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**IMPORT TRADE LAW CONTENTS AND ITS ADAPTATION STATUS IN BANGLADESH**

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## IMPORT TRADE LAW CONTENTS AND ITS ADAPTATION STATUS IN BANGLADESH

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### ABSTRACT

Mazumder MAR, Mazumder ZA (2012) Export trade law contents and its adaptation status in Bangladesh. *J. Innov. Dev. Strategy*. 6(1), 1-9.

A study was conducted on the Trade Law contents and its adaptation status in Bangladesh. The material used was a FGD guideline. The present government planning materials were taken as helping materials to prioritize the adaptation need of the vital legal tools required for domestic and international trades. The results of the study mentioned here show that the agro-industrial products dominated the trades of Bangladesh for export. According to the results 49 to 72% of the respondents stated agro-industrial products as the dominant trade items for export in the country, the mean value being 61%. This due to the fact that the country is originally agricultural and export of agro-industrial commodities like jute, leather, tea and similar trade item dominate the sector. As a professional group basis the non-classified clients and lawyers highly prioritized the agro-industrial products as they are related to the legal aspects of import events both for the domestic and international trades. The other professionals group mainly consist the intermediary business service providers and related industries. The results show that legal side of farmer rights is very poor and weak. About 79% of the regulations have no legal and administrative base. About 71% materials are notifications based on very old conventions and perceptions which can not protect the interest of the farmers. It has been found that about 67% of the farming issues in China are bound by some sort of laws and regulations, while the figure is 43% in case of India, but the figure found for Bangladesh is 13-20% varying according to Ministries, being higher for land ministry though it has origin of Indian documents. The findings of the study and the recommendation made as regards law content adaptation for biological issues from these studies suggests immediate legal reformations for controlling imports.

**Key words:** import laws, trade regulations, changing environment

### INTRODUCTION

Eximport trade regulatory mechanisms and its global compliance status were reported to be very much important for all country's including Bangladesh. Bangladesh is really an agricultural country featured by high import and less import (Bhattacharya 2005; CEDA 2003). This type of trade business covering eximport rules and regulations for the purpose of controlling the benefit status, environmental safety and contingencies of adaptations under changed climatic situations. With support from external agencies and incentives from the Government, the agricultural sector has expanded rapidly over the past few decades. More than 5 million workers and traders were engaged in the agricultural production chain, still experiencing more and more imports of finished products. In the process of globalization and local adaptation in international trade laws, the Asia Pacific Legal Culture and Globalization series found that around the impact of globalization in the Asia Pacific Rim and the importance of legislation mediating those impacts moderating selective adaptation through a range of localized responses to external regulatory standards. In the absence of absolute normative consensus (GOB 2005; GOB-UN 2005), selective adaptation suggests a spectrum of possibilities for execution of abroad standards, based on varying degrees of conformity compatibility of the norms. Recently Bangladesh Government has formed a legal reformation commission who reported that the legal aspects of domestic and international trade on the Bangladesh part are extremely weak. In the context, an attempt has been made here to study the Trade Law contents and its adaptation status in Bangladesh. The specific objectives of the study were to: i. identify the major import laws as per trade items, ii. know the legal back up of the import business items; and iii. prioritize the adaptation need of the legislative mechanisms required for import trade business.

### MATERIALS AND METHODS

The method use to identify the major import trade process of the country was a selective survey involving specific professionals. The main materials used were a questionnaire and Focus Group Discussion (FGD) Guideline. The questionnaire and guidelines were structured to designate and identity of the respondent with pertinent questions to have specific and quantifiable answers. The answers were then compiled and analyzed systematically and findings of the results were extracted. The details of the questionnaire are given in the appendices. The method use to know the legal ground of the business items was a type of focus group discussion involving the professional. The material used was a FGD facilitation procedure. The present government's planning materials were taken as helping instrument to prioritize the adaptation need of the current legal tools required for trades. The legal counseling firms for their adaptations interpretations of mechanisms of import trade Law content Articles are briefly mentioned here.

Selective adaptation describes a range of localized responses to external regulatory standards. It is due to the absence of absolute normative consensus. Thus, government officials, socioeconomic and professional elites, and other privileged groups all exercise the authority of political position, specialized knowledge, and/or socioeconomic status to interpret non-local standards for application locally. In the course of this process, these interpretive communities express their own normative preferences, and in so doing selectively adapt non-local

standards to local conditions (Halim 2001; SSOQ 2004). This process of interpretation reflects dynamics of perception, complementarity, and legitimacy. We may conceive of selective adaptation by reference to the following formula:

$$SA = \text{Rule Regime} \\ (N = Nf \text{ var } N1) \times [(P = Pf \text{ var } P1) + (C = Of \text{ var } O1) + Jn].$$

Thus, selective adaptation (*SA*) may be seen as a function of a particular rule regime in light of the relationship between local and non-local norms attached to particular rule regimes, as affected by factors of local perception (*P*) on interpretation of both the rule and the underlying norm; the extent of complementarity (*C*) between the adapted rule and underlying norms (*O*), and existing rules and norms in the local economy; and the broader question of legitimation (*J*). The rule/norm relationship (*N*) thus involves a rule regime disseminated through processes of globalization, as qualified by the possibility of normative difference between the global and the local, which in turn is affected by factors of perception, complementarity, and legitimacy.

