



# **Business Enabling Environment (BEE) project**

## **DEC Global Indicators Group (DECIG)**

### **Public Consultation Consolidated Comments\***

April 12, 2022

\*Please see page 3 “About Business Enabling Environment (BEE) Public Consultation”.

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## Business Enabling Environment (BEE) – Public Consultation

The World Bank Group – Global Indicators Group in the Development Economics Vice-presidency (DECIG) – is formulating a new approach to assessing the business and investment climate in economies worldwide following the discontinuation of the Doing Business project. The objective of the Business Enabling Environment (BEE) project is to provide a quantitative assessment of the business environment for private sector development, with regular annual frequency and for most economies worldwide. BEE's development purpose is to advocate for policy reform and to inform economic research and specific policy advice. The intended flagship data and report will be designed, piloted, and implemented taking into consideration the views of subject experts and potential users in government, the private sector, and civil society.

A public external consultation opened from February 8 to March 15, 2022, among civil society organizations, private sector organizations, think tanks, governments, international development/financial institutions, and academic experts. More than 700 organizations were invited to participate from almost 200 economies. All WBG member country governments were likewise invited to participate through the Board of Executive Directors. Stakeholders and experts were requested to provide feedback on BEE's relevance, scope, and approach. Topic specialists were requested to provide technical inputs on their areas of expertise covered by BEE.

The team received more than 2000 comments from 410 feedback providers. (Comments were identified by the BEE team so that the inputs received from the same feedback provider on different topics were counted as separate comments.) Around 20% of comments addressed general matters, and 80% focus on technical topic-specific feedback. Around 40% of inputs were provided by individual topic experts; 30% by governments; 20% by civil society organizations, private sector organizations and think tanks; and 10% by international development/financial institutions.

To ensure transparency and accountability of the BEE consultation process, all feedback received is made publicly available, unless the feedback provider explicitly requested to keep it confidential. Feedback provided by subject experts contacted directly by the BEE topic teams will not be made publicly available unless explicitly requested by experts. Out of 410 feedback providers, 151 accepted to have their comments published. This document does not contain comments from feedback providers who specifically requested to keep their comments confidential and/or did not request their comments to be made publicly available. No responses will be provided to individual stakeholders. The BEE team thanks all stakeholders for their interest and engagement in this process. The revised and final Concept Note will be circulated to all stakeholders who have provided comments.

Comments received through the WBG  
consultation platform



## i. Civil Society Organizations

<b>First Name</b>	CEPHAS AWEDAGA
<b>Last Name</b>	BABACHUWE
<b>Title</b>	CEO
<b>Organization Name</b>	BIBA TRANSFORMATIONS
<b>Country</b>	Ghana
<b>Email Address</b>	bcawedaga@gmail.com
<b>Organization Type</b>	Civil Society Organization
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	Yes, they are.
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	BEE covers alot but I will add Building capacity of young change makers.
<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	Yes it does.
<b>Does the BEE project get the balance right between de jure and de facto indicators?</b>	Yes but can improve.
<b>Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?</b>	Maybe in future during implementation.

**Do you have any other general feedback?**

The project should benefit humans and planet.

**First Name** Gregory

**Last Name** Linton

**Title** Universal King

**Organization Name** Universal Slave Generation Nations  
Environment Global Independent  
International Organization

**Country** Rasmaroon King Yeahdat Republic State  
Jamaica Indigenous Sovereign Global  
Caribbean

**Email Address** kingyeahdat3@gmail.com

**Organization Type** Civil Society Organization

**Identity Disclosure Authorization** I authorize the World Bank team to  
disclose my name on the web (Optional)  
('YES')

**Do not disclose my information**

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?** No

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?** No

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

**Does the BEE project get the balance right between de jure and de facto indicators?**

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

**Do you have any other general feedback?**

<b>First Name</b>	Jean
<b>Last Name</b>	Kabongo Kabisekele
<b>Title</b>	Prisident
<b>Organization Name</b>	Solidarite Agissante pour le Developpement Familial { SADF}
<b>Country</b>	Democratic Republic of Congo
<b>Email Address</b>	sadfsurinfo@gmail.com
<b>Organization Type</b>	Civil Society Organization
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	The questions raised on this subject are very relevant today with the coronavirus, the news is full of events that can affect, directly or indirectly, the activity of companies and organizations in the world. Hence the importance of being aware of what is going on in the business environment, because ignorance always has a cost! We had regularly met with leaders of companies and organizations as part of the training. We met with him so that he could explain to us all the importance of being well aware of the various changing and dynamic elements that characterize the current business context. Their explanations prove that it would take immediate and lasting effective actions adapted to current life

