

Bangladesh

Population ¹	161,356,039
Area (km ²) ¹	147,630
GDP per capita (USD) ¹	1,698.26
TPES (Mtoe) ²	40.52
Energy intensity (toe/10 ³ 2010 USD) ²	0.23
CO ₂ emissions - energy (MtCO ₂) ³	78.27

Data from Orbis Crossborder Investment on energy projects and deals completed between 2015-2020⁴

Target industry	Number of projects and deals	Project/deal type	Project CapEx and deal value (million EUR)
Electric power generation, transmission and distribution	5 projects	new projects	8561m EUR total project CapEx
Manufacture of refined petroleum products	1 project	new project	4m EUR total project CapEx

Sources:

1. The World Bank 2018
2. ©IEA, World energy balances, 2020, www.iea.org/data-and-statistics, webstore.iea.org/key-world-energy-statistics-2019
3. ©IEA 2020, CO₂ emissions from fuel combustion, www.iea.org/data-and-statistics, webstore.iea.org/key-world-energy-statistics-2019
4. Orbis Crossborder Investment (2020), Bureau Van Dijk. Bangladesh is the destination country of the investment. Data represents the period 1 April 2015 - 1 April 2020. For more information see Annex II of this report. According to the Bangladesh Power Development Board, more than 55 projects for power generation were completed during 2015-2020, with a total CapEx is approximately USD 12 billion. For more information on this data, please contact the Bangladesh Power Development Board.

Bangladesh's overall risk level against the assessed areas is **moderate**.

Among the three risks assessed in EIRA, *discrimination between foreign and domestic investors* and *unpredictable policy and regulatory change* are lower compared to *breach of State obligations*.

Bangladesh has a moderate performance on three indicators, and a good performance on one indicator. On the *management of decision-making processes* indicator, it has scored 68. Its performance on *foresight of policy and regulatory change* has improved by three points and now stands at 59. It has scored 58 on *regulatory environment and investment conditions* and 45 on *rule of law*.

On a more detailed level, Bangladesh's overall sub-indicator performance is moderate. The highest-scoring sub-indicator is *communication of vision and policies* with a score of 70. Next is the sub-indicator *institutional governance* at 69. On *transparency* (68), *regulatory effectiveness* (67), and *management and settlement of investor-State disputes* (65) it has the same scores as in 2019. It has a moderate score of 50 on the sub-indicator *restrictions on FDI*. Compared to last year, its score has improved by three points on *robustness of policy goals and commitments*, and is now at 48. Its performance on the sub-indicator *respect for property rights* continues to be the lowest, at 25.

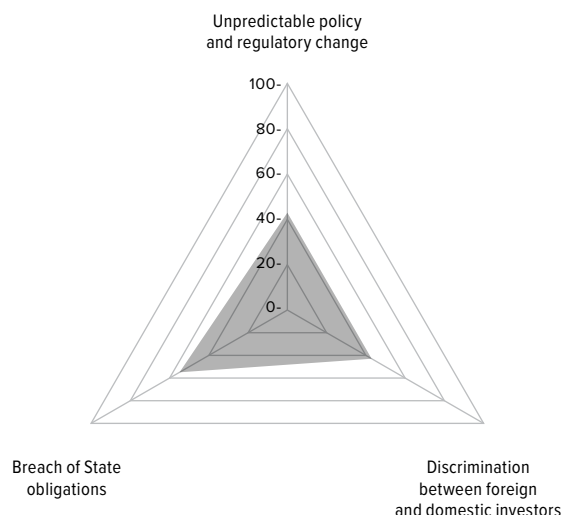
While there are some improvements in Bangladesh's performance compared to 2019, further steps must be taken to build on the work done. Particular attention should be given to strengthening the respect for property rights in the country.

YEAR-ON-YEAR COMPARISON

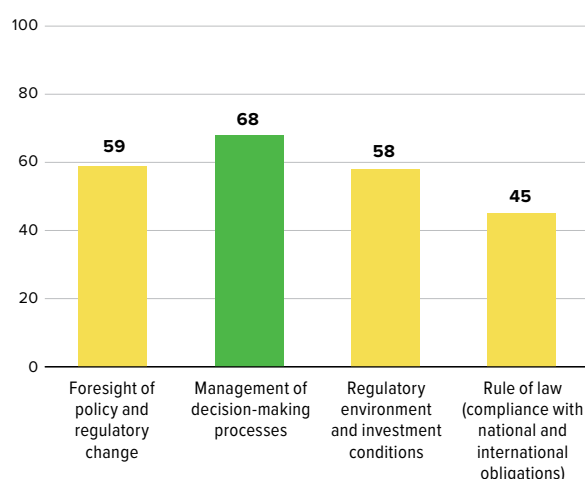
RISK AREAS	2018	2019	2020
Unpredictable policy and regulatory change	45	44	43
Discrimination between foreign and domestic investors	44	43	43
Breach of State obligations	55	55	55

