each desk for review. Failure to do so results in the application remaining "stuck" at the mercy of these staff.

Respondents expressed the view that either the government's anti-corruption department needs to play a stronger role to clamp down against the rampant corruption at CBC, or that significant restructuring should replace the entire CBC staff.

Obstacles in dealing with Bonded Warehouse authorities

Key obstacles identified by a majority of the surveyed businesses in dealing with CBC are: unofficial payments, the number of required documents, the volume of necessary paperwork, a general reluctance of the agency to issue licenses, and the lengthy time required for inspection. Having to work with both BOI and CBC was also considered to be a problem, leading to duplication, increased process time, higher official/unofficial and other costs.

Sixty-four percent of the respondents stated that their application was initially rejected due to an insufficient number of documents submitted, even though they had submitted all the required documents. In many cases, additional documents or changes were asked for by the agency,

which the respondents considered a demand for unofficial payment. Many of the respondents felt that the application process was not clear and there is no cooperation or assistance from the CBC in any form. Only when unofficial payments were made did the level of cooperation increase.

Specific recommendation to improve the Bonded Warehouse license process

All respondents felt that the bonded warehouse license process needs simplification through streamlining and increased transparency and accountability. Suggestions to improve the process include making the application process available online, reducing the number of steps/documents involved in the process, as well as the doing away with the need for more than one agency to verify the application. Many of the respondents felt that introduction of automation would increase the level of transparency and would also reduce the number of public interactions with the CBC officials, making the process much more smooth and transparent.

Also, the respondents expressed a strong need to reduce the number of documents/steps which they felt would expedite the process and decrease the odds of having to make unofficial payments. A specific recommendation to reduce the number of documents include doing away with the need to re-submit and re-verify the same documents by CBC which were previously submitted and already verified by BOI. The letter of recommendation from BOI should suffice. If CBC must verify the documents directly, then there should be no need for BOI to be involved since it adds unnecessary costs and delay into the process.

At another level, respondents stated that the need to improve the commitment of CBC officials to complete the application in a reasonable time. Generally, officials are not cooperative and are reluctant to assist without additional payments. To be fair, senior officers at the agency need to be more vigilant and enforce stricter internal controls to prevent abuse of authority by junior officials. Junior officers intentionally look to find faults or sometimes create faults in order to extort money from the applicants.

Perhaps the greatest barrier to the licensing process is the high degree of suspicion and mistrust the CBC officials have of the applicants. Many of the respondents believed that the CBC officers are of the opinion that after receiving the license, the companies will without fail abuse the privileges

granted and be involved in illegal activities such as leaking the duty fee imported goods into the domestic market. In the past there have been instances of such abuse, the current attitude of the agency officials may add to processing delay.

Recommendation by head of agency or responsible officer

During the process mapping the agency officials listed poor infrastructure, poor human resource quality and lack of connectivity with other agencies as key weaknesses at the agency that currently impede the licensing process. Much of the current approval process is dependent on reports and examinations carried out by inspectors. Therefore, the quality as well as the quantity of the available inspectors is critical to the licensing process.

At another level, the agency officials expressed their concern regarding the abuse of the bonded warehouse privileges by the companies. According to them, the process could be made extremely easy if the agency has assurance or guarantee of payment through an undertaking from the applicant's bank or other non-banking financial institution such as insurance companies, in case of abuse.

Other suggestions include the setting up of industrial parks or localized areas where bonded warehouses can be set up. Concentration of such facilities would enable better monitoring and would also decrease the instance of such abuses. Also, it would increase the productivity of the inspectors since they would be able to visit their sites in clusters.

Recommendation from the focus group discussion

Participants at the focus group discussion stated that the process was not working well due to the bureaucratic mindset of the regulators and the suspicion of the regulators that the businesses are obtaining these licenses to cheat the exchequer. Unofficial payments were identified as a major concern since the businesses have little recourse to the demands placed upon them by the rent seeking CBC officials.

The participants strongly felt that there is room to reduce the paperwork that needs to be submitted, particularly those already submitted to BOI. Many wanted to see a reduction in the number of interactions with the government officials, since each such interaction allows more room for corruption.

During the license renewal process there is a need to provide CBC with audit reports. The participants indicated that they would prefer a reduced frequency of such audits; reduced from each year to once in every three years. Also, they felt that such audits were better conducted by customs house inspectors rather than the bond commissionerate officers.

In the interest of saving time, the participants felt that the bonded warehouse license applications should be allowed to be submitted simultaneously with other licenses.

Summary Analysis

The above synopsis describes and details the foreign loan documentation process and highlights key concerns of the stakeholders as well as their suggested recommendations to improve the process. According to CBC officials, the licensing process is in place to facilitate efficient international and national trade and also, serves to protect the revenue interest of the government. When effective, the bonded warehouse facility provides a notable incentive to industries that are import intensive and export oriented.

As it exists the bonded warehouse licensing process is extremely cost prohibitive for businesses, both in terms of time and money. According to the survey respondents, on average it took longer than four months and costs more than Tk. 400,000. The process requires duplication of efforts, particularly at BOI, which on average adds 25 days to the process with little justification and almost no value addition. In addition, while BOI does not charge a processing fee for its recommendation process, it requires that the service is offered only to businesses registered with BOI, which itself involves a cost and takes an additional one month to process the registration.

The licensing process places a heavy burden of paperwork on the applicants and as many as 28 documents are required to be submitted along with an application. Even then, the survey respondents claimed that the agency sometimes asks for more documents beyond what is officially listed. Interestingly, according to agency officials, the resources available are not adequate to do a through scrutiny of the submitted documents nor is there a mechanism in place to verify all submitted documents.

All respondents claimed that in addition to the official cost, unofficial payments had to be made at both the agencies. However, the amount of

unofficial payments, according to the respondents, was greater at CBC than at BOI by about sixteen times. Many claimed that the payments ensured greater cooperation from the CBC officials and in many instances had to be made due to the significant discretionary power of the officials. The problem is further exacerbated by the poor enforcement of internal controls and standards at the agency to control for the high level of corruption which is widespread.

Perhaps the greatest concern regarding the process voiced by all stakeholders including the government officials is the perception that once provided with a license the firms will abuse the privileges granted and leak materials into the domestic economy from the bonded warehouses. The existing prejudice among the agency officials leads to delay in decision making process contributing to a high process time and makes the process more cumbersome and documentation intensive than is necessary. The agency officials feel that when investigating cases of abuse, the documentation and multiple layers of decision provides officials with a defense against allegations of misconduct. For the same reason, despite the redundancy and inefficiencies it introduces within the system, the CBC officials insist the practice of recommendation from BOI continue so that they have added confirmation from a different agency to support their decision.

The current inefficient procedure is perpetuated more to protect the interest of the agency officials than to uphold the interest of the clients for whose benefit the actual process is in place. The CBC officials know that the bonded warehouse license is time sensitive for the client. A faster processing would reduce the lead time of the producer and enable faster delivery of the final goods and thereby increase his/her competitiveness. This holds especially true for the RMG sector, which continues to be the biggest set of clients at the CBC.

Interestingly, the redundancies and documentation intensive process to an extent only protects the officials' personal interests, but fails to address the abuses. Attempts to protect officials' interests add to the cost of the clients, serve as administrative barriers, and most importantly, take away from the benefits the process is committed to deliver. The analysis clearly demonstrates there is scope to streamline the process and make it more efficient and expeditious.

There is a definite need for a change in the mind set of the stakeholders. The agency officials need to realize that their role in the process is not that of an administrator but rather as a manager and a facilitator. The agency

is committed to deliver quality service and needs to be more responsive to the clients needs and therefore should have a better customer service orientation. Similarly, the clients need to realize that they have a more constructive and proactive role to play in the process. Rather than continue to complain about the process, they need to accept a greater share of the responsibility. They need to work with the agency officials and work gradually to regain their confidence and trust.

2 Duty Drawback

Introduction

The Duty Exemption and Drawback facility provided to exporters by the Bangladesh government enables a business to claim, within six months of exports, the duties and taxes paid on raw materials used in the production process. Apart from imported raw materials, businesses are entitled to duty exemption and drawback on taxes paid on utilities and, in some cases, on the fuel consumed in the production process.

Eligible exporters can claim their drawback by filing their claim with the Duty Exemption and Drawback Office (DEDO), which is an agency under the authority of the National Board of Revenue. The Customs Act, 1969 and the VAT Act 1991 governs the process. While Chapter VI of the Customs Act 1969 provides many of the guidelines, since the promulgation of the VAT Act 1991, drawback can also be claimed on inputs under Section 13, Rules 28, 29, 30, 31, 32, 32(a), 33 and 34. Additional SROs that guide the process include SRO 154 (June 9, 2005) and SRO 157 (June 9, 2005).

Eligible exporters can enjoy this facility under two broad categories – a duty exemption or a duty drawback. Under the duty drawback system, exporters get refunds of the duties and indirect taxes they have paid on imported inputs. Duty may be refunded in three ways: a) actual drawback, b) national drawback, and c) flat rate drawback. Due to fewer complications and ease of operation, the flat rate system remains the most preferred method of refund. There are also two other ways of making such refunds: individual and fixed drawback systems. Individual drawback systems refund the duties and indirect taxes paid by the firms, while the fixed drawback systems refund the estimated duties and indirect taxes that enter the cost of production of exports according to a preset schedule.

Table 1: Number of duty drawback applications processed as of October 2005

| | Actual and Flat |
|------|-----------------|
| 2004 | 2,370 |
| 2005 | 1,767 |

The DEDO office is responsible for administering the duty exemption and drawback facility for the entire country. Table 2 details the staff strength of this agency. The agency has three sector specialists on staff, primarily charged with determining the input-output coefficient – a number that is used to estimate the duty drawback an exporter is eligible to receive.