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

We currently live in a rather particular context. It all started about ten years ago, after the global financial crisis of 2007-2008. We were then able to see that there were fractures, flaws in the system. There were things that were taken for granted back then. But since then, whether in the political field, for example, in the social field, with the rise of inequalities, and the uncertainty created by the technological revolution, we are out of balance. And we can of course add environmental and climate issues to the equation. So to improve these situations. It should be shown how civil society organizations will be funded directly without resorting to governments and how these organizations will operate independently without there being an absolved turn. If civil society is not supported in an operational and tangible way in relation to the sustainable development action plan expected by 2030, it will be difficult to improve the business environment today.

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

In connection with what we have just mentioned, do you believe that the strategic decision-makers of our companies and organizations are well equipped to fully understand the challenges inherent in today's business environment? not at all but with public institutions it is even worse. We have to change the mentality. Many public institutions and organizations work for themselves. What we generally find is that leaders and managers tend to focus on the microenvironment, on their particular area of business. They tend to focus on what they know. What we hear from the latter is that the macroenvironment is complex and that they have no control over what happens there. These arguments have no place in fact, because it is not because I do not control the weather that I cannot prepare for it accordingly! Of course, there is also a question of resources (personnel, time, money) to analyze the trends of the environment, and the big company can obviously devote more effort to this exercise. But in the case of SMEs, it's more difficult, and that's a shame because it's the small and medium-sized enterprises that are the most affected by the vagaries of the business environment, being less diversified and more exposed to different risks.

Macro-environment analysis requires time and resources from organizations, but it is something that must be done if failure is to be avoided. Governments must be well prepared to bring about real change while using civil society as the engine of sustainable development at the grassroots

**Does the BEE project get the balance right between de jure and de facto indicators?**

We can say yes, if it will be realized as we see it. Rights indicators are needed to know which rights, freedoms, possibilities and means have increased in number in many countries due to the increase in international migration.

Legislative guarantees include rights enshrined in constitutions, for example: non-discrimination based on race or sex, the right to food, education, laws that uphold civil and criminal justice, equality, solidarity and responsibility, etc. So in the de facto sense, we will take note of what will be done and done and we will continue to the precise indicators of the rights

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

Promote digital communication for all, including the right to education, the right to the internet, the right to free movement, the right to health and the right to criminal justice or whatever. Everyone must have the right in everything and for everything.

Direct financing of member organizations of civil society immediately to support the action plan for sustainable development by 2030.

Leaders must change the mentality and any legal or physical person must be interested in everything outside of their mastered objectives.

We must adapt to current life and leave no one behind

**Do you have any other general feedback?**

The first thing we recommend to leaders is to identify areas of vulnerability in their country or organizations in relation to the external environment. For example, the value of foreign currency can generate important consequences for the activities of an SME, if the latter exports. You must be aware. In addition, the analysis of the general environment must become a reflex for the decision-makers and for the organization: it is necessary to read and be informed on the state of affairs. One way to do this would be, for example, to discuss with the personnel of its sales or distribution network within the markets with which it does business. On the other hand, there is a wealth of free data and analyzes that are easily accessible, notably produced by financial institutions and governments, and which are of high quality. We must exploit this! The States must change the behavior and must they adapt the current system and the other States like the States of Africa must change the contents of lessons then we will be able to control all our business environment. Rich states must help the poor to recover, not exploit them. We look forward to working with you without too much doubt. The SADF NGO is open to all those who approach it in the sense of promoting sustainable development for all and defending the rights of all



<b>Organization Name</b>	China Council for the Promotion of International Trade(CCPIT)
<b>Country</b>	P.R.China
<b>Organization Type</b>	Civil Society Organization
<b>Identity Disclosure Authorization</b>	I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	Yes, the issues included in the BEE project are relevant for private sector development and the overall design is adequate in general.
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	No, it is very professional.