INDICATORS	2018	2019	2020
Foresight of policy and regulatory change	56	56	59
Management of decision-making processes	65	68	68
Regulatory environment and investment conditions	58	58	58
Rule of law	45	45	45

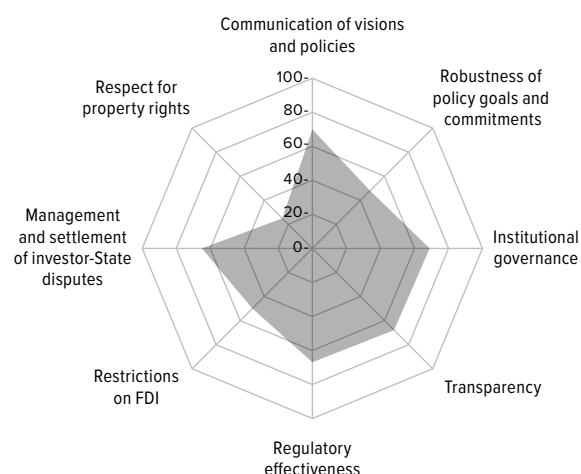
RISK LEVEL



INDICATOR PERFORMANCE



SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

Bangladesh's principal energy strategy documents are the Vision 2021 and the Energy Roadmap to Help Achieve Vision 2041.

The Revisiting Power Sector Master Plan 2016, re-examines the electricity generation and transmission targets set in the Power Sector Master Plan of 2016.

STRENGTHS

Electricity access, coverage, and consumption levels have significantly increased over the last year. Currently, over 90% of the population has access to electricity. From 2008 to 2019, daily load shedding has also reduced. The growth rate of the electricity, gas and water supply sector is likely to be 1.38% higher in 2018-2019 compared to 2017-2018. Bangladesh's second liquified natural gas terminal was commissioned in 2019 and has started feeding gas to the national grid. The project will contribute to improving the country's energy security substantially.

The Power Division and the Energy and Mineral Resources Division, under the charge of the Ministry of Power, Energy and Mineral Resources (MPEMR), have executed separate Annual Performance Agreements (APA) for 2019-2020 with the Cabinet Division of the Government. Each APA summarises the results the respective entity should achieve during the year. It also sets the performance indicators and targets to measure the implementation progress. The half-yearly evaluation of the 2019-2020 APAs is available on the Cabinet Division's APA Management System website.

AREAS FOR IMPROVEMENT

A large part of the existing power capacity remains unused due to low demand. "Capacity payments" made to non-operational power plants are financially burdensome on the Government, which is now contemplating adjustments to the country's investment plan and a halt on new project approvals. The MPEMR should conduct technical studies to assess the accuracy of future demand forecasts and the methodology for estimating electricity demand. The stability of policies may be adversely affected if there is no long-term plan to deal with the overcapacity risk in a cost-effective manner.

The Integrated Power Development Plan (2016-2041) does not include solar power since the country's peak load is at night. Such a short-term approach undermines the country's future plans to increase renewable power generation. Instead, the Government should channel its efforts towards shifting the peak load to the most appropriate time of the day by creating awareness among consumers on Demand Side Management measures. The MPEMR should also explore cost-effective supply-side options. Finally, it should make the country's future NDC targets ambitious enough to offset the planned increase in fossil-based power generation.

Management of decision-making processes

QUICK FACTS

The MPEMR is the central authority responsible for formulating the national energy policy.

The Bangladesh Investment Development Authority (BIDA) was established in 2016 as an investment promotion and facilitation agency.

Bangladesh enacted the Right to Information Act in 2009.

STRENGTHS

Bangladesh is making efforts to coordinate investment expansion and promotion planning at the national and sub-national level. In April 2019, the Cabinet Division of the Government of Bangladesh created the Divisional, District and Upazila Investment and Trade Assistance Committee. The Committee will implement a set of recommendations that will integrate local-level administration in the national investment expansion efforts. BIDA has started its Online One Stop Service that provides digital services and documents to domestic and foreign investors. The platform also gives access to the relevant news, statistics, reports, guidelines, and instructions.