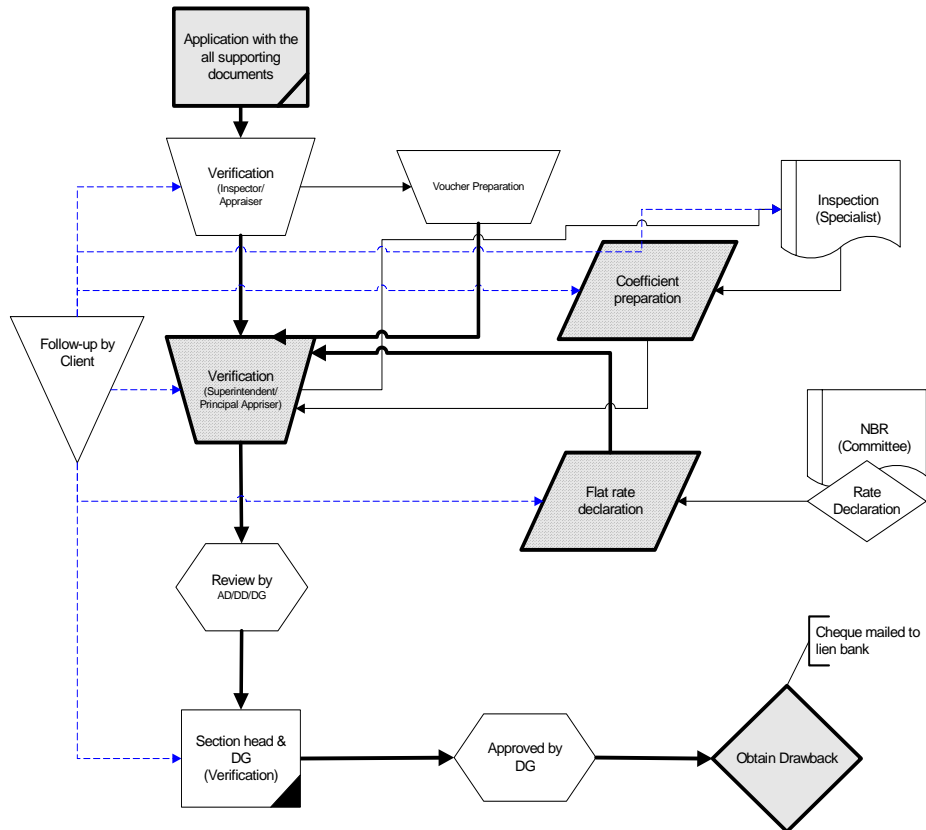
Table 2: Number of Staff Strength at DEDO

| | First Class Officers | Total Staff |
|-------------------|-----------------------------|--------------------|
| Sanctioned | 16 | 52 |
| Actual | 14 | 41 |

Duty Drawback Process

At DEDO, duty drawback applications are collected in the receipt and dispatch (R/D) section and forwarded to the Director General. DEDO prefers that the applications are sent by mail, since the postmark on the application serves as proof of the application date.

Chart 1: Duty Drawback
Flowchart



In case of hand delivery, it is onus on applicants to get their applications stamped and dated from the R/D upon submission.

The DG notes the application and returns it to R/D for distribution to the appropriate section. There are six sections categorized alphabetically, numerically, according to volume, and sector. Out of the six sections, the DG directly is responsible for overseeing the functions of one of the sections. Of the remaining five sections, the Deputy Director is in charge of three, while the Assistant Director is in charge of two.

Once the application reaches the appropriate section, the Section Assistant (UD/LD) opens a file against each application and passes the file to an Inspector/Appraiser for verification. Next, the file is sent for verification by the Superintendent/Principal Appraiser, and the file along with the payment voucher is forwarded to the section head.

In case of a flat rate, inspection by a specialist is required to determine the coefficient. DEDO does not have enough sector specialists in its employment for the volume of work. To facilitate the process, a decision, still in effect, was taken by the NBR in 2001 to utilize the services of external specialists at the cost of the exporter. The coefficient determination process can be time-consuming and expensive for the exporter. In the absence of an integrated computerized system, all necessary calculations are done manually. The determinations are time-consuming, and there is ample scope for advertent or inadvertent errors in the process. Although the time limit for reimbursement is 30 days from receipt of applications, quite often the time limit is exceeded.

If the section heads are satisfied with the recommendation of the Superintendent/ Principal Appraiser, they forward the file and payment voucher to the DG for final approval. The DG makes the final approval and clears payment. DEDO mails the cheque directly to the lien bank and issues a letter to the applicant advising credit.

At DEDO, the duty drawback system remains problematic due to two main reasons. First, the duty drawback determination process needs more simplification. Second, many decisions are delayed due to the verification process, which according to DEDO is not fool-proof and there are many instances when the exporters have defrauded the system.

Number of documents required

Table 3 summarizes the weighted average, minimum and maximum number of required documents submitted. The number of documents required was fairly standard according to the respondents, but varies depending on the nature of the claim. It should also be noted that often many of the required supporting documents themselves require going through other regulatory agencies which adds to the delay and cost to the producers both in terms of time and money.

| Table 3: Number of documents submitted for duty drawback claim | | |
|---|------------|------------|
| Average (weighted) | Min | Max |
| 10 | 7 | 16 |

Because the duty drawback filing requirements are not clear, it acts as a deterrent to smaller businesses from filing legitimate claims. 95% of the

respondents believed that only 20% of all eligible duty drawback claims are filed with DEDO, since the majority of the claimants are small companies, often with a relatively small amount, who do not want to go through the hassle of the drawback process. Also, there is a major lack of awareness about the process which explains the low volume of duty drawback claims.

According to agency officials, the coefficient determination process is the most time consuming and is a major cause of delay. Without sufficient technical specialists, customized calculations particular to a producer is a major bottleneck at the DEDO.

Scope to reduce paperwork

According to a survey that was administered among 20 service providers at the DEDO office, 95% of respondents believed that there is scope to reduce paperwork requirements. Respondents most frequently (53%) mentioned that they believed the requirement for the Memorandum and Articles of Association was unnecessary. 32% of respondents believed that providing the demand note as proof of utility connection is unnecessary.

Time to process a duty drawback claim

Under the provision of the law, the time limit for reimbursement is 30 days from receipt of an application. According to DEDO the maximum processing time in practice is 25 days. Currently, there are 2,114 files pending decision, of which 685 are pending from the 2004 calendar year. Primary reasons for delay include incomplete application, export clearance (DEDO copy) not received from relevant customs house/station, declaration/ verification from lien bank about Proceed Realization Certificate (PRC), and Clearance from VAT circle regarding status of duty exemption.

Data from the survey suggests that the average total time to process a duty drawback claim is 33 days, of which on average the service provider takes seven days for preparing the paperwork and the agency 26 days. In the survey, it was reported that the maximum time to process an application was 180. This number is significantly different from the maximum 25 days reported by the agency.

Table 4 summarizes the weighted average, median, minimum and maximum time taken by service providers and agency in processing duty drawback claim. 100% of the respondents said that total time taken to process duty drawback claim was more than two weeks. 50% of the claims required up to 5 weeks, while the remaining 50% took up to 8 weeks.

| Table 4: Time taken to obtain duty drawback claim (in days) | | | | |
|--|---------------------------|-----------------------------|------------|------------|
| | Average (weighted) | Median (of averages) | Min | Max |
| Service provider | 7 | 7 | 2 | 15 |
| Agency time | 26 | 30 | 7 | 180 |
| Total time | 33 | 37 | 9 | 195 |

Table 5 summarizes the breakdown of time taken by service providers and the agency. As shown, almost 80% of the time was taken by the agency, which typically sent gas and electricity bills for verification to respective banks where the payment of the bills were made.

| Table 5: Distribution of time between service provider and agency for duty drawback claim | | | | |
|--|---------------------------|-----------------------------|-------------|-------------|
| | Average (weighted) | Median (of averages) | Min | Max |
| Service provider | 22% | 19% | 22% | 8% |
| Agency | 78% | 81% | 78% | 92% |
| Total | 100% | 100% | 100% | 100% |

Respondents agreed that the verification process is time consuming and contributes to the high process time, particularly when verification is needed from state-run banks or other government offices. In order to expedite the process, often the service providers have to pursue the verification with the bank or other government agencies to ensure a quicker turnaround time.

Scope to reduce process time

100% of the respondents felt there was ample room to lower processing time. The service providers felt that could be reduced by an average of 11 days, representing a saving of nearly 35%.

Cost borne by the client

In the survey, the total cost for processing a claim includes official fees, fees of service providers and unofficial fees. Table 6 details the breakdown of total fees paid as reported by the survey respondents. The official fee for the duty drawback process is negligible. 55% of the total fees paid were to service providers, 44% towards unofficial fee and only 1% as official fees.

| Table 6: Total fees to process duty drawback claim | | | | | | | | |
|--|--------------------|-------------|----------------------|-------------|------------|-------------|----------------|-------------|
| | Average (weighted) | | Median (of averages) | | Min | | Max | |
| | Taka | (%) | Taka | (%) | Taka | (%) | Taka | (%) |
| Official | 154 | 1% | 154 | 1% | 154 | 28% | 154 | 0% |
| Service provider | 9,719 | 55% | 7,500 | 55% | 200 | 36% | 350,000 | 61% |
| Unofficial | 7,905 | 44% | 6,000 | 44% | 200 | 36% | 220,000 | 39% |
| Total Fees | 17,779 | 100% | 13,654 | 100% | 554 | 100% | 570,154 | 100% |

When the distribution of fees is expressed as a percentage of overall duty drawback claims, 15.2% of the claim went to service providers, 12.4% towards unofficial fees, while the clients ended up receiving 82.2% of the overall claim. The actual unofficial fees ranged from Tk 200 (5%) to Tk 220,000 (22%). 40% of the unofficial fees were between Tk 3,000 – Tk 6,000 and an equal percent was between Tk 6,000 – Tk 9,000. Perhaps the most interesting finding from the survey was that all the respondents indicated that unofficial fees had to be paid for every duty drawback claim. The high rate of unofficial fees is likely exacerbated by the need for a claim to be processed by several officials.

Specific recommendation to lower unofficial fees

35% of respondents felt that the government's anti-corruption agency should take punitive action against officials demanding unofficial fees, and an equal percentage of respondents wanted to see a reduction in the number of desks where unofficial payments have to be made. The respondents expressed the view that the claim review process at DEDO involves too many officials. Each additional layer results not only in higher costs due to payment of unofficial fees, but also contributes to longer process time. One respondent stated paying unofficial fees to five

different officials at the junior to mid-level, but if the client interactions can be reduced to a lower number of desks, overall unofficial fee payment can be significantly lowered.

From the perspective of the agency officials, the high number of officials is necessary to ensure adequate mechanisms are in place prevent abuses by the claimant. Also, each layer is in place to adequately scrutinize the applications. Sadly, despite all the safety mechanisms in place many exporters have succeeded in defrauding the system.

Recommendation by head of the agency or responsible officer

During the process mapping, the agency officials themselves pointed out the verification process as their weakest link. The officials expressed a need for ease in verification of submitted documents as their primary concern. On-line connectivity with banks, the Export Promotion Bureau and customs databases could expedite the verification process. Also it was suggested that exemption be given before collection rather than after as is now the case with some utilities.

To address the delay associated with the coefficient determination process, it was suggested that rather than customized determination, a national weighted average be used. Such a reform has previously been recommended by another donor funded project. DEDO could publish a schedule of these calculations annually and each applicant could file their claim accordingly. This would greatly expedite the process.

Recommendations from the focus group discussion

Participants at the focus group discussion also held a poor view on how the duty drawback system was working at DEDO. They felt that the system was inefficient and there was much room to simplify the process. Many expressed the view that the role of commercial banks should be more prominent in the process, which would lead to higher efficiency. The participants were in agreement that DEDO needs to automate the duty drawback process and become more technologically sophisticated which hopefully will lead to more efficiency and transparency at the agency.

Summary Analysis

The above narrative describes and details the duty drawback process at DEDO and highlights key areas of concern that act as barriers to a smooth delivery of service to exporters. It juxtaposes the dilemma of the government to provide incentives to increase exports, on one hand, and ensure with certainty that the incentives are provided to legitimate claims on the other.