<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	Yes, in general the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development. However, there are several indicators which are not suitable for developing countries.
<b>Does the BEE project get the balance right between de jure and de facto indicators?</b>	Yes, in general it is, however, for example, in China and other development countries, there are not taxation court. The BEE project should consider the phase of different countries.
<b>Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?</b>	In indicators in the area of commercial dispute resolution,alternative dispute resolution mechanism which will measure the quality of regulations governing alternative dispute resolution mechanisms(arbitration and mediation) focus on efficiency,quality,cost,professionalization,digitization,internationalization etc. which are comprehensive. In the area of assesement methodology,it will collect information from both firms and experts, method is scientific and reasonable. I personally suggest to add arbitration entity as one of the method to collect information.
<b>Do you have any other general feedback?</b>	No

**First Name** Richard

**Last Name** Stern

**Title** Adviser

**Organization Name** Partnership for Transparency

**Country** United States

**Email Address** admin@ptfund.org

**Organization Type** Civil Society Organization

**Identity Disclosure Authorization** I authorize the World Bank team to disclose my name on the web (Optional) ('YES')

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**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?**

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

The pre-concept paper gives little or no attention to the role of civil society in promoting private sector development despite the fact that informed and constructive civic engagement (CE) can, and often does, play a key role in the development and maintenance of an appropriate enabling environment. We would urge that the BEE explicitly recognize the role of civil society in private sector development and develop appropriate indicators designed to recognize its contribution.

More specifically, the pre-concept concept paper highlights the intention to identify key indicators for efficiency in the implementation of key services promoting market competition. Civil society organizations (CSOs) in many countries have years of experience in helping to level the playing field and combat corrupt practices e.g. monitoring the award and implementation of government infrastructure and equipment supply contracts—including the implementation of and adherence to e-procurement platforms—and supply chains for government services. The results of such monitoring are typically taken up with the relevant government authorities through a process of constructive engagement designed to remedy the issues and deficiencies identified. It is important to note that this is an administrative rather than judicial process which typically results in prompt remedial actions. The Partnership for Transparency (PTF) has been supporting this work by CSOs for more than twenty years and remains more than willing to work with the Bank's Global Indicators Group to develop appropriate indices to measure the level and impact of such efforts.

Of course, the degree of “civic space” available to CSOs to carry out meaningful CE varies considerably between countries. Proxies to measure governments openness to such engagement are readily available.

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

**Does the BEE project get the balance right between de jure and de facto indicators?**

In two cases we feel that this is not the case:

- 1) Business entry: The explanation in the pre-concept note indicates that “this indicator assesses regulatory restrictions for business entry.” This de jure indicator should be complemented by a de facto indicator to address the reality that in countries with elevated levels of corruption the regulations can be applied in a partial way due to different forms of corruption. Therefore, we recommend including a de facto indicator which accurately demonstrates the difficulty of entering a market (even if a company complies with the formal requirements).
- 2) Business location: The BEE covers the “quality of regulations for immovable property lease, property ownership, and urban planning,” but not its de facto application.

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

The cross cutting-nature of corruption which has a tremendous effect on the business environment of a country, especially in those with high levels of corruption, should be reflected in different indicators of the BEE by integrating relevant proxies:

- 1) In the areas “financial services” (specifically “obtaining a loan”), “taxation” (specifically “time to complete and obtain a VAT refund”), and “market competition” (specifically “time to pay government contractors”), the indicators consider the time and cost of the processes, but they do not indicate if these values represent the due processes or the result of possible facilitation payments (independent of their motivation, may they be extortion or other).
- 2) The indicators related to the e-solutions referred to in the context of taxation and market competition, specifically procurement, should also consider their effectiveness to mitigate opportunities for corruption. This kind of solution can have a significant and powerful impact on the prevention and, in the case of e-procurement platforms, detection of corruption they allow businesspeople, for example, to document concerns/ identify irregularities publicly on such a platform.
- 3) You consider the highly important topic of “whistleblower protection” in the BEE area of market competition, which is great. Please do not limit it to this area though. “Whistleblower protection” can be existentially relevant when it comes to Environmental Social Governance-related issues, so please consider whistleblower protection in a much wider context.

**Do you have any other general feedback?**

The scope of the consultation process has not been explained and it is not clear whether the process itself has been sufficiently inclusive. In our view, it would be important to seek the views of CSOs from a broad range of countries, to ensure the voices of civil society in those countries are heard and that they are given a chance to improve and influence the quality and content of the BEE concept.