**Law Firms studied:** The law firms were: Legal Steps Chamber Trademarks, Copyrights, Patents, & Intellectual Property Law Firm, The Lawyers & Jurists Civil, Criminal, Corporate, Insurance, Banking & Land, Amir & Amir Law Associates, ABM Doulah & Doulah Finance, Corporate & Litigation Practices in Bangladesh, Amicus Curiae, Barristers & Advocates, Banani Corporate & Business Law Firm, Dhanmondi Legal Advise and Assistance, Bhuiyan Islam & Zaidi House Corporate, Securities, Banking & Finance and Commercial Litigation, Chencery Chambers Meherba Plaza Law Firm, Farqui & Assoc, Farukh Rahman, Barrister-at-Law & Advocate S.S Ahmed and Associates Banking, Foreign Investments and Business, Hasan & Khan Associates, Laws of Securities, Intellectual Property, Employment & Labour, Islam and Associates, Civil, Criminal and Immigration Lawyers, Counsel Perjowar Center, Law Firm, Law Chambers of Chowdhury & Hyders, Corporate and Banking, Criminal and Constitutional Lawyer, Legal Reliance, M M H & Law Associates Law firm, M Barristers & Advocates, Moinul Chowdhury Associates, S Alam & Assoc Tax, Trademark, NBR, VAT, Criminal, Civil, Real Estate & Foreign Investment, S Ahmed and Associates Civil Litigation, Foreign Investment, Business & Family Law Firm, SAF and Associates Criminal and Civil Lawyers and Immigration Law Firm in Bangladesh, The Law Associates, Law Firm, The list of other business and industrial establishment were too big from which short lists were made randomly for studies.

## RESULTS AND DISCUSSION

### *Import Trade items of the country*

The import items of the country are prioritized from the survey are mentioned here. The results of the study mentioned here show that (Table 1 and Fig 1 & 2) the agro-industrial materials including inputs and products dominated the trades of Bangladesh for import. According to the results 32 to 67% of the respondents different categories and stakeholders stated agro-industrial material as the dominant trade items for import in the country, the mean value being 53%. This due to the fact that though the country is originally agricultural but due to its current lower production and increasing demand, import of agro-industrial commodities like fertilizer, pesticides, equipments, and similar trade item dominate the sector.

Table 1. Percent respondents named import items of Bangladesh

Respondents	Agro-industrial materials	Machineries	Services
Industrialists	67	17	36
Businessman	32	21	37
Lawyers	56	22	18
Govt Agencies	49	10	31
Bankers	56	46	26
Others	57	15	18

As a professional group basis the mass clients and lawyers highly prioritized the agro-industrial materials as they are related to the legal aspects of import events. The other professionals mainly include the intermediary business and back-ward forward industry links and activities of diverse nature.

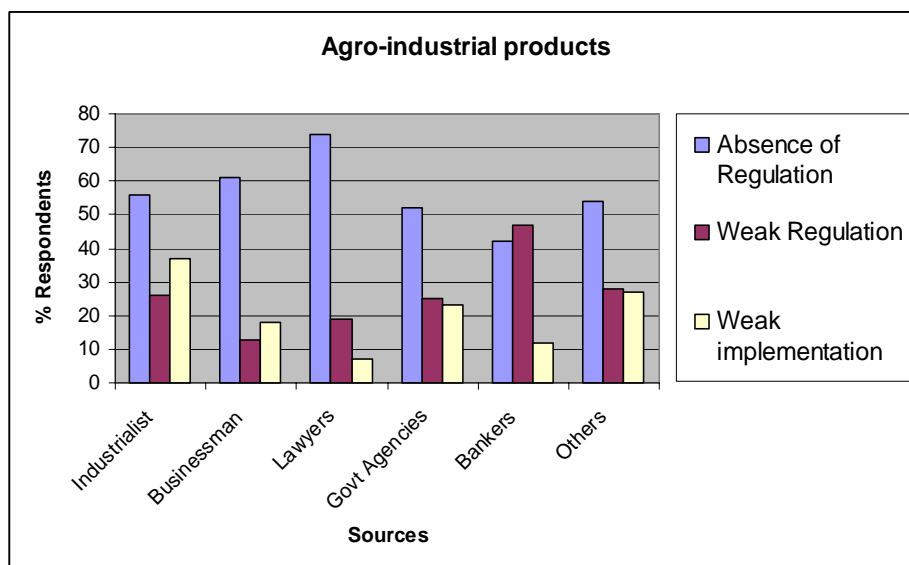


Fig. 1. Agro industrial product problem % relating for import as per sources professionals