While being the first to acknowledge that the existing system is cumbersome, DEDO also claims that the number of officials and levels of processing are necessary to ensure the adequate mechanisms are in place to check for and prevent abuses by the claimant. What is also true is that, despite all the scrutiny, the existing system fails to prevent abuse. Although reports of fraudulent claims are few in number, the amount of these false claims can be substantial and the fraudulent claims that are investigated may only be a fraction of the actual total.

Multiple levels of verifications add to the frustration of the clients who, according to the survey, perceive the process more often as a hassle and choose to forego the monetary incentives that they are eligible to claim. This is particularly true for the small businesses, who generally are resource starved and potentially have more to gain from the incentives available than their larger counterparts.

The cost for processing a duty drawback claim at DEDO, both in terms of time and money is quite significant. The law allows for a maximum of 30 days to process a claim. However, in reality there appears to be no compulsion to adhere to the stipulation. While the agency reported it takes a maximum of 25 days to process a claim, according to the survey respondents, the maximum can be much longer (the maximum reported figure was 180 days). As of October 2005, DEDO had 2,114 pending files of which 685 were from the 2004 calendar year. Therefore, one can presume that there are close to 600 cases with processing time greater than 365 days. Table 7 lists the number of pending files along with the reason for their hold up.

Table 7: Unresolved claim files currently with DEDO

| Description | Number |
|---|---------------|
| Shipping bill, PRC, DEDO copy, etc. not yet received from relevant agencies | 1,819 |
| Under Board consideration | 126 |
| Verification report pending from VAT circle/customs stations | 78 |
| Demand on Claim | 50 |
| Pending report of flat rate on expert report, final documents | 41 |
| TOTAL | 2,114 |

Analysis of the total cost to applicants for a duty drawback claim reveals that, on average, exporters spend 55% of their cost on service providers, and 44% as unofficial payments. Only one percent of the cost is for official fees. This suggests that the exporter is willing to pay more than is being charged officially to avail the duty drawback facility. After deducting all costs, on average the client takes home 82% of the claim.

The survey respondents reported that unofficial payments had to be made to officials at DEDO to process every duty drawback claim. The high percentage of payment of unofficial fees indicates poor transparency and accountability at DEDO. Stricter internal controls need to be put in place and enforced, along with stronger measures to curb the unofficial payment practice. The fact that almost every application pays official fees could also be indicative of greater room for discretion among the officials. Better processing guidelines, along with clear mandates need to be drafted to reduce the discretionary power of these officials. As suggested by the respondents, reducing the number of desks and public interaction with officials might also help reduce the official payments.

Overall, the duty drawback determination process needs simplification. The system as it exists is inefficient and biased against the exporters. Not only is the process cumbersome, it can also be very confusing. Very little information is made available to the clients at the agency, and therefore the clients are forced to solicit the help of the informal service providers. Often documents are required to be submitted that are difficult to obtain and hold-up the application process. Opportunities clearly exist to simplify the process and reduce the number of required supporting documents. Reducing the quantity of paperwork will mutually benefit both the agency officials, as well as the claimants.

The analysis clearly suggests that the coefficient determination is a severe bottleneck to the process. Not only are the customized determinations

costly and time consuming, there are not enough experts at DEDO to keep up with the volume of work. Also, better guidelines need to be developed to raise the general awareness of the duty drawback facility amongst exporters.

All stakeholders including the agency were in agreement that the verification process adds to the delay. Survey data corroborate the fact that the institutional arrangements in place are not working. A majority of pending files at DEDO (Table 7) were held up due to failure of receipt by DEDO of the verification document. Many of the respondents stated that during the verification process, they often have to actively follow-up with the banks and other relevant agencies to collect the document requested from those institutions or agencies.

Streamlining the determination and verification process promises to reduce much of the difficulties for the DEDO clients. Reducing the ambiguity, simplifying the determination and verification process will go far towards expediting the services provided by DEDO, resulting in increased efficiency and enhancing its image. DEDO needs to become more customer oriented with more transparency and accountability in its operation.

3 Capital Machinery Import Customs Clearance Process

Introduction

To encourage development through industrialization, the Bangladesh government has set the lowest slab of customs duty for import of capital machineries. In addition, importers under this category are exempted from all other duties and taxes (such as 15% VAT, 4% IDSC, 3% AIT). If imported together under the same consignment as the capital machinery, spare-parts for the imported capital machinery, valued at 10% of the imported capital machinery, enjoy the same concession duty facilities. As an added incentive, 100% export oriented industries are completely exempted from paying all import duties and taxes.

Effectively, importers of capital machinery have to pay 6% duty only, and, as an added incentive, 0% for export-oriented industries. Imports of capital machinery are also exempted from Pre-Shipment Inspection (PSI).

Importers can claim this duty and tax facility on their eligible imports at any of the customs facilities in the country from where they intend to clear their imports. The National Board of Revenue (NBR), the supervising authority for the customs facilities, allows these privileges to importers under the Customs Act 1969. Key regulations of the Customs Act that govern the process include Sections 16, 18, 25, 30, and 79-83. In particular, Statutory Regulatory Order (SRO 164) provides two tables which list HS codes for capital machinery and spare parts which are covered under the SRO.

In Dhaka, the Internal Container Depot (ICD), Kamalapur, processes capital machinery clearance for importers. Table 1 lists the number of capital machinery clearances processed at the ICD facility. The figures are given for the government fiscal year which runs from July to June. The figures for the latest fiscal year cover the first four months (till October 2005). Table 2 details the total staff strength at ICD.

Table 1: Number of capital machinery clearance through ICD as of October 2005

| | FY: 2004-5 | FY: 2005-6 |
|------------------------------------|-------------------|-------------------|
| Capital Machinery Clearance | 1,327 | 479 |

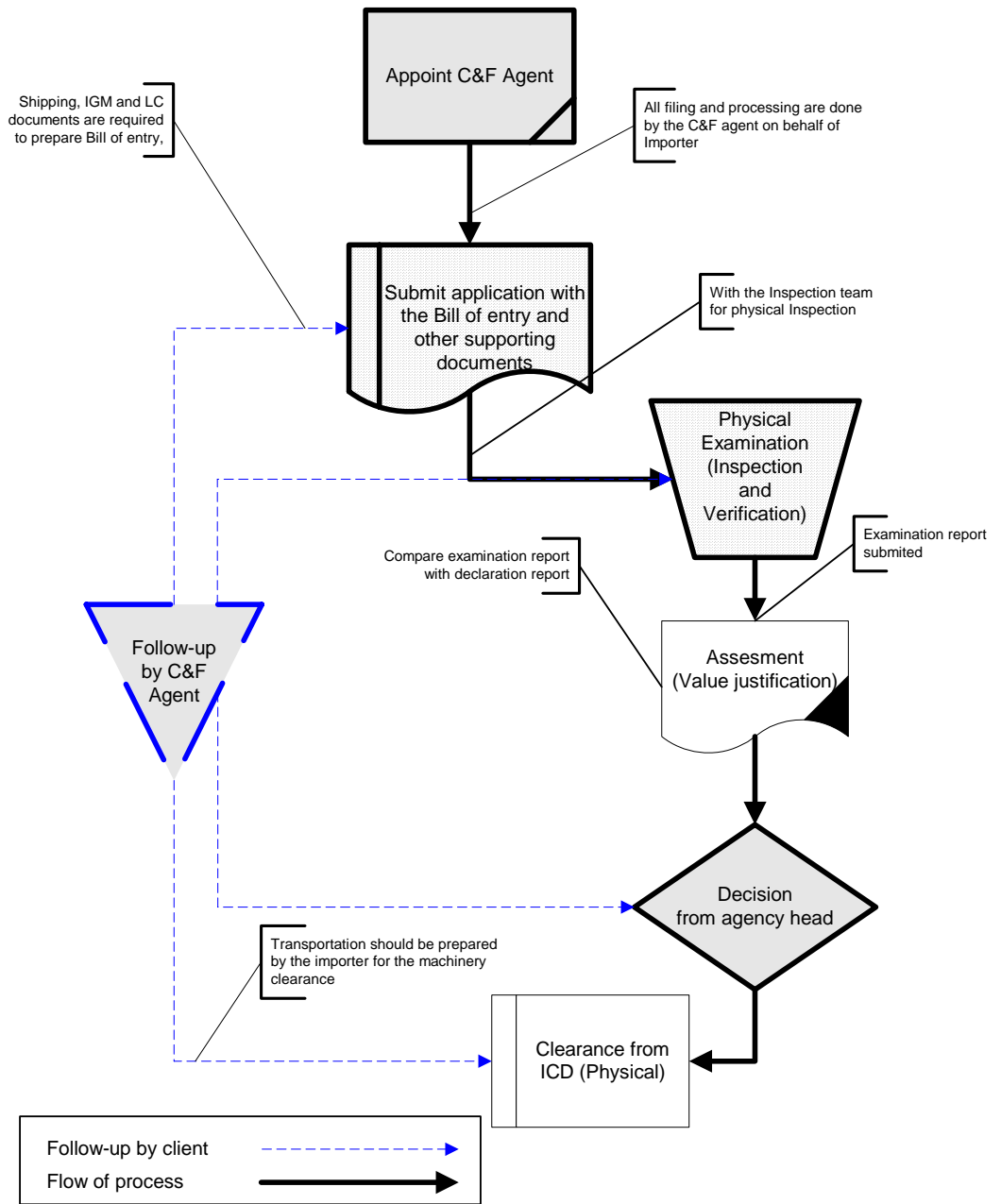
Table 2: Number of Staff Strength for the ICD

| | ICD, Kamalapur | |
|-------------------|-----------------------------|--------------------|
| | First Class Officers | Total Staff |
| Sanctioned | 9 | 90 |
| Actual | 7 | 64 |

Capital Machinery Clearance Procedure

Importers are required to appoint a Clearing and Forwarding (C&F) Agent to process the customs formalities. The Agent acts on behalf of the importer and prepares the file and submits all necessary paperwork. The C&F Agent is responsible for representing the importer at the agency and carry-out all necessary follow-up. If the machinery imported is on lien through a bank, the importer has to choose a C&F Agent that is enlisted with the lien bank.

Chart 1: Flowchart of the Capital Machinery Clearance Procedure



The Agent is provided with all the shipping documents from the importer's bank and tracks the progress of the container(s) as it arrives from the imported country into the ICD facility. Once the container has arrived, the C&F Agent files and submits the Import General Manifest (IGM) and gets a printout of the corresponding Bill of Entry. Next, the

Joint Commissioner randomly assigns the file to the examination cell. The examination cell is comprised of three separate teams: Inspection, Preventive, and Intelligence. It is envisioned that the involvement of separate teams will ensure transparency and accountability within the system. However, many importers reported that rather than facilitating the process, the separate teams add to costs, since each of the teams has to be paid an unofficial fee to expedite the process.