<b>First Name</b>	Francia   Alejandra
<b>Last Name</b>	Serrano   Gutiérrez
<b>Title</b>	Strategic Procurement Assistant
<b>Organization Name</b>	MyWorldMexico
<b>Country</b>	Mexico
<b>Email Address</b>	francia@myworldmexico.org
<b>Organization Type</b>	Civil Society Organization
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	Yes, because BEE represents a collective effort that is able to emphasize and compare essential aspects involved in the processes of traditional trade (exchange, taxes, resolutions, etc). On the other hand, it is a document that besides expressing current trade necessities, it presents a series of indicators that address critical aspects such as: transparency, efficiency, democracy, equity and conflict mediation. Finally, this document recognizes the importance of the transition towards balanced trade and green financing.
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	I. Outsourcing II People with a disability III. The trend towards sustainable digitalization, its benefits and challenges. IV. In several points, the impact of actions on people could be highlighted, thus addressing one of the dimensions of the 2030 Agenda. V. Equality and empowerment of women to achieve inclusive and sustainable development.

<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	Yes, through interoperability, transparency and an efficient regulatory framework focused on commercial actions in a more equilibrated environment.
<b>Does the BEE project get the balance right between de jure and de facto indicators?</b>	Partially, since more actions are detected under the de facto figure. Thus, it is important to join efforts to create wider and more flexible regulatory frameworks, where at least the majority of enterprises recognize key values in order to achieve a better balanced and clarified trade.
<b>Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?</b>	<p>Business entry* - Digital public services and transparency - In order to enhance privacy as a value of transparency, it is pertinent to emphasize the limits of companies regarding the use of biometric data of users.</p> <p>Business location* - Urban planning - It should promote companies concerned about their surroundings.</p> <p>Labor* - Ease of employing labor* - Analyze and describe subcontracting regimes to avoid the absence of labor benefits and tax obligations.</p> <p>Market competition* - Efficiency - Develop digitalization and innovation processes.</p> <p>-In overall, each of the indicators covers critical aspects of trade. It successfully exposes the need for a more balanced environment, the fight against corruption, the inefficiency of administrative processes, etc. It strives for trade with new values that have an impact on the fight against climate change. Likewise, it seeks to make trade more predictable through more functional processes, while favoring participation with specialized consultations and discussion forums.</p> <p>Finally, indicators not only coordinate actions, but also simplify processes, the time and cost of response.</p>
<b>Do you have any other general feedback?</b>	It would be useful if the reader can see at the start of the document in a visual way (a graphic) the topics and their indicators.

<b>First Name</b>	Manuel
<b>Last Name</b>	Anselmo Palomino
<b>Title</b>	Presidente
<b>Organization Name</b>	Asociación Educativa Bezaleel
<b>Country</b>	Perú
<b>Email Address</b>	asseb.educperu@gmail.com
<b>Organization Type</b>	Civil Society Organization
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	I believe that the topics that have been included in the BEE project constitute points of great relevance in the current world market, which are essential for the sustainability of any company that intends to take possession of the business world, with transparency, discarding all evidence of corruption. , which is the plague that absorbs large companies and governments in most of the world.
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	Although it is true that the BEE project mentions good regulatory practices on international trade, it is necessary, in our humble point of view, to consider anti-corruption and money laundering as a fundamental issue, since in my country Peru the last presidents are in jail or in legal proceedings, precisely for having favored companies in social work concessions, the same thing has happened with authorities in this part of the continent



**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

It seems to us that yes, the balance and relationship between one and the other are considered to achieve the development of the private sector.

**Does the BEE project get the balance right between de jure and de facto indicators?**

In our opinion, the laws and regulations do achieve the correct balance, complementing each other for the proposed objective.

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

On the issue of business insolvency, they have fundamental criteria for this part, since the obligations in the financing structure of companies, when it becomes critical, reaches the point of declaring bankruptcy. The criteria have been carefully analyzed, so they are the most appropriate in terms of efficiency and quality for making timely decisions, in a transparent and reliable manner.

**Do you have any other general feedback?**

In my country Peru, there is an important sector that is the Education sector, but not basic education, but education for work. The Productive Technical Education Centers welcome thousands of students from 14 years of age and older, who seek to train in a short time in a short technical career that allows them to enter the labor market, these Centers lack equipment according to current technology that guarantee quality education, and that have the capacity to self-finance their sustainability, producing goods and providing services. I am grateful for the opportunity to extend the proposal to adapt these training centers into production centers in accordance with technological progress that allows it to compete with any company at a national and international level, also generating jobs for low-income youth.

**Organization Name** Union internationale du notariat

**Country** France

**Organization Type** Civil Society Organization

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**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?** The diversity of topics covered by this new report seems quite relevant.

