

Impediments To Foreign Investment In Energy Sector

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In the present uncertainty over energy security, Bangladesh desperately needs free flow of foreign investment in almost all segments of the energy and power supply chain. Unfortunately, for sweeping changes in policies and strategies of the interim government since August 2024, a sense of insecurity and lack of confidence have developed among the prospective investors. The interim government did a commendable job in annulling the Speedy Power Supply Special Act 2010 and cancelled the BERC amendment for restoring the exclusive authority of the BERC for determination of power tariff and energy price. But at the same time, cancelling some signed contracts for energy supply infrastructure development and LOIs issued for utility scale solar power plants have created concerns among the policymakers about the stability and consistency of policies. Investors cannot make risk investments in an uncertain situation. They need consistent policies and stability in decision making. We have already seen that there was no response to PSC bidding for offshore exploration. We are unsure that there will be an encouraging response to BPDB's tender for utility scale solar power plant as well. Petrobangla may not also get good response from leading drilling companies when they go for tender for drilling at some structures in Chattogram Hill Tracts and later for onshore exploration. We want transparency and accountability in awarding contracts but at the same time we feel that circumstances and situations need to be considered while making sweeping changes as national energy security is extremely vulnerable as far as sustainable supply of primary fuel. Own proven gas

resources are alarmingly depleting. Bangladesh cannot go on paying huge subsidies to the power sector now relying over 50% on imported energy. The government still appears hesitant to take decisions on exploiting local coal resources. The energy adviser appears not to have the correct vision of Independent Power Policy for the private sector investment in power generation. Bangladesh must find a solution soon on how to relieve the power and energy sector of the huge subsidy burden and at the same time ensure supplying quality power and energy to all users at affordable cost. Foreign investors need assurance and guarantee that with change of government policies would not abruptly change. No one can risk investment in Bangladesh where return on investment is now uncertain. The government agencies have huge outstanding debts and there is no guarantee when these will be paid.

Independent Power Policy and IPPs

The Private Sector Power Policy was adopted in Bangladesh in 1996 and updated in 2004 mainly for attracting private sector investment in the cash-strapped Bangladesh power sector. The fact that Bangladesh could address the chronic power crisis of 1996 was mostly for the participation of private sector entrepreneurs under the policy. The initial IPP model of Bangladesh and first few well negotiated IPPs of the 1990s were acclaimed as trend setters regionally and internationally. Of course, overdoing that from 2010-2024 under Special Act 2010 has made IPPs a pain in the neck for the power sector. But for that there is no reason to blame the Private Sector Power Policy. It is the evil

mindset and misuse by the policymakers that led to the present situation. The policy assisted the emergence and growth of Bangladeshi private sector companies Like Summit Group, United, Energypac and others. Private sector now contributes 38% of the total power generation capacity. These companies provided jobs for many skilled and unskilled Bangladeshis. Hence it is not fair blaming squarely the IPPs and the provisions of private sector power policy.

Some of the provisions of the policy are mentioned below:

The Power Cell was created in 1995 with the mandate to lead private power development, recommend power sector reforms and restructuring, conduct study on tariffs and formulation of a regulatory framework for the power sector. The Power Cell was to facilitate all stages of promotion, development, implementation, commissioning and operations of private power generation projects and suitably address the concerns of project sponsors. It was meant to assist project sponsors to secure necessary consents and permits from GOB where such consents and permits were required. Government failed to develop Power Cell as a competent organization as the management was politicized.

Modality for Implementation of Private Sector Power Projects

Power Cell was designed to work as a single window of operation. It was meant to articulate and promote the private power policy of GOB and to solicit and evaluate proposals, negotiate and process award of contracts, and finalize various agreements related to

these projects. The Power Cell would also represent GOB's interest in private power projects.

Solicitation of Proposals: Independent Power Producers' (IPPs) projects were supposed to be implemented on a build-own-operate (BOO) basis. International solicitation for specific projects was to be processed by Power Cell. The pre-qualification of the bidders will be made through advertisements in the national and international press. The evaluation criteria for pre-qualification were to be given along with the pre-qualification documents to be issued to the intending bidders. The RFP (Request for Proposal) documents will be issued only to pre-qualified bidders. After final evaluation of commercial bids from pre-qualified sponsors these were to be ranked as per criteria set in the RFP. The first-ranked bidders were to be given a stipulated period to: (a) submit a performance guarantee and (b) reach financial closure. Failure to perform in either case will result in forfeiture of the guarantee, if any, and an invitation to the second-ranked bidder, under similar conditions.

Security Package: Implementation Agreement (IA), Power Purchase Agreement (PPA) and Fuel Supply Agreement (FSA) & Land Lease Agreement (LA) were prepared for private power projects to eliminate the need for protracted negotiations between GOB and Sponsors.

The Power Purchase Agreement (if executed by government agencies) was to be guaranteed by the GOB for performance obligations of the utilities concerned.

The above provisions are very much practiced in other countries. For an investor getting loans from any commercial banks a bankable document is required. IA, which includes among others government guarantees, is essential. We believe



investors will not get a loan for investment in Bangladesh if there is no IA in the policy document. This is where the present government has the wrong vision.

As far as transparency and accountability of the selection of entrepreneurs was concerned, the above provisions were standard. But virtually not much progress during 2001-2006 led to a diabolic power supply situation in 2008. The nation suffered from 8-10 hours of countrywide major load-shedding. The government enacted the Special Power Supply Act 2010 where entrepreneurs were engaged based on unsolicited bids and upon negotiation. Procurement Policy was bypassed. As a contingency strategy perhaps the government for a short time benefited from this. In fact, rental and quick rental power plants based on dirty liquid fuel were for 3-5 years duration. The provision of capacity charge was introduced as an added incentive. Unfortunately, the contracts were extended, and very ordinary people were given contracts on political considerations. The opening of Pandora's box severely harmed the power sector. The government should not have extended the tenure of the special act beyond 2015. Many contracts like that with Adani Group in the power sector and Gazprom in the energy sector were


negotiated in non-transparent manner. This badly hurts national interest.

By the time the government started signing agreements on no power, no payment basis extensive damage was already done. The interim government within weeks of assuming state power cancelled the special act and stopped all ongoing negotiation with parties under the act.

Government Need Generous Private Sector Investment in Power and Energy:

To get out of the present tight situation, the government

needs free flow of investment from the private sector - foreign or local. Of course, FDI is an issue considering dollar rate fluctuations. But till local companies get matured adopting state of the art modern technologies, we must rely on foreign investment in offshore, onshore gas exploration, mining and setting up modular nuclear power plants or large solar power plants. For that we must follow Private Sector Power Policy updating if required and update MPSCs. To meet the immediate and emerging crisis, the government may review some of the signed contracts for enhancing fuel supply which they cancelled. If the Adani contract cannot be reviewed or cancelled, why was the contract with the Summit for 3rd FSRU cancelled? Gas supply situation will get alarming in 2026 and 2027. We even need gas-based spinning reserves for evening bringing the Rooppur Nuclear Power Plant into operation. We need a very highly skilled professional negotiator for negotiating win-win contracts with private sector companies.

Bangladesh cannot continue providing huge subsidies for the power and energy sector for an indefinite period nor can it increase power tariff or fuel price significantly to cover cost. We have reduced cost through enhancing efficiency and eliminating losses. 

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