Following the physical examination, the container is resealed and indented in the presence of the C&F Agent and an examination report submitted. An Assessment Superintendent next assigns an Assessment Officer to verify the findings and determine the applicable duty. During this process, the officer compares the examination report with the declaration report, reviews the value justification and the HS code assessment. Based on his findings he forwards his assessment to the Superintendent and for final approval to the Joint Commissioner. The importer has to clear all his duty obligations before the containers are released from the ICD.

In case of 100% export-oriented industry, the company signs an indemnity bond with the customs authority. The company has one year to release itself from the bond. Essentially to be released from the bond, the company has to install the imported capital machinery, go into production and export products. The company then needs to provide to Customs export documents from the bank where the export letters of credits were opened as proof to be released from the bond and be free of its duty obligations.

Number of documents required

Table 3 summarizes the weighted average, minimum and maximum number of documents submitted to customs authority to clear imports of capital equipment and machinery. On average, 100% export-oriented industries submitted an equal number of documents as those industries falling under other categories.

| Table 3: Number of documents submitted for capital equipment & machinery clearance | | | |
|---|---------------------------|------------|------------|
| Number of documents | Average (weighted) | Min | Max |
| 100% Export | 11 | 3 | 15 |
| Other Industries | 11 | 3 | 15 |

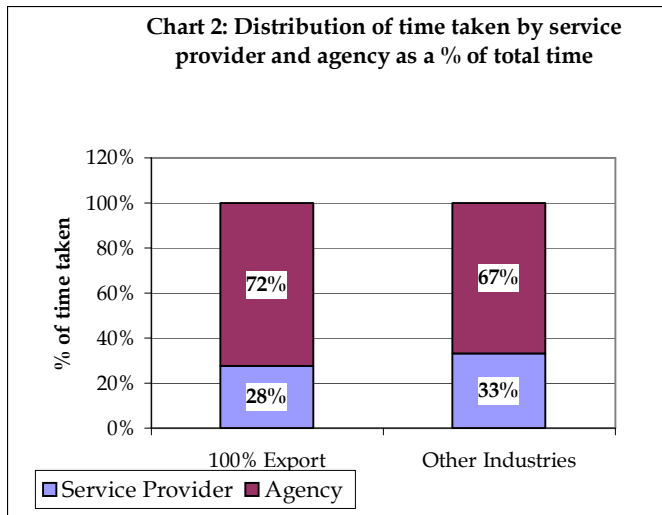
Scope to reduce paperwork

According to a survey that was administered among 20 service providers (C&F Agents), a majority (70%) believed that there was no scope to reduce the amount of paperwork involved. For most part, the respondents felt that the required documents that the companies need to submit were the ones that the companies should already have, and therefore there is no added difficulty in providing the same. However, 33% of the respondents who believed there was room to reduce the paperwork and stated that letters of credit authorization should not be necessary.

Time taken to process customs clearance

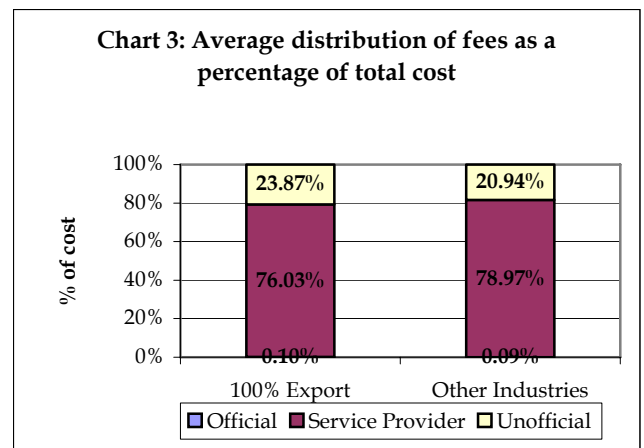
According to ICD officials, on average it takes three days to process and clear capital machinery. Table 4 summarizes the weighted average, minimum and maximum time taken by the service providers and the agency to clear imports of capital machinery and equipment. In general service providers took an average of 30% of the total processing time while the agency took the remaining 70% of the time (Chart 2). Also, there hardly was any noticeable difference in the processing time between capital machinery and equipment for a 100% export-oriented company and that for other industries.

| Table 4: Time taken by service providers and agency to clear imports of capital equipment & machinery | | | | | | |
|--|--------------------|---------------|--------------|-------------------------|---------------|--------------|
| Number of working days | 100% Export | | | Other Industries | | |
| | Provider | Agency | Total | Provider | Agency | Total |
| Average (weighted) | 2 | 5 | 7 | 2 | 4 | 6 |
| Minimum | 1 | 2 | 3 | 1 | 2 | 3 |
| Maximum | 7 | 30 | 37 | 8 | 30 | 38 |



Scope to lower process time

All the respondents believed that, on average, total processing time could be reduced by at least 2 days, for both categories of importers, yielding a time saving of around 30%. When asked for specific recommendations to lower process time, respondents listed reduction in the current number of steps and establishment of guidelines indicating a maximum time for clearance processing. Non-adherence to such a standard in clearing consignments should be punishable. Due to the lack of a standard guideline, service providers often experienced difficulty predicting the release date of consignments and thus felt compelled to pay unofficial fees to expedite the process.



Cost borne by the client

In the survey, total cost for customs clearance included official fees, fees of the service providers and any unofficial fee that was paid during the process.

Chart 3 shows the distribution of total fees paid in official, unofficial and fees of service providers with majority of the fees going to service providers. Official fees were almost negligible in relation to the total cost representing less than 1% in both categories. Fees of service providers were around 76% and unofficial payments were greater than 20% in both categories.

Majority of the fees paid to service providers ranged from 0.65% to 0.75% of the value of consignment for companies that were 100% export-oriented. The range was slightly greater for companies in the Other Industries category, 0.65% to 0.85%.

100% of the respondents indicated that they had paid unofficial fees. The actual unofficial fees ranged from Tk. 200 to Tk. 300,000 for companies that were 100% export oriented, while Tk. 500 to Tk. 500,000 for companies in the Other Industries category. The range of unofficial fees paid was greater for the “Other Industries” companies than it was for 100% export-oriented companies.

Specific recommendation to lower unofficial fees

30% of the respondents believed strict monitoring of the customs agency was necessary to see any meaningful reduction in unofficial fees. Another 15% stated increasing the salaries of customs officials so that they have less incentive to ask for unofficial fees. Yet another 15% would like to see the imports of capital equipment and machinery cleared by a private organization. Others stated that reducing the number of officials involved in the clearance process would improve the situation.

Obstacles in dealing with the agency

The major concerns with the agency, as expressed by the respondents, which lead to increased processing time and costs, include the long

inspection time to clear any consignment, the volume of necessary paperwork, and the number of required signatures (an average of 24 signatures are required). 90% of the service providers believed unofficial fees, various forms of corruption such as misclassification and code variation, and inefficiency of customs officials were obstacles in dealing with customs authorities.

Specific recommendation to improve customs clearance process

When asked for a specific recommendation to improve the customs clearance process, 25% of the respondents felt there should be a separate area within the customs for clearing imports of capital equipment and machinery, 20% wanted to see a reduction in the volume of paperwork, and another 20% were in favor of making the “One Stop” service more effective.

Recommendations by head of the agency or responsible officer

During the process mapping, the agency officials listed poor human resource quality as a key weakness at the institution. Agency officials indicated that capacity building activities are required to increase the quality of the C&F Agents as well as the inspectors and superintendents. The quality of the inspectors and superintendents are extremely critical to the process, since the senior officers reach their decisions and make approvals based upon the inspection and appraisal reports of these officers.

Much of the inspection and appraisal work allows for significant discretionary power of the examination and assessment teams, and therefore, to increase transparency and accountability in the process, the agency has in place three separate teams to act as check and balance in the system. Also, according to agency officials an increase in the number of senior officers could ensure that the internal controls in place were better enforced.

To expedite the process further the agency officials stated that an on-line network connecting the customs station with the lien banks through a central database at the Bangladesh Bank would enable them to verify the submitted documents faster. Currently, there is no such mechanism in

place and therefore the physical inspections carried out at the customs stations are the only means of verifying the imported items.

Recommendations from the focus group discussion

Participants at the focus group discussion (FGD) were in agreement that the capital clearance process was complex and needs simplification. While C&F agents have to be used because of the complexity of the process, many expressed the view that not all C&F agents are fully aware of all the laws and rules governing the procedure. There is room for capacity building of the C&F agents, and a need to better regulate the C&F licensing process. Also, due to strict requirements within the law, significant delays occur in the process steps that leave room for corruption. Only through reducing the discretionary power of the officials, can the corruption be managed. At the FGD, some concerns were also raised regarding the spare parts imports.

Summary Analysis

The above synopsis describes and details the capital machinery and equipment clearance process at the custom houses in Bangladesh and highlights key barriers to smooth delivery of service to importers. It is critical that an efficient and transparent delivery of service is ensured at this agency, since every investor setting up a manufacturing unit in Bangladesh has to go through this process. A quicker and effective customs clearance process can decrease the cost to the investor, and encouraging more investors to invest in Bangladesh.

An interesting feature that seems to stand out from the descriptive summary is the fact that, the government, in its efforts to make the process easier for importers, and remove ambiguity in interpretation, has put in place numerous regulations particular to specific types of industries and imports. Rather than facilitating imports, these regulations have had an opposite effect. Almost all the stakeholders outside the government were of the view that the process can be extremely cumbersome and confusing.

One example of a poor law with good intention are the two tables in SRO 164 which list HS codes for capital machinery and equipment, and spare parts. The tables are not comprehensive so even a 100% export-oriented company bringing in machinery eligible for the duty holiday, but not listed

in the SRO, face difficulties obtaining the duty holiday to which they are entitled.

Of the six targeted processes included in the ABR study, the customs clearance process is unique in that it is the only process which directly sanctions and requires the appointment of service providers. C&F Agents can only represent the importers at the customs houses. Through an examination process, these C&F Agents are granted licenses by NBR to facilitate the customs clearance process. According to all the stakeholders, there is room to improve the capacity and skills of these agents, so that they can better serve the interests of the clients.

In terms of total cost incurred by importers, while the official fees were negligible, the fee for the service providers and the unofficial payments were quite significant. The fee for the service providers was relatively quite high (greater than 75% of the total cost).

A majority of the respondents felt that there was no scope to reduce the amount of documentations that has to be submitted. According to them, the required documents submitted are fairly standard for any company importing such machinery and therefore there is no added difficulty in providing the same.

According to agency officials on average it takes around three days to process and clear capital machinery. The survey data indicated that the average number of days taken at the agency is closer to five for 100% export-oriented companies and six for the others. Most of the stakeholders felt there was room to improve the processing time. According to the respondents, the government should put in place time directives regarding the processing and clearance steps. Failure to adhere to these set guidelines should be made punishable.