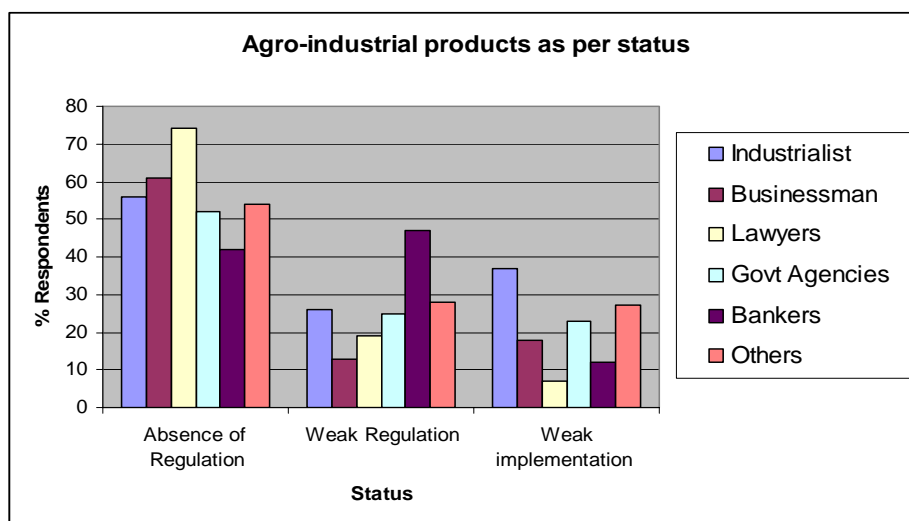


Fig. 2. Status % relating to Agro-industrial import products

**Industrial Law problems**

The results given here in the graph (Fig. 3-6) as per sources of professional respondents show that more than 70% of the lawyers stated the lack of appropriate legislations followed by weak regulations. This type of problems seriously hampered the import interest of the country and the situation is still aggravating due change of environments and the modernized international trade laws.

Table 2. Problem percent relating to import for Agro-industrial products

Respondents	Absence of Regulations	Weak Regulations	Weak compliance of regulations
Industrialist	56	26	37
Businessman	61	13	18
Lawyers	74	19	7
Govt Agencies	52	25	23
Bankers	42	47	12
Others	54	28	27
	56	26	18

The businessman also highlighted the gaps of laws for the import events causing their frequent losses specially of getting compensations and tax payments.