The Government continues to engage with stakeholders on critical regulatory issues. In December 2019, the Bangladesh Power Development Board held public hearings on the proposal to increase the bulk power tariff by 20%. The Bangladesh Energy Regulatory Commission (BERC) also held public hearings on its plan to increase gas prices so that it can offset the high cost of imported liquified natural gas. The Anti-Corruption Commission and Transparency International Bangladesh signed a Memorandum of Understanding (MoU) re-affirming their combined efforts to improve information access, improve transparency and combat corruption in the country. The MoU provides for joint data sharing to monitor the country's progress on the 2030 Agenda for Sustainable Development.

AREAS FOR IMPROVEMENT

In the last year, the Government has consulted interested stakeholders on regulatory changes and decisions. However, it needs to institutionalise such consultations and conduct them regularly. There should be legal provisions to make public hearings on regulatory decisions mandatory. The method and timelines of public participation must be decided at an early stage and made widely known. A systematised approach to public consultation will increase confidence among stakeholders and promote cooperation.

The Sustainable and Renewable Energy Development Authority (SREDA) is the leading organisation responsible for energy efficiency and renewable energy resources in Bangladesh. The Government is encouraged to support SREDA in fulfilling its mandate by ensuring it has effective leadership and adequate funding.

Regulatory environment and investment conditions

QUICK FACTS

BERC regulates the electricity, natural gas, and petroleum sub-sectors.

The Foreign Private Investment (Promotion & Protection) Act 1980 protects foreign investment.

STRENGTHS

The draft BERC (Amendment) Act of 2019 allows BERC to revise the electricity tariff more than once a year. This way, BERC can periodically make tariff adjustments necessary to reduce the revenue deficit of the power utilities. BERC is taking steps to deal with the rapid and unplanned increase of oil-fired power plants. For instance, its Technical Evaluation Committee has recommended the retirement of three old power plants that produce 130 MW of their aggregated installed capacity of 194 MW. These power plants are over 35 years old and have a capacity factor of less than 25%.

In 2018-2019, the public and private sector investment-GDP ratio was 8.17% and 23.40%, respectively. The Government is incentivising private energy investors through tax exemption on income from power generation business, royalties, interest paid on foreign loans, and capital gains from transfer of shares by the investing company. In 2019, the Government approved the Model PSC for exploration in offshore blocks. The Model PSC marginally increases the gas price and withdraws the clause on compulsory drilling of one exploratory well within five years of signing the PSC. The international oil companies operating in newly discovered offshore gas fields can now export gas if Petrobangla, under its right of first refusal, does not buy the gas and if domestic third-party users do not buy the gas. The Government has signed PSCs with Santos, Kris-energy and ONGC Videsh for exploration in three offshore shallow sea blocks.

AREAS FOR IMPROVEMENT

The Parliament should enact the draft Bangladesh Energy Regulatory Commission (Amendment) Act before the end of 2020. Power utilities should file tariff submissions, and BERC should approve tariff determinations, at more regular and predictable intervals to secure the financial stability of energy utilities. This process will improve the performance of these utilities, and shield businesses from sudden and unexpected tariff hikes.

The Government may relax the existing restrictions on the repatriation of dividends, interest, royalties and proceeds of capital. At present, the repatriation of sale proceeds from non-listed securities by a non-resident requires the prior permission of the Bangladesh Bank. In-kind investment by a foreign investor can only be through the import of capital machinery. Finally, the outward remittance of any royalties, and fees for technical knowledge in an industrial sector, such as energy, requires BIDA's prior approval.

Rule of law

QUICK FACTS

Bangladesh ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States in 1980.

Bangladesh acceded to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 1992.

Provisions against expropriation of immovable property are stated in the Acquisition and Requisition of Immovable Property Act 2017.

STRENGTHS

The enforcement of foreign arbitral awards by domestic courts remains effective. Although appeals against regulatory decisions are not possible, an aggrieved investor may file a Writ Petition against any regulatory decision before the High Court Division of the Supreme Court. This form of recourse is one of the most commonly used by aggrieved investors. There were no retroactive changes to laws and regulations in the last year. There were no incidents where foreign energy investors were required to exhaust local judicial remedies before recourse to international arbitration.