A key area of concern for importers in the capital machinery clearance process appears to be the discretionary power of officers during the inspection and assessment process. Complexity of rules and procedures leads to a wide range of functions of the customs agents, which works in favor of corrupt officials who can make it difficult for customers. Corrupt officers can exercise their discretionary power to extort bribes from importers in several ways including delay, false valuation, and misclassification. A threat of high valuation or adverse classification enables the corrupt official to extort bribes from importers.

In some cases, unscrupulous importers are complicit in the process and pay bribes for a more favorable classification and mis-declaration of quality or quantity. Also, complicity among the importer, exporter, and customs agent makes it possible to set the invoice amount to a suitably low value and thereby evade customs duties. In the absence of a well-designed database and transaction processing system in the customs department, accurate, rational, and consistent application of these rules and customs tax codes are nearly impossible.

The survey respondents reported that unofficial payments had to be made 100% of the time to clear capital machinery through customs. The unofficial fee paid on average was higher for companies clearing capital machinery for local industries. This is not surprising given that the companies with a domestic focus have to pay duty, and it is in their interest to make unofficial payments to the customs officials in order to obtain a more favorable duty assessment.

To address the issue of unofficial payments, the agency officials indicated that they had put in place three different sets of team to act as check and balance within the system. However, according to the other stakeholders, these teams add to the problem, since payments have to be made to each of the teams.

Of the total 64 staff working at the ICD Kamalapur facility in Dhaka, only seven are first class officers. While the data covers only one customs house, it is representative of the other customs facilities throughout the country. Overall, there is a clear need for reorganization at the agency to ensure there are more professional officers overseeing the process and therefore be in a position to effectively monitor and enforce the internal controls in place to increase better transparency and accountability in the operations of the agency, particularly in its dealings with the clients.

4 Location Clearance Certificate and Environmental Clearance Certificate

Introduction

The Location Clearance Certificate (LCC) together with the Environmental Clearance Certificate (ECC) aims to maintain ecological balance and overall development through protection and improvement of the environment. A Location Clearance Certificate (LCC) is required by the Bangladesh government for industrial units and projects to ensure proper conservation and management of the environment. The LCC ensures that industrial development does not take place in an unplanned manner. Only after an LCC has been obtained, the entrepreneur can undertake land development and infrastructure development for the proposed industry/project. An ECC certifies the physical implementation of effluent and other environmental management systems.

Under Section 12 of the Bangladesh Environment Conservation Act 1995 (ECA 1995), no industrial unit or project can be established or undertaken without obtaining an ECC from the Department of Environment (DOE). The ECC ensures that the industry/project meets all the prescribed standards set by the Bangladesh Government in terms of the quality standards of air, water, noise, odor and other environmental components. These standards complement those stipulated by the Factories Act 1965, which provides for controls of the internal environment of factories and industries.

While industrial units and projects falling only under the Orange A, Orange B, and Red categories are required to obtain a LCC, an ECC is required for all industrial units and projects. Existing industries and projects before the promulgation of the law are not required to obtain an LCC.

Text Box 1: Industry/Project Categories

The Environmental Conservation Rules 1997 (“ECR 1997”) categorizes all the projects and industries in Bangladesh into 4 groups:

| | Industry/Project Categories | LCC required | ECC required |
|------|-----------------------------|--------------|--------------|
| i. | Green | No | X |
| ii. | Orange A | X | X |
| iii. | Orange B | X | X |
| iv. | Red | X | X |

However, these entities are required to file for an ECC.

The Department of Environment (DoE) under the Ministry of Environment and Forests is the lead agency of the government responsible for issuing LCCs and ECCs. The Environment Policy, 1992 and Implementation Program is the key legislation that provides the legal mandate for the two processes. In addition, the Bangladesh Environment Conservation Act, 1995, the Environment Conservation Rules, 1997; and the Environment Court Act, 2000, are the key acts and rules that govern the process. Also, several Statutory Regulatory Orders (SROs) have been published periodically to complement the legislation in place.¹

Table 1 details the staff strength of the DoE. The table highlights the vacancies of senior officials post at the DoE, which adds to the delay at the agency in processing applications.

Table 1: Staff Strength for the DoE

| | Dhaka Office | | Total DoE Office | |
|-------------------|-----------------------------|--------------------|-----------------------------|--------------------|
| | First Class Officers | Total Staff | First Class Officers | Total Staff |
| Sanctioned | 29 | 42 | 74 | 244 |
| Actual | 8 | 26 | 44 | 168 |

LCC and ECC Process Synopsis

Location Clearance Certificate (LCC)

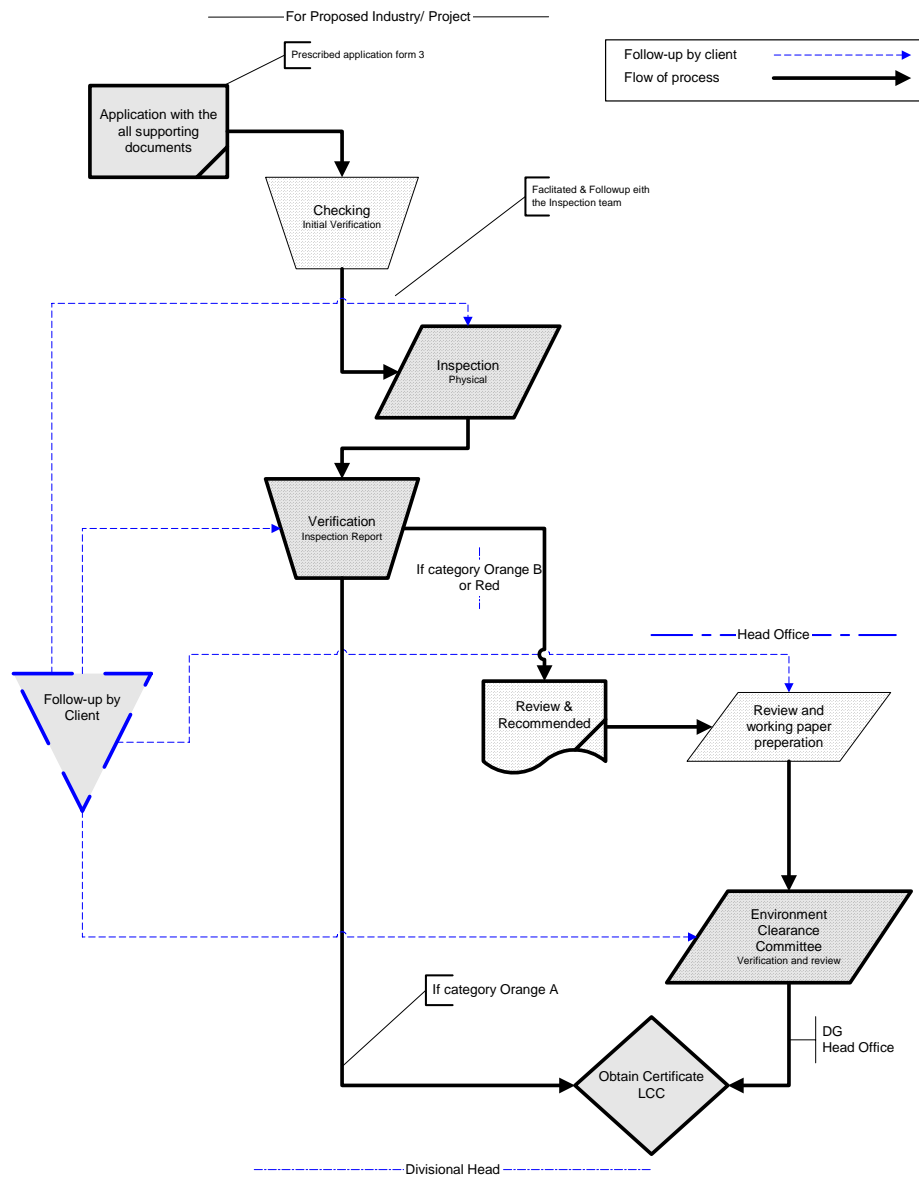
DoE offices in each of the six divisions of the country receive applications and issues LCCs and ECCs for industries/projects in that particular division. LCC applications have to be submitted in a prescribed application form along with the required supporting documents. There are six to twelve required supporting documents, depending on the industry. The divisional office verifies the submitted documents and if the application is deemed complete, a file is opened against the application. The file is next sent to the divisional head, who assigns the file to an Inspector or a Class 1 officer for inspection, which usually takes five to seven days. The inspection report submitted by the assigned Inspector

¹ During the period, 1995-2003, 30 SROs have been issued which have been compiled in “A Compilation of Environmental Laws of Bangladesh administered by the Department of Environment”. Subsequent SROs issued are available at the DoE Library.

carries a significant weight in the LCC approval determination. However, DoE has only eight inspectors all over the country, and therefore, it can take some time before actual inspections can be carried out.

If the industry/project falls under the Orange A category, the divisional head makes a decision within three days of receiving the inspection report. Files for LCC applications under the Orange-B and Red category are forwarded for further investigation and review to a Senior Chemist/Assistant Director. The applications are then forwarded by the divisional office for final review and approval from the Environmental Clearance Committee (ECC), which meets twice a month at the DoE Head Office in Dhaka. The recommendation of the ECC is forwarded to the Director General of DoE, who gives the final approval. In special cases the DG may directly issue a LCC, upon receiving application from the entrepreneur, if he considers it appropriate.

Chart 1: Flowchart of the LCC process



Environmental Clearance Certificate (ECC)

Similar to a LCC application, ECC applications have to be submitted at the DOE divisional office in a prescribed application form along with the required supporting documents. For a proposed industry/project, the applicant needs to first apply for a LCC. However, the scheduled fee for the ECC has to be deposited along with the LCC application. Once the LCC is approved, the applicant can undertake land and infrastructure development at the proposed site.