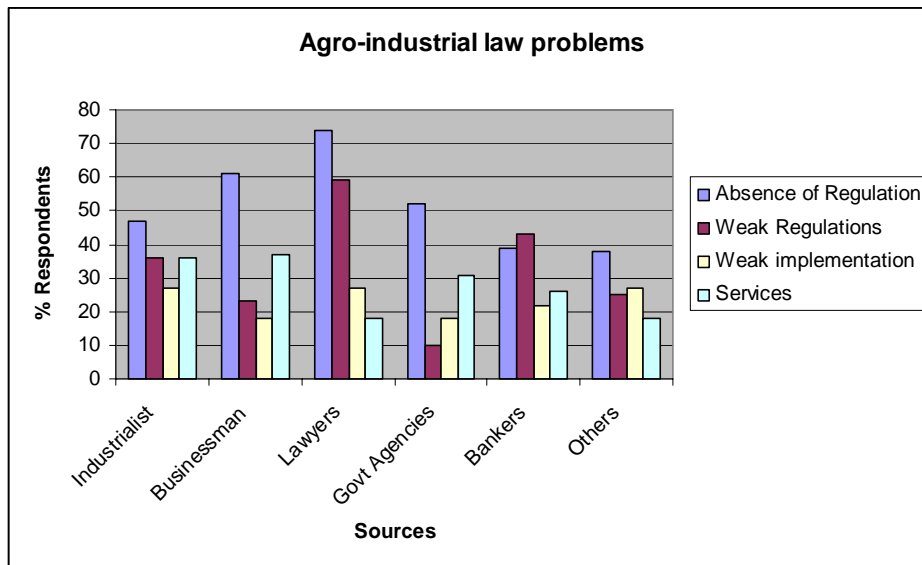


Fig. 3. Industrial Law problems % for Import as per item groups

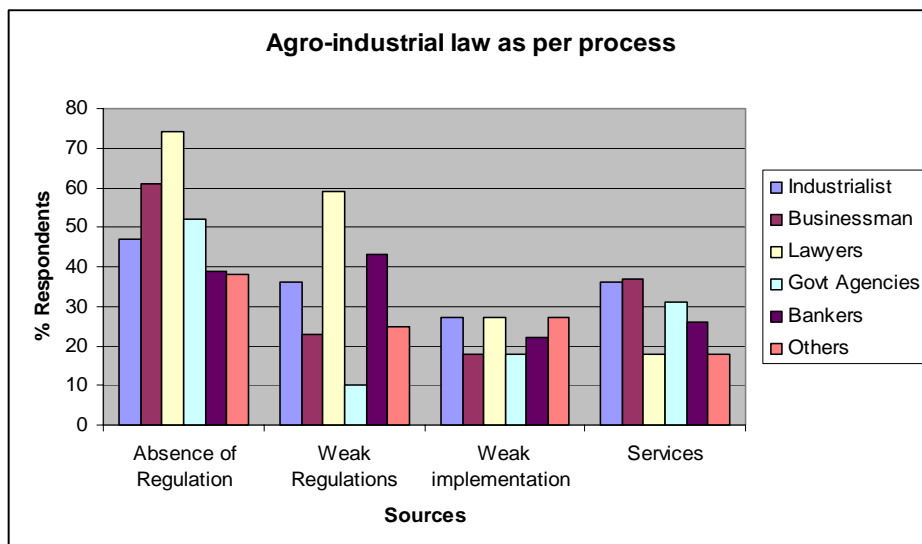


Fig. 4. Import process problem % for Import as per item groups

The results found clearly show that the agro industrial item groups scored highest as a problems by most stakeholders followed by services specially of costs for external assistance due to legal inadequacy in the country.

**Trade Related Regulatory Documents**

The results collected in the form of legal documents as per objectives of the studies are presented and discussed here. There were 54 regulatory materials were collected and suited for the purpose of conducting the study and to interpret the findings of the results. The results in summarized forms as per type of regulation, discipline, ministry and others are also presented in this chapter. The results show that legal side of farmer rights is very poor and weak. About 71-83% of the regulations have no legal and administrative base. About 60-69% materials are notifications based on very old conventions and perceptions which can not protect the interest of the farmers. It has been found that about 59-73% of the farming issues in China are bound by some sort of laws and regulations, while the figure is 33-38% in case of India, but the figure found for Bangladesh is 11-21% varying according to Ministries, being higher for land ministry though it has origin of Indian documents.

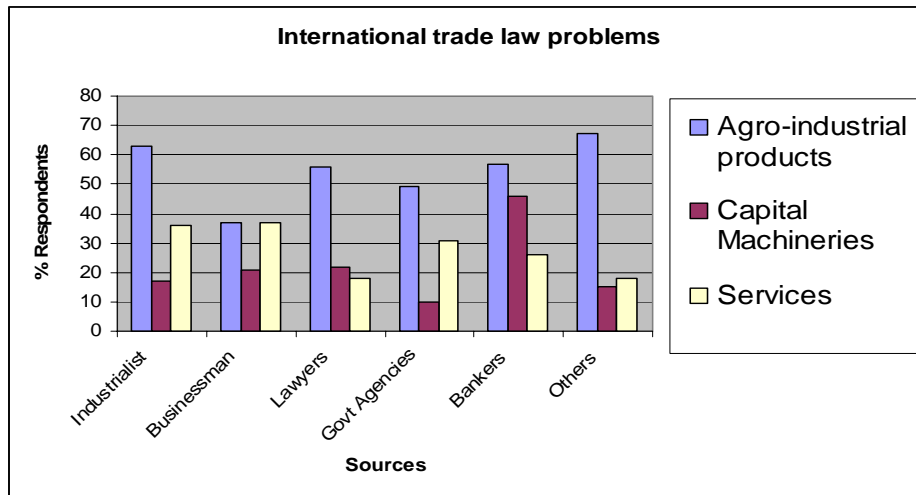


Fig. 5. Percent respondents named trade items for Import as per professional sources