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?** The method of data collection and analysis will need to take into account the diversity of legal systems and institutional arrangements.  
This implies ensuring the international diversity of the academics associated with the project, in order to avoid bias caused by the uniformity of the analytical framework.  
The notion of "public services" depends on the national frame of reference, which must be taken into account in order to avoid distorting comparisons.  
The composition of the "Doing Business: External Panel Review" might suggest that only American universities qualify for the new BEE project.

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?** We can only evaluate this aspect by studying the draft questionnaires.

**Does the BEE project get the balance right between de jure and de facto indicators?** We can only evaluate this aspect by studying the draft questionnaires.

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

As regard "Business Location" and "Business Entry":

Data collection should cover the entire state to be more granular and measure the homogeneity of the business environment, and not be limited to the economic capital.

In countries with a non-unified legal system (federal organization), the data collection should reflect the variety of business environments in the different states or entities of the country.

Concerning the de facto analysis, the search for the real transaction cost should lead to the assessment of the cost of title insurance.

**Do you have any other general feedback?**

The primary data collected will have to be accessible, which was not the case for DB.

**Organization Name** ACT NOW

**Country** Papua New Guinea

**Organization Type** Civil Society Organization

**Identity Disclosure Authorization** I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question

**Do not disclose my information**

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?** The overall design is flawed and inadequate.  
Just as with the Doing Business report, with the BEE, the Bank will continue scoring and ranking countries on the basis of “economic reforms” they implement. This is deeply problematic and will perpetuate a race to the bottom between countries competing to carry out more reforms.  
More than 280 organisations have already rejected this ill-conceived approach - see <http://ourlandourbusiness.org/wp-content/uploads/2018/01/Joint-Statement-Our-Land-Our-Business.pdf>

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

The project does not strike the right balance. Though the concept note uses some language that tends to recognise the importance of certain regulations, it aims to curb “excessive” or “cumbersome” regulations, which are highly subjective terms, depending on the stakeholders concerned. An environmental regulation preventing pollution from a mine or a palm oil plantation may be well seen as “excessive” or “cumbersome” by the corporation running the project but will be deemed essential by the local communities living in the vicinity. As an instrument intended to collect perceptions from private firms and surveys of business experts, a pro-business bias will be unavoidable at the expense of local communities and the environment.

**Does the BEE project get the balance right between de jure and de facto indicators?**

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

**Do you have any other general feedback?**

Given the concept note considers that “international trade is a key driver of economic growth and plays a decisive role in the promotion of private sector development,” the BEE is intended to ensure that countries don’t place restrictions to it. The only restrictions that might be acceptable are “public safety, health, and the environment” related, provided they are not “counterproductive” or “excessive.”

Again, qualifying trade restrictions as “excessive” is a highly subjective matter, subject to different interpretations depending on stakeholders. A trading firm will be likely to oppose any trade restrictions, though they might be on the contrary supported by a local producer of agricultural goods having to compete with cheap imported products. Furthermore, it is a blatantly very narrow vision to consider “international trade” as a whole as being good for economies, whereas trade restrictions can be the only way for certain countries to allow their farmers to survive or for certain industries to exist. For instance, African countries such as Rwanda or Kenya that have tried to develop their textile industry have come under intense pressure not to restrict imports of second-hand clothes though they see it as the only way to expand their own industry. Not allowing poorer countries to impose trade restrictions that they need to develop goes against the stated goals of the World Bank to promote private sector and development.

<b>Organization Name</b>	International Trade Union Confederation
<b>Country</b>	USA
<b>Organization Type</b>	Civil Society Organization
<b>Identity Disclosure Authorization</b>	I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question
<b>Do not disclose my information</b>	
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<b>Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?</b>	
<b>Do you have any other general feedback?</b>	<p>The trade union movement expresses grave concern on the relaunching of the World Bank's Doing Business Report as the Business Enabling Environment report. The proposal for the new report includes a labour indicator that promotes deregulation and an oversimplified view of the world of work, as well as a tax indicator that undermines contributory social protection systems and progress on corporate taxation.</p> <p>Balanced labour regulations have benefits for all, including workers, employers, and societies. The World Bank has termed this 'jobs-linked externalities'. Labour policymaking matters for the macroeconomy and sustainable development, going far beyond the scope of the business environment report that will inevitably reduce the consideration of labour to its utilisation as an input for business regardless of the wider policy implications. Simply put, it does not belong in this report.</p> <p>The Doing Business Report was ended in 2021 for catastrophic data manipulation, after years of controversy and promoting damaging policies, with severe repercussion to labour markets and workers around the world. An independent investigation commissioned by the Bank demonstrated how insecure, fixed-term employment contracts in the unit responsible for the report enabled workplace intimidation that kept the malfeasance from coming to light. This is ironic considering Doing Business promoted deregulation of employment contracts and dismissals at the national level. Undoubtedly, this enabled violations to occur in</p>

many workplaces globally while fostering precarious employment and inequality that undermined the Bank's goals of shared prosperity and poverty elimination, as well as the Sustainable Development Goals.