Text Box 2: The Environmental Clearance Committee (ECC)

The ECC is an eight-member committee

Chair: Director Technical 2

Members:

Deputy Director for Implementation, Planning

Deputy Director Natural Resource Management,

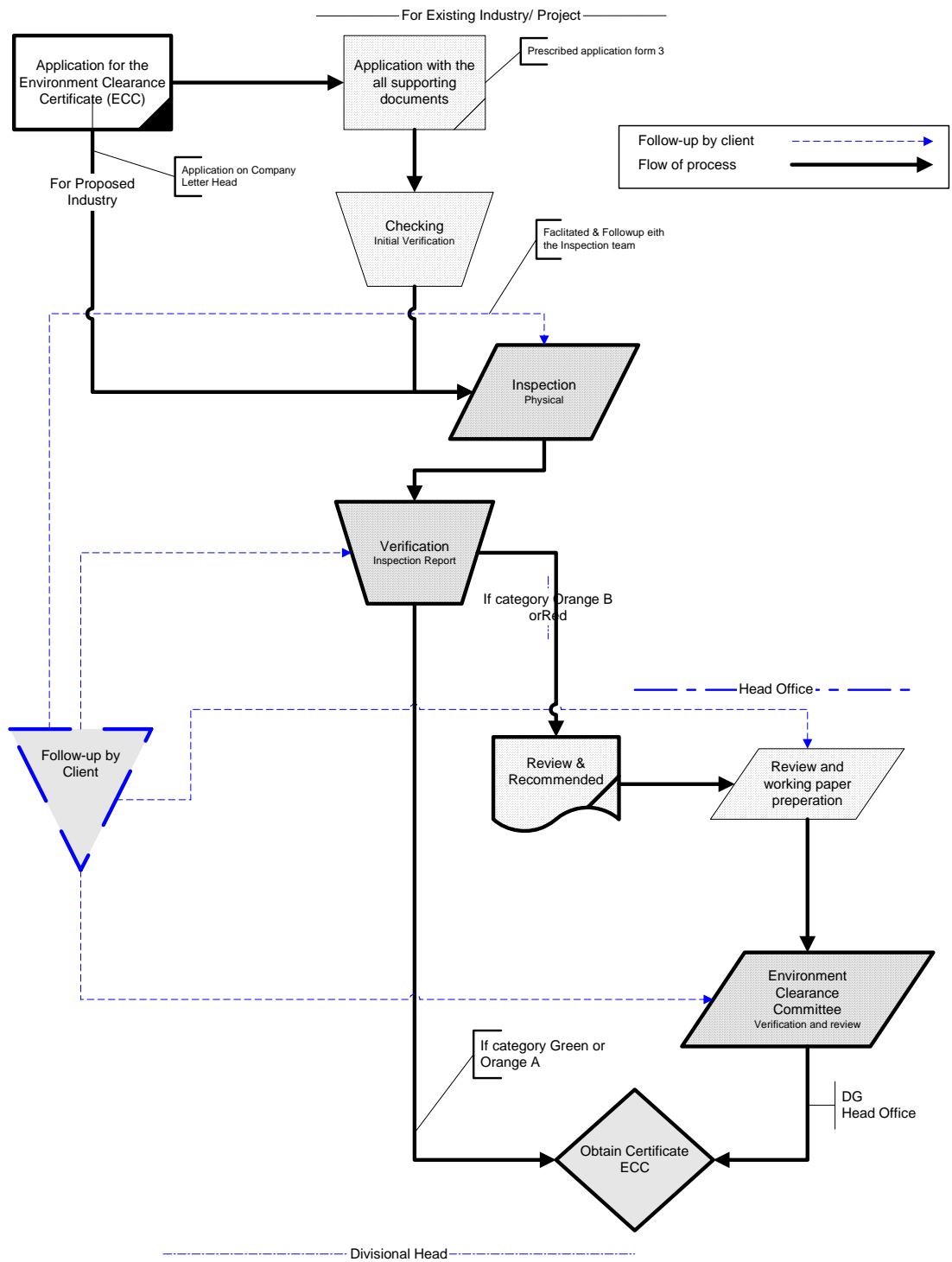
Deputy Director Research

Deputy Director Environmental Clearance

Deputy Director Dhaka Division

Research Officer/Assistant Director Technical
(serves as the member secretary to the Committee)

Chart 2: Flowchart of the ECC process



For Orange B and Red categories, once the applicant has the Environment Impact Assessment (EIA) approved, s/he can then open Letters of Credit for import of machinery including that for the Effluent Treatment Plant (ETP). Once the ETP is installed s/he should then apply for the ECC without which the applicant cannot commence trial production. The maximum processing time allowed under the law once a complete application is submitted is 30 working days.

Four to ten required supporting documents need to be submitted along with an ECC application, depending on the industry/project category. The divisional office verifies the submitted documents and if the application is deemed complete, a file is opened against the application. The file is next sent to the divisional head, who assigns the file to an inspector for inspection. In theory, the inspector has five to seven days to submit an inspection report.

If the industry/project falls under the Green or Orange A category, the divisional head makes a decision within three days of receiving the inspection report. Files for ECC applications under the Orange B and Red category are forwarded for further investigation and review to a Senior Chemist/Assistant Director. The applications are then forwarded by the divisional office for final review and approval from the Environmental Clearance Committee (ECC), which meets twice a month at the DoE Head Office in Dhaka. The recommendation of the ECC is forwarded to the Director General of DoE, who gives the final approval.

Number of documents required

The survey was administered among service providers who were selected from a list obtained from the DoE. Although DoE provided a list of service providers, there is no formal certification of service providers for the LCC/ECC processes. In total 13 service providers were surveyed for the LCC process and 14 for the ECC process. Tables 2 and 3 summarize the weighted average, minimum and maximum number of documents submitted for each of the categories.

| Table 2: Number of documents submitted for LCC | | | |
|--|----------|----------|-----|
| | Orange A | Orange B | Red |
| Average (weighted) | 9 | 9 | 10 |
| Minimum | 6 | 7 | 7 |
| Maximum | 10 | 12 | 13 |

| Table 3: Number of documents submitted to process ECC | | | | |
|---|-------|----------|----------|-----|
| | Green | Orange A | Orange B | Red |
| Average (weighted) | 8 | 10 | 10 | 10 |
| Minimum | 6 | 6 | 7 | 8 |
| Maximum | 10 | 11 | 12 | 14 |

As can be seen, the required supporting documents vary depending on the category under which the industry/project is grouped. For LCC, the overall average documents required for **Orange A** and **Orange B** categories was nine, and for the **Red** category it was ten. For ECC, the overall average documents required for **Green** category was eight, while for **Orange A**, **Orange B**, and **Red** categories it was ten.

Scope to reduce paperwork

A majority (57%) of the respondents felt that the amount of paperwork involved was adequate for both the processes. The most frequently stated document that could be eliminated was the “no objection certificate from local authority” for both the processes and the *Mouza* Map for the LCC process.

Time to process a LCC and ECC

The maximum processing time under the law for a LCC is 30 days. According to DoE, on average it takes 28 days to process a LCC. Also, at the Dhaka office, where most ECCs are issued by the DOE, on average it takes 28 working days to issue an ECC.

Table 4 summarizes the time taken to process a LCC as reported by survey respondents. In the table total time taken to process an application is broken into time taken by service provider prior to submitting the

application and time taken by the agency after receiving the application. For **Orange A** category, **average agency** time was 18 days; **Orange B** category was 42 days; and for the **Red** category, the **average agency** time was 64 days.

| Table 4: Time taken by service providers and agency to process a LCC | | | | | | | | | |
|---|----------|--------|-----------|----------|--------|------------|----------|--------|------------|
| Number of working days | Orange A | | | Orange B | | | Red | | |
| | Provider | Agency | Total | Provider | Agency | Total | Provider | Agency | Total |
| Average (weighted) | 2 | 18 | 20 | 11 | 42 | 53 | 29 | 64 | 93 |
| Minimum | 1 | 10 | 11 | 1 | 5 | 6 | 7 | 10 | 17 |
| Maximum | 7 | 30 | 37 | 30 | 180 | 210 | 120 | 180 | 300 |

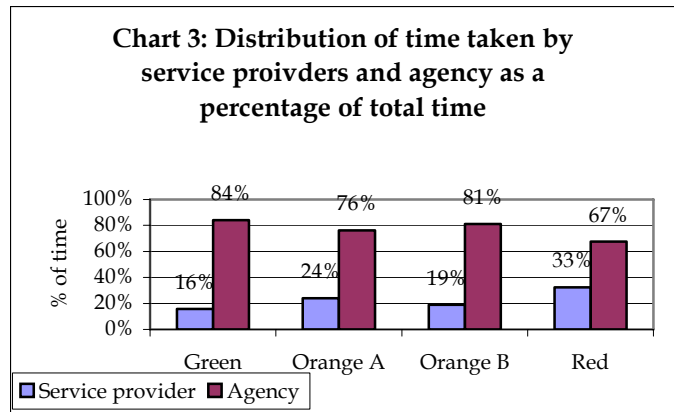
Table 5 summarizes the breakdown of time taken by service providers and the agency as a percentage of total time. Time taken by service providers increased substantially from Orange A to Red, as they needed more preparation time due to the complexities of application.

| Table 5: Distribution of service provider and agency times for a LCC | | | |
|---|-------------|-------------|-------------|
| | Orange A | Orange B | Red |
| Service Provider | 11% | 21% | 32% |
| Agency | 89% | 79% | 68% |
| Total | 100% | 100% | 100% |

Table 6 summarizes the time taken to process an ECC application. On average, it took around 20 days to process and obtain an ECC for the **Green and Orange A** categories. Orange B reportedly took on average 64 days, and about 105 days for category Red project.

| Table 6: Time taken by service providers and agency to process ECC (days) | | | | | | | | | | | | |
|---|----------|--------|-------|----------|--------|-------|----------|--------|-------|----------|--------|-------|
| Number of working days | Green | | | Orange A | | | Orange B | | | Red | | |
| | Provider | Agency | Total | Provider | Agency | Total | Provider | Agency | Total | Provider | Agency | Total |
| Average (weighted) | 3 | 16 | 19 | 5 | 16 | 21 | 12 | 52 | 64 | 34 | 71 | 105 |
| Minimum | 1 | 10 | 11 | 1 | 15 | 16 | 1 | 30 | 31 | 7 | 20 | 27 |
| Maximum | 10 | 25 | 35 | 10 | 25 | 35 | 60 | 180 | 240 | 120 | 300 | 420 |

DOE took 76% to 84% of the average total time to process Green, Orange A and Orange B applications but service providers took twice as long to process Red category ECC applications relative to Green category ECC applications.



Scope to lower process time

All the respondents expressed the view that there was significant scope to lower processing time for both LCCs and ECCs. Suggestions to improve processing time for both the certificate include more number of inspectors, a separate division or unit within the environmental agency to process the applications, more frequent technical committee meetings (weekly) and automation of the process.