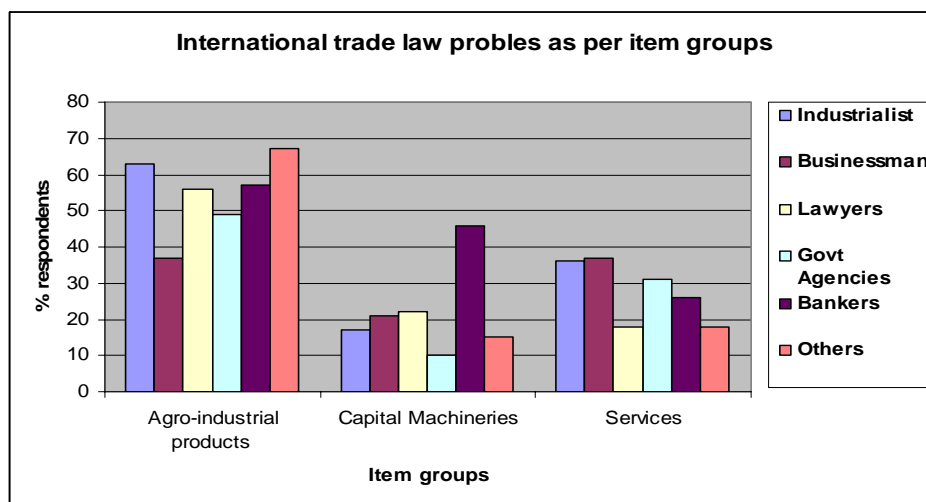


Fig. 6. Percent respondents named trade items for Import as per item groups

### Law and adaptation contents

Law and adaptation content articles summarized from the studies are given here. As international agricultural trade increases, international law becomes more important to agriculture and food production. For the purposes of this overview, agriculture includes all activities related to farming, including food production and distribution, which were: i. Summary of the WTO Interim Report in EC-Biotech (Saha 2003); ii. Managing Carbon in a World Economy: The Role of American Agriculture (11) iii. Do European Union Non-Tariff Barriers Create Economic Nuisances in the United States; iv. Revising Seed Purity Laws to Account for the Adventitious Presence of Genetically Modified Varieties: A First Step Towards Coexistence, v. European Union Food Law Update, vi. Biodiversity and the Law: The Culture of Agric and the Nature of Nature Conservation (Hasan 2003, RCP-CAC 2004); vii. Biodiversity and the Law of Nature Conservation in Great Britain (Syed 2005); viii. Legal Liability Issues in Agricultural Biotechnology (Hasan 2003); ix. International Agriculture Biotechnology: Food Security/Aid, x. International Law Reports (Agriculture and Food) (Government Accountability Office-GAO) Commission for Environmental Cooperation: Publications and Information Resources European Union Publications: Food and Agriculture Publications. The results interpreted here are in line of the recommendations made by many organizations and researchers (GAA 2005; GOB 2005).

The results given here show that Ministry of Fisheries and Livestock had the highest number of regulations. But a peer checking of the regulations reveal that the import related by-laws have so many gaps which frequent do not protect the interest of the domestic importers. The similar case has been found with Ministry of agriculture where ordinances dominate the controlling mechanisms and which is not always in favour of the domestic importers dealing diverse items driven by changed environment dynamic situations. Other Ministries found to have very little concern with import trade laws though they have volume interactions.