We further question the rebranding of Doing Business as the Business Enabling Environment report without changing the flawed assumption of the old report: what is good for business is automatically good for all and for development. A core problem of Doing Business was the use of the Bank's influence to universally promote a set of deregulatory reforms regardless of country context. In the pre-concept note, the first aim is "advocate for policy reform" and the rankings approach will continue. The indexing approach was a central issue, and it is unadvisable to continue in this direction.

The task of creating jobs and fostering decent work for sustainable development should not be subordinated to promoting policies desired by business. The approach in the pre-concept note is mostly focused on balancing the needs individual firms with broader private sector development. The Bank's Country Private Sector Diagnostics would be a more useful direction to pursue. With further work on methodology for the jobs and inclusion element to include job quality and income effects, and measures to avoid harming access to education and health through privatisation, the Diagnostics could be part of the Bank promoting productive investment in the real economy, policies for diversification, and creation of quality jobs.

The angle of approach of the Bank should shift from benefitting the business environment for its own sake to creating business environments that deliver for sustainable development and tackling the issue of financialization, which can drive inequality and hamper the business environment by trapping capital in speculation rather than expanding access to credit for firms. The Bank's 2019/2020 Global Investment Competitiveness Report and the OECD FDI Qualities Indicators point in the direction of thinking about the enabling environment that is needed more broadly to ensure that private sector growth converts to the Bank's goals.[1]

The Competitiveness Report acknowledged that despite potential positive contributions to aggregate employment and demand, foreign investment can drive inequality, only benefit some workers, and in some cases did not reduce poverty. The report therefore recommended "Improve bargaining power and knowledge spillovers for workers by enforcing sufficient labor standards and



supporting labor representation.” Contrary to the approach of reducing regulations to attract investment and therefore create jobs, an ineffective approach that was at the heart of Doing Business and its usage by policymakers, the Competitiveness Report argues “the best way to ensure inclusive growth is to complement investment policy with progressive labor market policies.”

Although the pre-concept note makes statements about balancing the needs of firms with the interests of workers, this is not reflected in the substance. Moreover, the balance in consists of references to social protection and labour rights alongside the support for reducing regulations that protect workers. There should be no content that will erode workers’ rights and economic security, actions that have negative consequences when the evidence is examined beyond the rhetoric of regulatory burdens.

Labour market policy should be dealt with separately from the business environment by the Bank, and like gender be removed from the purview. Further, a labour indicator does not meet the proposal’s criteria of adding value, given the de jure and de facto information already gathered by the ILO in terms of statistics and the supervisory mechanisms on international labour standards, as well as data gathering under Sustainable Development Goal 8. It is complicated and unnecessary to create a new indicator to span a variety of national contexts, including for countries that are not Bank borrowers.

The current task of the Bank should be strengthening cooperation with the ILO and social partners to help close decent work gaps and achieve sustainable, job-rich development. Part of this must include repairing the damage from the Doing Business labour indicator and broader measures to deregulate labour markets. Rising levels of precarious and non-standard employment, together with extensive technological and other changes grouped under ‘the future of work’, requires the same task of adopting and implementing effective protections and policies.[2] The co-director of the 2019 World Development Report on the changing world of work was Doing Business co-founder Simeon Djankov. By repeating the same logic as Doing Business, it did not make a useful contribution – in contrast to the 2013 edition that moved the Bank beyond the simplistic and blindly pro-business approach. [3] Deregulation and flexibilisation have not helped countries nor workers in the global economic changes of recent decades. It is time to forge a new path that recognises the development impact of strong labour market institutions and worker protections. [4]

The Employing Workers Indicator, itself a rebranding of the original ease of hiring and firing indicator, was removed from the Doing Business indicators in 2009 because its methodology was deeply flawed and it contributed to a downward spiral in policymaking, with negative effects for workers, employers, and development alike. The Bank's president stated in 2020 that "we will no longer collect labor data for, or include data in, the Doing Business data set". The Bank then separated the Employing Workers Indicator from Doing Business and preserved its existence as an independent project despite its serious flaws.[5] ITUC calls for a full end to the Employing Workers Indicator, with neither reincorporation into the new report nor continuing operation as a standalone project.