Cost borne by client to obtain an ECC

In the survey, the total cost for processing a claim includes official fees, fees of service providers and unofficial fees. Table 7 summarizes the

weighted average, minimum and maximum fees paid in official, unofficial and to service providers.

| Table 7: Total reported cost to process a LCC (Taka) | | | |
|---|-----------------|-----------------|------------|
| | Orange A | Orange B | Red |
| Average (weighted) | 13,087 | 44,361 | 530,585 |
| Minimum | 9,500 | 23,000 | 25,000 |
| Maximum | 25,000 | 170,000 | 6,300,000 |

Table 8 shows the breakdown of the fees as a percentage of the overall fees. As seen in the table the fees paid to service providers make up for the large part of the cost.

| Table 8: Breakdown of fees as a percentage of total fees for a LCC | | | |
|---|-----------------|-----------------|------------|
| | Orange A | Orange B | Red |
| Official | 22% | 22% | 5% |
| Service Provider | 78% | 55% | 89% |
| Unofficial | 0% | 22% | 5% |
| | 100% | 100% | 100% |

Table 9 summarizes the weighted average, minimum and maximum fees paid in official, unofficial and to service providers. It took an average of Tk. 10,438 to process a Green category application while the average total fee was Tk. 585,268² for a Red category application. Official fees are calculated at DoE on the basis of the value of the project, which is the stated value of the project when the business registers with Board of Investment (BOI).

| Table 9: Total reported cost to process an ECC (Taka) | | | | |
|--|--------------|-----------------|-----------------|------------|
| | Green | Orange A | Orange B | Red |
| Average (weighted) | 10,438 | 13,414 | 44,561 | 585,268 |
| Minimum | 7,500 | 9,500 | 23,000 | 30,000 |
| Maximum | 20,000 | 25,000 | 170,000 | 6,300,000 |

² Data is skewed due to two large client fees

Table 10 shows the breakdown of the fees as a percentage of the total cost. In the **Green** and **Orange A** categories, total cost was attributed to just official and fees of service providers due to lack of positive responses in unofficial fees. In **Orange B** category, unofficial fees were around 22% of total costs. The unofficial fee in **Red** was around 5%, which still amounted to Tk. 27,824 and fees of service providers' represented 90% of the total cost since there were three large client fees, two of each were Tk. 1,000,000, which skewed the data.

| Table 10: Breakdown of fees as a % of total cost in ECC | | | | |
|--|--------------|-----------------|-----------------|-------------|
| | Green | Orange A | Orange B | Red |
| Official Fees | 15% | 21% | 22% | 5% |
| Fees of service providers | 85% | 79% | 56% | 90% |
| Unofficial fees | 0% | 0% | 22% | 5% |
| Total | 100% | 100% | 100% | 100% |

The respondents were not very forthcoming when reporting the amount paid as unofficial fees. Also, according to them the incidence of unofficial payments was less than 50%.

It was only in the **Orange B** and **Red** categories that unofficial payment were paid and when paid it ranged up to taka 200,000.

Specific recommendation to lower unofficial fees

Suggestions of the respondents to lower unofficial payments at the agency include strict monitoring and enforcement of internal controls and standards. A majority of the respondents wanted to see more accountability and transparency at the agency. In addition they indicated they would like to see restructuring of the agency with increased salaries of agency officials.

Specific recommendation to improve LCC and ECC processes at DOE

100% of the respondents stated shortage of manpower at agency led to higher process time and at times had also contributed to paying higher unofficial fees to expedite the process. Lack of manpower and the

associated delays and costs was considered to be a “very severe” problem. Other problems cited by service providers included: payment of unofficial fees and the volume of paperwork and documentation. The logical solution to these problems would, on the surface, be an increase in manpower.

Recommendation by the head of the agency or responsible officer

During the process mapping, the agency officials cited that lack of manpower at all levels of the agency adds to the delay in the processing. Not only does the agency need more skilled inspectors at the field level, but also it needs to fill the vacant senior officer positions at agency. Other concerns of the officials include the need to strengthen the law to allow for a summary trial with instant penalty in instances of abuse or non-compliance with the LCC and ECC certifications.

Recommendations from the focus group discussion

Participants at the focus group discussion (FGD) were very critical of the process as it currently stands and noted that the process was not clear to the clients. They expressed a need for information regarding the prerequisite documents and process steps should be made available to all. In addition, they stated that classification categories are not rational and noted that several steps, for instance the presentation on the Initial Environmental Examination (IEE), should not be required.

According to the participants, inadequate resources or staff compounds the problem and adds to the delay. They opined that the process was not time- or schedule-bound, and that there should be a mechanism to provide clients with feedback on application errors or missing paperwork shortly after submission of the applications.

As a possible solution, participants suggested some of the application processing, primarily inspections, should be outsourced to the private sector, with a strong independent authority in place to monitor fairness and provision of service. As an option to reduce the corruption associated with the process, it was suggested that violators from the private sector should be exposed to the public. In addition, the government should also

consider appointing an independent watchdog to monitor environmental offenders.

Summary Analysis

The above synopsis describes and details the location clearance and environmental clearance certification process at the DoE and highlights key areas of concern that act as barriers to a smooth delivery of service to applicants. While these certificates are important for good environmental management and preservation, it is obvious that the processes are not functioning at the desired level of efficiency.

Inadequate manpower, both in terms of inspectors and technically trained officers, adds delays in the processing of the certificates. Evidence suggests that the time taken to physically inspect a facility and then turn in an inspection report is particularly time consuming inside the DoE. Given the limited number of inspectors for the applications received, there is likely room for both an increase in manpower and improvements in the efficiency and efficacy of inspections. Some further analysis of the institutional structure and process may be warranted.

Particularly in the area of environmental management, a focus on results, in the form of environmental accidents, violations, and compliance is the most effective way to achieve the agency's stated objectives. The application and inspection process could be evaluated based on the final environmental affect. Application of a results-based system could influence industry/project categories, different levels of inspections, evaluation of inspectors, and final approval decisions. At present the focus of the agency appears to be on the application process; there are a number of weaknesses in the enforcement of the regulations, partly due to the existing legal framework but also due to lack of manpower and capacity to enforce the existing laws.

One effect of the weak enforcement system is that a good number of industries are operating without such certificates, even though all industries are required by the law to obtain these certifications. Additional manpower along with changes in the law with stricter provisions for dealing with violators need to be added for greater enforcement of the law. DoE also needs better logistical support to enable them to perform their duties more efficiently and effectively.

Outsourcing some of the processing and/or inspection steps was suggested by the FGD participants to address the resource constraints at DoE. A system in which private agencies would be certified to carry out inspections could specifically reduce the delay in that part of the application process. Certified inspectors should be technical certified but also be required to abide by a strict code of conduct. Inspection agencies, employees, and affiliates should not be allowed to provide any related services to LCC/ECC applicants before, during, or after the application process. Outsourcing could not solve the entire problems in application processes, since the DoE would still require greater capacity to undertake the technical analysis and preparation of briefs/ recommendations for the Environmental Clearance Committee.

In contrast to the other processes investigated in the ABR study, the unofficial payments for ECC/LCC were very low and payments to service providers comprised a majority of the total payment. Given that service providers are neither certified by DoE nor are strictly required in the process, this finding raises some questions. Why do applicants use service providers? What services do they provide? It is unlikely that the service providers provide technical advice, so their role is primarily process-oriented. Are significant amounts of unofficial payments channeled through service providers? One possible explanation for the use of service providers is the lack of information and data about the process and requirements, as expressed by the FGD participants. However, the lack of application information does not explain the high fees paid to service providers. A focus on accountability and transparency at the agency level is, of course, warranted, but there should be some accountability at the service provider level as well.

In administrative processes like the ECC/LCC that do not require the use of a service provider, the methodology of using a service provider survey may provide skewed data by self-selecting applicants that have not properly prepared the necessary documents and environment mitigation systems. That is, potential violators are likely to use service providers and therefore to pay higher fees to service providers to ensure success.

A fundamental weakness in the certification processes is the lack of available land zoned for industrial and commercial purposes. This is especially true in developed urban areas particularly around Dhaka. Neither an LCC nor an ECC can be legally granted to an industry/project located on land not zoned for that purpose. That is, an industrial project located in an area zoned as commercial could not legally obtain either certificate. This problem is further complicated by the fact that industries

established before the promulgation of the law were not required to have an LCC but now have to obtain an ECC annually. It is therefore impossible for some industries to legally obtain an ECC in their current location, even if their environmental mitigation systems are in place.

5 Foreign Loan Documentation Process

Introduction

Any private enterprise, whether foreign, joint-venture or local, wishing to obtain a loan from abroad, with a repayment period greater than one year, must obtain a loan pre-approval from the Government of Bangladesh. While the actual loan pre-approval decision is made by the high-level Scrutiny Committee, chaired and convened by the Governor, Bangladesh Bank, all filing and paperwork has to be completed by the interested party with the Board of Investment (BOI). Two officers of the Bangladesh Bank, deputed to the BOI foreign loan documentation section, are responsible for processing, vetting and preparing briefs for each application that is received. These officers report to the BOI Registration and Investment 1 (R&I 1) Director, who is responsible for the foreign loan documentation section.

The Foreign Exchange Regulation Act 1947 and the BOI Act 1989 are the key laws and regulations in place that provide the guideline for the process. Special directives issued intermittently, such as AMO/AB/Shochib/98/(2) 18/03/1999, govern the workings of the process. Under the provisions of the Foreign Exchange Regulation Act, 1947, to be read with paragraph 1 of Chapter 23 of the Guidelines for Foreign Exchange Transactions issued by the Bangladesh Bank, industrial enterprises in the private sector may, without prior approval from the Bangladesh Bank or BOI, enter into supplier's credit and other foreign currency loan contracts with lenders abroad if the effective rate of interest does not exceed LIBOR + 4%, if the repayment period is not less than 7 years, and if any down-payment is not more than 10%. However, borrowing from abroad by public sector entities requires approval of the Government and also specific approval of the Hard Term Loan Committee (otherwise known as the Scrutiny Committee).

In practice though, BOI requires the filing of loan agreements for prior approval in all cases of foreign borrowings, within or outside the parameters specified in the guidelines.

Table 1 details the number of loan pre-approvals granted and rejected at BOI over the last two years.

Table 1: Number of loan pre-approvals granted and rejected by the Scrutiny Committee (As of July 2005)

| | Applications received | Approvals granted | Applications rejected |
|--------------|------------------------------|--------------------------|------------------------------|
| 2005 | 17 | 16 | 1 |
| 2004 | 15 | 13 | 2 |
| TOTAL | 32 | 29 | 3 |