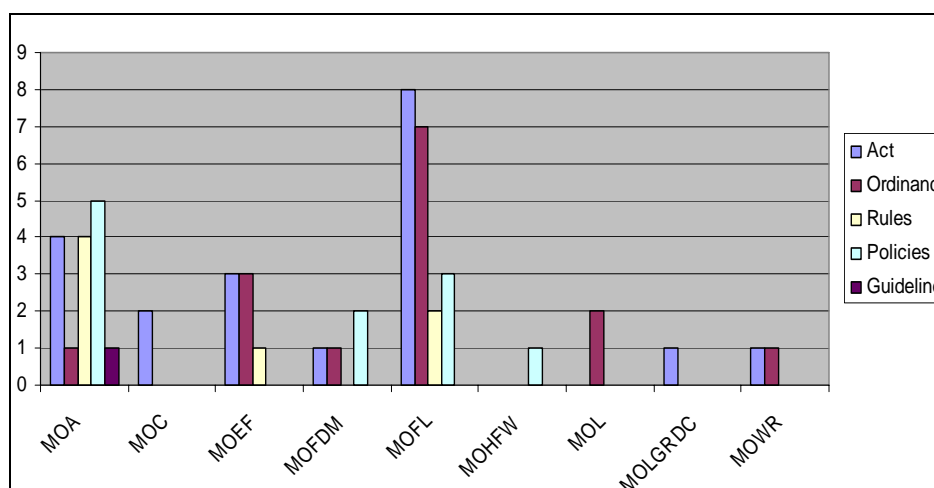


Fig. 7. Ministries as per Acts and other regulatory materials

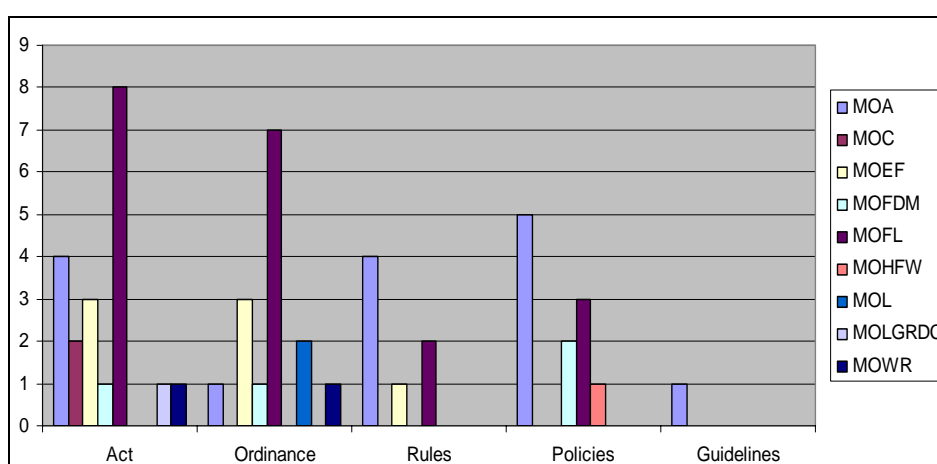


Fig. 8. Acts and other regulatory materials as per type and Ministry

**Agricultural Export Regulatory Documents as per Ministry/Sector**

It appears that as per numbers of Acts and Ordinances, Ministry of Fisheries and Livestock has secured the highest position among all the legal documents and has got 8 Acts and 7 Ordinances. Whereas, Ministry of Agriculture (MOA) has got only 4 Acts and 1 Ordinance. On the contrary No. of Rules and Policies are higher under MOA-4 Rules and 5 Policies. It is also evident that this two sectors have more attention over others. Such a type of situation is very much weak as described by many researchers including Annon (2005), Islam (2003) in the Asia and the developed world (Hasan 2004).

**Agricultural Regulatory Documents as per Type**

The results collected in the form of legal documents as per type are presented (Fig 8, 9 and 10) and discussed here. It appears from the table that out of 54 legal documents related to different sector of Agriculture, number of Acts are 20, ordinance 15, Rules 7, Policies 5, Guidelines 1.

**National Law and Policy Frameworks for Import**

The results presented in the Fig. 9-11 show that about 37% of the import related product business laws are controlled act followed by 28% by ordinances which is not a good proportion for a changed climatic dynamic administration ensuring the domestic interest of the country. The National Strategy for Accelerated Poverty Reduction (NSAPR), approved by the Government in October 2005, provides a comprehensive policy framework for reducing poverty and pursuing equitable development. The NSAPR, which synthesizes a wide range of law and policy initiatives, aims to reduce poverty through four strategic channels: (1) economic growth initiatives, including private sector investment, employment generation, and trade; (2) pro-poor sector initiatives, including agriculture and rural development, small and medium-sized enterprise (SME) development, infrastructure development, and development of information and communication technologies (ICT); (3) strengthening of social safety net programs; and (4) human development programs related to education and vocational training, health care and food safety, water, and sanitation.