International arbitration provisions in BITs are favourable for investors. The State must pay compensation for the acquisition of immovable property within a stipulated period. The Government should provide the affected persons with compensation at 200% of the market price. If the Government acquires the land for any non-government person, the amount of compensation must be 300%. In case of injuries due to the acquisition of property, an additional 100% compensation must be paid to the affected persons. BITs signed by Bangladesh grant protection to all investors through the unqualified operation of the national treatment and the most-favoured-nation treatment.

AREAS FOR IMPROVEMENT

The promotion of mediation and conciliation could significantly strengthen dispute prevention and management policies at national and international level. The Government may establish an investment ombudsman to resolve conflicts between investors and public authorities. It can also seek guidance from the Energy Charter Model Instrument on Management of Investment Disputes that aims to assist States in handling investment disputes while keeping in mind their own needs and circumstances.

Timelines should be set in law for domestic courts to render final judgements. The Government may also introduce legally bound deadlines for different stages of a hearing, such as the first date of hearing and the completion of appeals.

A definition of "public purpose or in the public interest" should be incorporated in the Acquisition and Requisition of Immovable Property Act 2017.

IMPLEMENTATION STATUS



Bangladesh

PROPOSED IN	EIRA AREAS FOR IMPROVEMENT	IMPLEMENTATION STATUS AS OF 1 APRIL 2020
Indicator 1		
	Make the policy impact assessment reports publically available.	Work ongoing. Annual Performance Agreements (APAs) concluded between public entities and the Government are publically available. The public entities have published their quarterly performance reports for 2019. However, the half-yearly evaluation of APAs for 2019-2020 is not accessible to the public.
2018	Ensure that the authorities implementing the national energy policy are different from those evaluating its progress.	Work ongoing and partially implemented. The Government of Bangladesh implements, monitors and evaluates the national energy policy goals through separate authorities. The Ministry of Power, Energy and Mineral Resources implements the national energy policy whereas the Planning Commission and the Cabinet Division of the Government monitors and evaluates the performance.
	Conduct technical studies to assess the accuracy of future demand forecasts and the methodology for estimating electricity demand.	Improvement suggested in 2020. Status will be updated in 2021.
	Review the Integrated Power Development Plan and update it to incorporate renewable energy sources.	Improvement suggested in 2020. Status will be updated in 2021.
2020	Set future NDC targets that are ambitious enough to offset the planned increase in fossil-based power generation.	Improvement suggested in 2020. Status will be updated in 2021.
	Create greater awareness among citizens on Demand Side Management measures to shift the peak load time from night to day.	Improvement suggested in 2020. Status will be updated in 2021.
	Set clear policy options to address the low efficiency of existing thermal power plants.	Improvement suggested in 2020. Status will be updated in 2021.
Indicator 2		
	Create a legislative framework for a one-stop investment centre and make it operational.	Fully implemented. Bangladesh adopted the One Stop Service Act in 2018. The Online One Stop Service under BIDA became operational in 2019.
2018	Introduce legal provisions for regular and mandatory public consultation on draft laws and regulations.	Work ongoing and partially implemented. The Bangladesh Energy Regulatory Commission (BERC) and the Ministry of Power, Energy and Mineral Resources consulted stakeholders on critical draft laws and regulations in 2019 (such as the consultation on the gas tariff hike). However, consultation is not a legal requirement.
Indicator 3		
2018	Increase the share of operating revenue in the BERC fund and reduce reliance on government resources and loans.	Work ongoing and partially implemented. There has been a consistent fall in government funding to BERC. Between 2003-2004 to 2016-2017, government grants constituted 1.4% of BERC's total funds.
	Lower restrictions on the repatriation of dividends, interests, royalties and proceeds of capital.	Pending
2020	Enact the draft Bangladesh Energy Regulatory Commission (Amendment) Act 2019 in 2020.	Improvement suggested in 2020. Status will be updated in 2021.
	Encourage regular filing of tariff submissions by power utilities. BERC should approve tariff determinations at consistent and predictable intervals.	Improvement suggested in 2020. Status will be updated in 2021.
Indicator 4		
	Set legally binding timelines for domestic courts to deliver final judgements.	Pending
2018	Set deadlines for various stages of a hearing, such as the first date of hearing and the completion of appeals.	Pending
	Consider establishing a foreign investment ombudsman authority to settle conflicts arising during energy projects.	Pending
	Define the term "public purpose or in the public interest" in the Acquisition and Requisition of Immovable Property Act 2017.	Pending