Foreign Loan Documentation Procedure

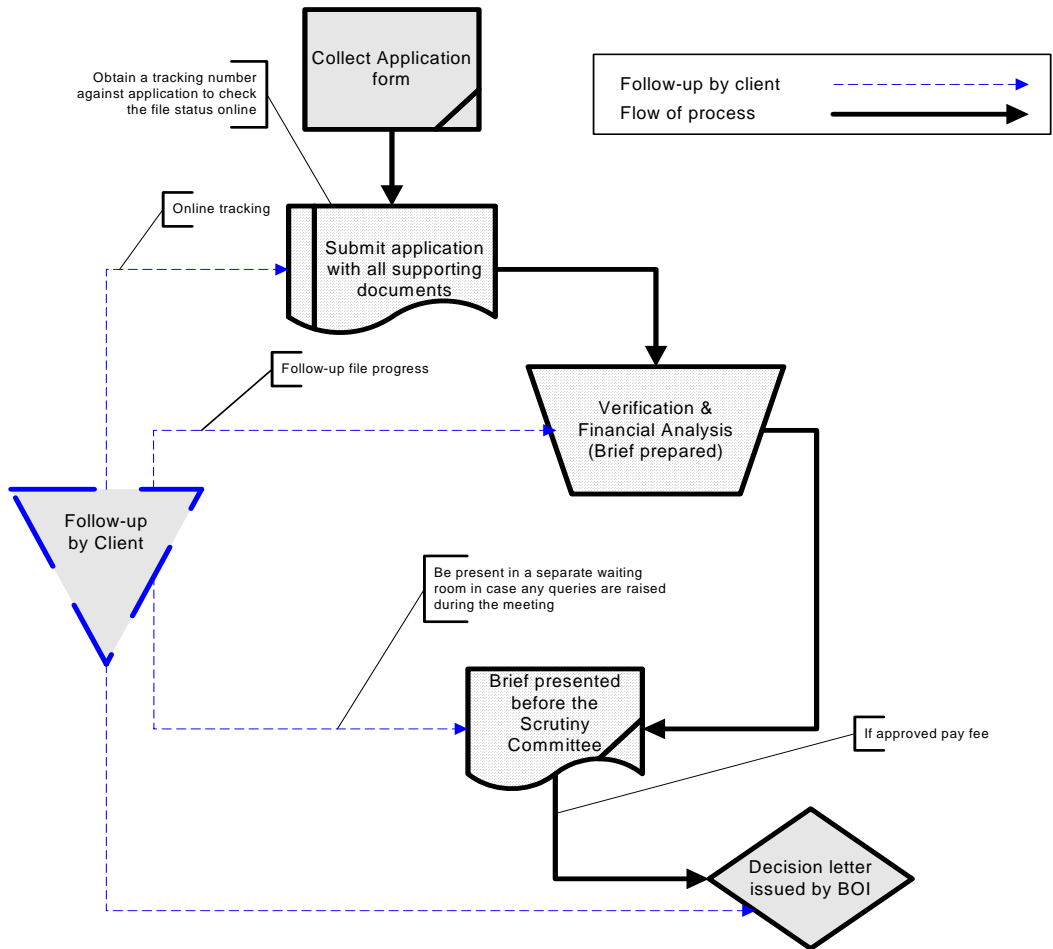
Applicants interested in obtaining capital from abroad, are required to submit their pre-loan application to the BOI office. In order to be eligible the business must already be registered with the BOI. The application has to be submitted in a prescribed form which can be collected from BOI along with a checklist of required supporting documents. BOI assigns a tracking number to each application it receives, which the applicant can use to track on-line the progress of the file at BOI. Once a complete application is received by BOI, the application is reviewed and undergoes technical and financial analysis. In case of incomplete applications, written reminders are sent to the applicant after 15 days of submission of the application. Also, further reminders are sent closer to the Scrutiny Committee meeting date.

Text Box 1: The Scrutiny Committee

Chair: Governor, Bangladesh Bank
Members (Senior-level representatives from):

- Ministry of Finance
- Ministry of Commerce
- Ministry of Industries
- Director General, Prime Minister's Office
- BOI (no less than a Member)

Chart 2: Flowchart of the Foreign Loan Documentation Process



Briefs are prepared for all applications received. On average, it takes about seven working days to review each application. According to the Bangladesh Bank officers at BOI, the terms and conditions of the foreign borrowing is the single most important document that is reviewed. Once a number of applications are processed a request letter is sent to the Governor from the Member/Director (R&I 1) to convene the Scrutiny Committee meeting.

At the Scrutiny Committee meeting, the prepared briefs are presented before the Committee, which accordingly reaches a decision. During the meeting, applicants are requested to be present in a separate waiting room, in case any queries are raised regarding their application. Other than a yes

or a no decision, sometimes the Committee grants conditional approvals. If the conditions are fulfilled within the stipulated time, the decision can be deemed permanent without having to revert to the Committee again. Once the loan pre-approval application is approved, the applicant has to deposit the scheduled fee through a Bangladesh Bank *challan* before obtaining a copy of the decision letter from BOI.

Time taken to complete foreign loan documentation

Since no list of service providers was available, the survey was administered amongst 11 companies that had recently applied for the foreign loan pre-approval. Table 2 summarizes the average, minimum and maximum time taken to complete the foreign loan documentation process. According to the survey respondents on average the process took almost six and half months to complete.

| | Average | Min | Max |
|-------------|----------------|------------|------------|
| Total time | 199 | 100 | 280 |
| Agency time | 175 | 90 | 270 |

Scope to reduce process time

All the respondents felt that the process time could be reduced by an average of 129 days (65% of the current average processing time.) According to the respondents, the principal cause of delay is the infrequent meeting of the Scrutiny Committee. Because the committee is composed of senior government officials, it is extremely difficult to set a time that is convenient to all. Some of the respondents added that the loan pre-approval decisions could be delegated to junior officers depending on the size of the loan.

Cost to complete foreign loan documentation

Table 4 summarizes the average, minimum and maximum payments made by the respondent to complete the foreign loan documentation process. Breakdown of cost borne includes official fees and gifts/unofficial payments made. 72% of the respondents indicated that they had given gifts/unofficial payments to agency officials. The average amount of such a gift/payment was Tk 63,571.

| Table 4: Cost to complete foreign loan documentation (Taka) | | | |
|--|----------------|------------|------------|
| | Average | Min | Max |
| Official fees | 50,909 | 10,000 | 200,000 |
| Gifts/ unofficial payments | 63,571 | 5,000 | 200,000 |
| Total | 114,480 | 15,000 | 400,000 |

Obstacles in dealing with foreign loan documentation authorities

The key concern with the process, as reported by 91% of the respondents, was the fact that the Scrutiny Committee does not meet more regularly, which adds to the delay. The same respondents also reported that they found the process to be extremely confusing. In addition, the respondents were of the opinion that there is poor coordination between BOI and the Bangladesh Bank (BB).

Many of the respondents felt that the process was cumbersome and was inefficiently handled by BOI and/or the BB officials, and complained about the volume of paperwork that is required to be submitted. Since neither BOI nor BB undertakes any responsibility to service the loan in case of default, many wondered, “Why do they need so many documents?”

Specific recommendation to improve the foreign loan documentation process

All the respondents would like to see the time taken to process the applications reduced. The interest amount accrues on the loan as the companies wait more than six months to hear from the loan scrutiny committee. Also, the terms of the loan can change and may have to be re-written.

In future, the companies would also like to receive better guidance on applicable regulations and documents required, as well as better co-operation from the agencies and between BOI and BB.

Recommendation by head of agency or responsible officer

Often part of the delay in processing is due to the applicants' failure to submit a complete application. According to the agency officials, analysis of the applications can take place only after a complete set of application is received along with all required supporting documents. The officials stated that to date the agency is yet to receive an application complete with all the required documents, and therefore the officers have to do constant follow-up with the applicants in order to complete the file before the actual processing can be initiated.

Other recommendations from the agency to improve the existing process include more capacity building of the staff to enable them to conduct better technical and financial analysis, acquisition of computers to enable them to perform the analysis more efficiently, and clear delineation of roles between the BB and BOI. Currently, all analysis is performed with hand-held calculators.

Recommendation from the focus group discussion

Participants at the focus group discussion (FGD) identified the lack of communication and coordination between BB and BOI as a key concern with the process. They felt that the process needs to be more customer-friendly and transparent, with detailed guidelines from the agency on the evaluation criteria, and on the required supporting documents and the format in which they are required to be filed. Also, according to them, a speedy initial assessment to determine if the application merits further review could expedite the processing, and thus enable the business to plan better. In addition, the communication between all relevant stakeholders should be enhanced and streamlined. Most importantly, the process should be time-bound.

At another level, the participants suggested that part of the decision making authority needs to be delegated from the high-level committee to less senior officers, by setting several foreign loan borrowing ranges. For example, the less senior officers should be authorized to approve some of the foreign loan documentation applications of lesser dollar value without having to revert to the Scrutiny Committee. The participants pointed out that the process as it currently functions outweighs the perceived benefits, and therefore should be eliminated.

Interestingly, at the FGD the participants expressed the view that to an extent they were satisfied with the application processing at BOI, but what was of concern was the processing at the Bangladesh Bank. However, review of the process clearly shows that there is no processing of foreign loan documentation at the Bangladesh Bank and everything is managed and coordinated at BOI. It is only the Scrutiny Committee Meeting that is convened by the Bangladesh Bank, but even then, that is done only after a request to convene a meeting is sent from BOI to the Bank. This misperception of the stakeholders suggests there is lack of clear understanding of the process among the stakeholders.

Summary Analysis

The above synopsis describes and details the foreign loan documentation process and highlights key concerns of the stakeholders as well of some of their suggested recommendations to improve the process. The importance of the process stems out of the fact that it is a government requirement on businesses in Bangladesh, with which they need to comply, in order for them to borrow capital from international financial markets. In Bangladesh, large project finance is not always possible from local sources due to unavailability of long-term funds. Currently, the maximum domestic loan available is for 5 years at 14-15% interest rates, which makes it difficult for anyone trying to set-up infrastructure for any kind of project. Until alternative domestic financing is available, it is critical that a smoother mechanism be in place that will enable entrepreneurs to have quick access to long term capital that is cheaper than what is available within the country.

The primary concern of all non-government stakeholders is the amount of time it takes to complete the foreign loan documentation process and the absence of any time directive in the processing time. The absence of regular meetings of the Scrutiny Committee was reported by many as the main cause for delay. Unless a meeting is convened and the brief discussed, applicants cannot be certain regarding the status of their application. Currently, the process is not time-bound and the average time to complete the process was found to be around six and half months.

The problem is further compounded by a lack of a clear guidance regarding the evaluation and decision-making process. Neither are guidelines available regarding an applicant's eligibility and disqualifying criteria. Applicants have no way of evaluating the merit of their

application till the matter has been decided upon by the Scrutiny Committee. There needs to be better communication between the agency and the applicants in this regard. A concern raised by participants at the FGD was that queries of the applicants often go answered at the agency. There needs to be more accountability and transparency introduced into the system. Making the minutes of the Scrutiny Committee public would greatly increase the transparency of the system, and could offer better guidance to the applicants regarding how the decision making system operates.

On the other hand, the international capital markets are extremely competitive and time sensitive. International creditors have their own processes and criteria for advancing loans and have their own deadlines. Four to nine months is too long a period for such financiers to hold large amounts of money without any assurances. Delay in the process increases the cost of funds. Also, the terms and conditions of borrowing are time sensitive and may change while the loan pre-approval application is pending decision of the Scrutiny Committee, which puts the local borrowers in double jeopardy. A change in the terms and conditions can result in voiding the decision of the Scrutiny Committee.

Part of the blame for the delay in processing, according to the agency officials, lies with the applicants. According to them, the actual processing cannot be started unless all the required documents are submitted along with an application. According to BOI, since the initiation of the process, not one application has been submitted that was complete with all the required supporting documents. This would seem to suggest that better guidelines need to be developed by the agency to aid the applicants with the application submission process, or reevaluate the need for the paperwork being requested.

Finally, the process as it is set-up is extremely inefficient and takes too long. It negates the advantage of foreign borrowing by increasing the cost of funds to the borrowers. Without well delineated guidelines it is ambiguous and confusing. The uncertainty regarding the time to process an application increases the associated risks. The process as it is almost appears to be in place to discourage foreign borrowing making large and important project difficult to implement.