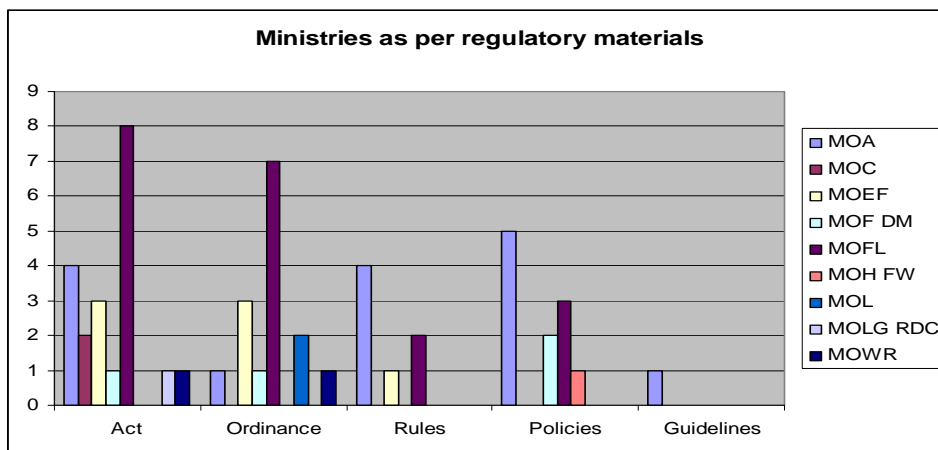


Fig. 9. Performance of Ministries as per regulatory materials

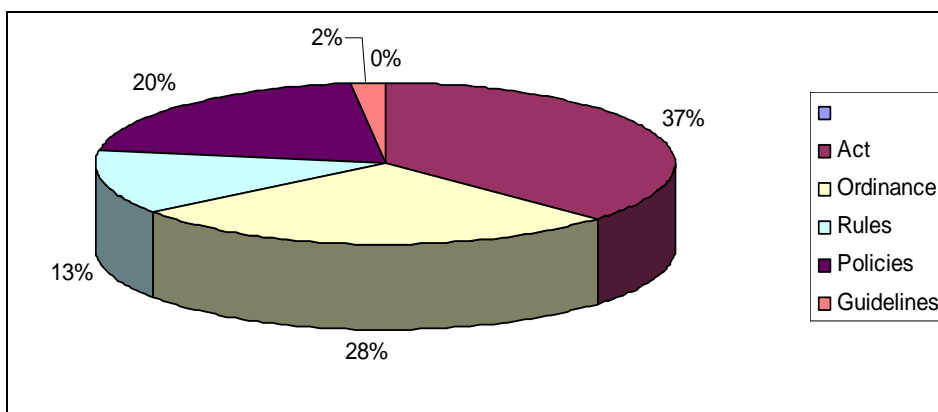


Fig. 10. Proportions of materials in different Ministries

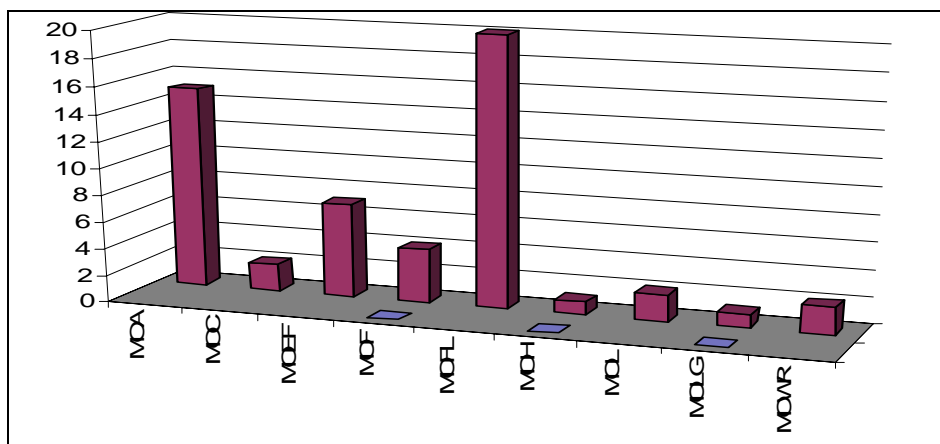


Fig. 11. Ministry wise regulatory materials

**Lawfulness of the chemicals**

Worldwide pesticide use has increased over the past twenty years as a result of technical developments in agriculture and the promotion of agricultural development in the Third World. Since the 1970s, world pesticide sales have grown to nearly eighteen billion dollars per year, 10 with annual growth in earnings averaging approximately twelve percent. Use of Increasingly Sophisticated Technology (BIMSTEC 2004), Numerous international organizations and governments are engaged in efforts to encourage industrialization in the Third World. Both Multinational Development Banks (MDB) and governmental programs such as the U.S. Agency for International Development (USAID) have funded numerous Third World development projects, I7 particularly in agriculture, which accounts for approximately twenty-five percent of all loans awarded by the World Bank. I Intense agricultural development aimed at equipping with resources to produce foods for domestic consumption and export use is commonly referred to as the green revolution. The green revolution has provided many incentives to Multinational Corporations (MNC) involved in agribusiness to locate manufacturing facilities and to target sales of their agricultural products to the developing countries (Saha 2003).



Pesticide use is estimated to result in 500 thousand cases of human poisoning every year. Approximately five thousand of these poisonings result in fatalities. Because pesticides are largely unregulated and conditions for farm workers are grossly unsafe, the occurrence of human poisonings is thirteen times the number of poisonings in the U.S., and the percentage of deaths resulting from pesticide poisoning is greater than the worldwide average. Moreover, statistics regarding injury and death from pesticides underestimate the actual number of cases. Many pesticide-related illnesses go undetected or misdiagnosed because of inadequate medical resources, or because certain pesticide-related illnesses only develop many years after the initial pesticide poisoning.

**Agricultural Regulatory Documents as per Origin**

The results given in the Agricultural Regulatory Documents as per Origin (Fig. 12) show that the legislative instruments implemented in Bangladesh are of sub-continental origin except some ordinances and old acts of MOFL and MOA which could not cope with the changed need of the country recommending that these must be made appropriately adaptable with the current needs solving dynamic day to day problems.

It appears from the table that out of 54 legal documents, 34 legal documents (Table 3 and Fig. 11) were enacted or made in Bangladesh Period, 12 legal documents were made/enacted in Pakistan Period and 8 legal documents were enacted/made in British period. This tables indicates that concern is constructing agricultural legal frame work is increased rapidly over the time. Similar findings were reported by several workers and organizations (Bhattacharya 2005; GOB-UN 2005; and Raihan 2005) and recommended legal reformations under fully approved Acts under the supervision of the technical ministries.