The proposed labour section of the new Business Enabling Environment report still contains the approach of the Employing Workers Indicator, with its advocacy of drastically reducing hiring and dismissal rules, as the core of a new labour indicator. The proposal states that "Many studies point to the association between rigid labor market regulation and higher levels of unemployment (especially among vulnerable groups) and informality, along with reduced levels of productivity and economic growth". This claim relies on a highly selective and partial survey of evidence, much of it outdated, and does not reflect the conclusions of comprehensive surveys of the literature and evidence that finds an overall effect close to zero. [6]

The conclusion is also at odds with the Bank's own ground-breaking World Development Report 2013 on Jobs and other research showing that the employment effects are minimal and regulations can be set alongside a plateau avoiding extremely high or low levels. This reality is not suited to the ranking approach, and labour market policy is best set through social dialogue among governments, workers, and employers based upon the development, decent work, and inclusive growth challenges of a country.

We note the pointed omission of the ILO with regards to developing the indicator on hiring, dismissals, and scheduling: "This indicator will build on OECD, IMF, and World Bank research on labor market flexibility". It is also important to note that in recent years the OECD Jobs Strategy has emphasized security, stability, closing loopholes, and addressing disguised employment. The 2018 edition was a reappraisal of flexibility on the basis that "countries with policies and institutions that promote job quality, job quantity and greater

inclusiveness perform better than countries where the focus of policy is predominantly on enhancing (or preserving) market flexibility.” The Strategy underwent a significant shift from the 1990s to today, reflecting the problems associated with labour market deregulation. [7]

Both the ILO and OECD have focused on ensuring protections for all workers regardless of employment status. This is among the priority action areas that are not best served by including labour in a report offering business climate rankings. Like gender and other broader topics, labour is best addressed elsewhere. The need for labour to be handled separately from Doing Business has been long established. This includes the recommendations of the 2013 Independent Panel Review to handle labour market policies separately. [8] The 2013 recommendations were never fully implemented, and the 2021 External Review Panel endorsed a proposal from the Doing Business team to reintroduce the subject. As with the pre-concept note, this proposal was based on an incomplete evidence based and an inaccurate portrayal of the effects of labour regulations. However, we note that the pre-concept note appears to ignore the 2021 External Review Panel recommendation to not include labour or taxes in overall rankings.

The proposal for the Business Enabling Environment advocates for the false and failed promise of low labour market deregulation offset by social protection systems, the so-called flexicurity model. It is an imprecise term based upon inaccurate portrayals of policy in some Nordic countries, including on the process for dismissals. Flexicurity has served as a battering ram for deregulation, or at best muddled the waters of policy discussions. [9] Both social protection and labour market regulations have distinct and complementary functions. An approach of substituting improvements in one area for cuts in another is a dead-end that takes important policies off the table. This has serious consequences for workers, labour markets, and inclusive growth. [10] Measures for real flexibility, such as investing in the care economy and paid leave policies, can be combined with effective labour regulations that reduce discrimination and provide security, plus social protection for resilience toward individual and overall shocks.

The evidence-based and nuanced approach of the 2013 World Development Report undergirded the development of the Balancing Regulations to Promote Jobs by the Bank and ILO, with extensive input from workers’ and employers’ organizations. [11] The irreplaceable functions and importance of various regulations were recognised, with reasonable attention

gave to all considerations. This productive research and dialogue made clear that balanced regulations are key to creating decent jobs, transitions from the informal to the formal economy, productivity with shared prosperity, and access to the labour market for groups suffering discrimination and barriers. These challenges are often exacerbated by deregulation, leading to more discrimination and greater occupational segregation into lower-paid and less secure jobs. It also leads to the proliferation of precarious employment contracts.

It is worth recalling the forward to Balancing Regulations, which establishes why dialogue is crucial to make responsive, contextual and evidence-based policies for SDG 8 rather than a simplistic prescription for all situations, promoted by rankings:

"This report offers guidelines to design, implement, and reform labor market regulations in four areas: employment contracts, minimum wages, dismissal procedures, and income protection for the unemployed. It shows that, while there is no 'one size fits all' blueprint for reform, there are some general principles that can help improve the design of labor laws and their implementation. The report also underscores the importance of dialogue between representatives of employers and workers as well as other major stakeholders. Significantly, this report reflects a shared vision between the ILO and the World Bank Group to promote policies that encourage job creation and protect workers. This has been possible thanks to the commitment of both institutions to focus on the lessons derived from rigorous research and international experiences. We hope this report will inform countries' paths to achieve the Global Goal to promote inclusive economic growth, employment, and decent work for all."