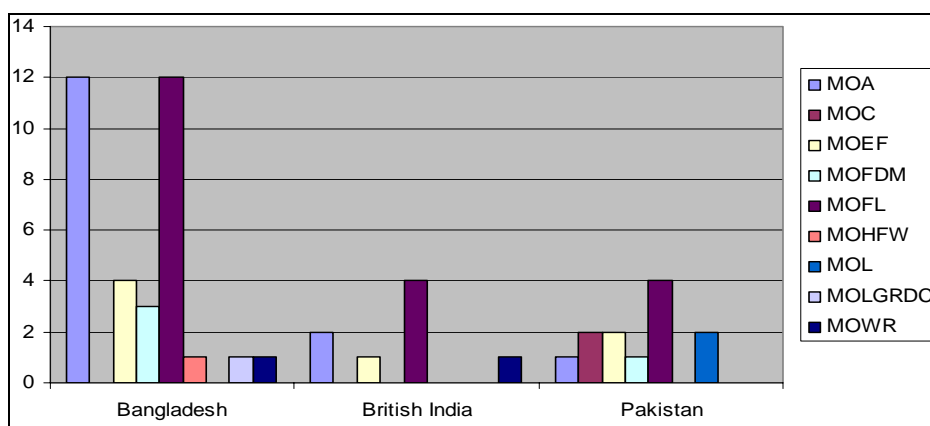


Fig. 12. Agricultural Regulatory documents as per country of origin

The results given in the Table 3 also support the adaptation recommendations moderating the Main Trade Agreements/Arrangements (in addition to WTO Agreement), US Generalized System of Preferences, Table 3. Bangladesh’s Main Trading Partners and Trade Agreements/Arrangements, Cooperation Agreement Between the EC and Bangladesh; EC Generalized System of Preferences (2006–15), Asia-Pacific Trade Agreement; BIMSTEC, South Asia Free Trade Area Agreement and the Trade Preference System for the Organization of the Islamic Conference including many others. The results apparently show that the East Asia imports about 50%, the export being only 7%, while the situation is about opposite for EC indicating the severe crisis of legal administration in our region due to non-adaptable characters of domestic import laws.

Table 3. National and International Trade agreement appliances as per status of eximport

Country/Region	Exports(%)	Imports(%)	Trade Agreements + WTO
United States	39.4	4.3	US Systems
European Community (EC)	43.0	12.3	Cooperation Agreement with EC System
East Asia	7.0	49.6	Asia-Pacific Trade Agreement; BIMSTEC
South Asia BIMSTEC	1.0	16.3	South Asia Free Trade Area Agreement;
Middle East	2.1	3.9	Trade Preference System for OIC
Others	8.5	13.6	Various

**CONCLUSION**

The findings of the study and the recommendation made as regards changed climate legislative adaptation from these studies suggests immediate need for legal reformations for administering imports. The major trade items of the country are summarized and mentioned here with recommendations. Results showed that 49 to 72% of the categorized respondent stated agro-industrial inputs and products as the dominant trade items for import, the mean value being 61%. The results found clearly show that the agro industrial item groups scored highest as a problems by most stakeholders followed by services, specially of costs for external assistance due to legal

inadequacy in the country. As per numbers of Acts and Ordinances, and types, Ministry of Fisheries and Livestock (MOFL) and Ministry of Agriculture (MOA) have obtained the highest position among all the legal documents. Agricultural regulatory documents as per origin reveal that out of 54 legal documents collected, 34 legal documents were enacted or made in Bangladesh Period, 20 legal documents were made/enacted in the British and follow on periods. The similar cases has been found with other Ministries, where ordinances dominate the controlling mechanisms and which is not always in favour of the domestic importers dealing diverse items driven by changed environment dynamic situations. Other Ministries found to have very little concern with import trade laws though they have volume interactions. The businessman also highlighted the gaps of laws for the import events causing their frequent losses specially of getting compensations and tax payments. It may be concluded that the recent steps taken by the Bangladesh Government forming a legal reformation commission was a very timely and effective decision. It is of vital importance to take immediate steps for updating the import legislative system at least for MOFL and MOA to uphold the interest of domestic need under the purview of changing climate lead business pattern, product transport, quality standard and taxing mechanisms. It is alarming that about 79% of the regulations have no legal and administrative base and 71% materials are notifications based on very old conventions which can not protect the interest of the domestic consumers. The present research paper sufficient data to outline effective legal reformations process worked out by categorized beneficiaries and stake holders, law firms and administrative managers.

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