The introduction to the report further states:

"Beyond some of these general principles, however, there is no overall blueprint to design or adapt labor regulations. Rather, there are different reform paths that depend on country characteristics and are shaped by social, political, economic, and historical circumstances combined with different legal traditions. A recommendation is to reform labor regulations in a systematic and comprehensive manner. In the past, several countries narrowly focused on selected labor regulations without considering the complexity of effects on the labor market."

Such considerations are not reducible to a ranking and indicators, even with an added patina of referencing labour rights and social dialogue. The latter is mentioned in the introduction to the labour section of the pre-

concept note but there is nothing further related to social dialogue nor resolution of collective labour disputes in the text. The idea of 'availability of minimum wage' is also unclear, and the approach to selecting some of the core labour standards while omitting forced and child labour is likewise not explained.

Instead of including a labour indicator in the Business Enabling Environment report, the Bank should implement Balancing Regulations as a manual for staff. The approach of seeking balance and creating guidance based on input from the ILO and social partners can be replicated for other labour and social protection policy areas, such as promoting skills, active labour market policies, collective bargaining, and inspectorates, and eliminating forced and child labour. All of this would support comprehensive labour policymaking by countries. Transitions from the informal to the formal economy are among the central tasks in the world of work, and an area where additional World Bank support would be beneficial if based upon the interlocking and comprehensive approach of ILO Recommendation 204. This Recommendation is illustrative of how the reductive rankings approach is not appropriate for driving improvements that require comprehensive policymaking involving social partners, particularly job creation in the recovery from the pandemic.

We wish to draw attention to the contradictions and limits in the proposed data gathering. There is a heavy reliance on labour lawyers for social protection, public employment services, individual labour dispute resolution, discrimination, and flexibility of hiring and dismissals. The pre-concept note does not acknowledge that the overwhelming majority of who would be providing input under such a system would be employer-side firms and lawyers with their own biases, agendas, motivations, and functions including defending firms when they engage in wage theft, discrimination, or other violations. It is acknowledged that firm responses are not reliable with regards to some of these topics including discrimination, but it is uncritically accepted that the law firms serving them will provide a more neutral point of view. Firms will, however, provide information on working hours, non-wage costs, and inspections. These are areas in which firms routinely violate the law in many countries, and are therefore not a reliable source of unbiased or accurate information. The proposal to rely on firms and their advisory firms makes clear that the central focus of the report is pro-business policy, regardless of some mentions of worker interests and rights.

There are high levels of complexity in analysing de jure

and de facto labour laws, regulations, and programmes. Neither the data collection, preliminary approach, nor the arguments for including labour in the Business Enabling Environment report account for these challenges, and so the intervention is regrettably destined to be counterproductive. This is doubly true if a labour indicator becomes part of an aggregate ranking.

The trade union movement remains open and eager to work with the Bank on labour and social protection, outside of the framework of Business Enabling Environment proposal.

Finally, it is surprising that the proposal for a Business Enabling Environment report clings to the total tax and contribution rate, an approach developed by PwC for the purposes of political advocacy in favour of lower taxes. The proposed changes do not address the fundamental problem that the methodology is not coherent in combining business taxes and contributions to social protection programmes. The proposal is to count 50 per cent of social contributions, despite acknowledging that the share borne by business and workers varies. Once again, this complex topic should be removed from a report that is about ranking the business climate, and be dealt with separately based on national context, input of workers' and employers' organisations, and a variety of considerations including the achievement of universal social protection in determining the cost sharing and level of contributions.

Using the total rate will be a barrier to progress on financing social protection and the nascent progress on international corporate taxation. In the pre-concept note, the inclusion of the total tax and contribution rate is at odds with social protection being included in the labour section. Financing universal social protection including floors will require a mix of employer contributions and general revenue, including corporate and progressive taxation.

For additional commentary on this subject and the legacy of the Employing Workers Indicator, we refer to our input to the 2021 external review panel:

[https://ituc.sharepoint.com/:b:/s/public/EdI65KCtrMJJkBPw9sjdrTkB3xOXs7IWQUOt\\_7n8-JdnwA?e=6lXWnn](https://ituc.sharepoint.com/:b:/s/public/EdI65KCtrMJJkBPw9sjdrTkB3xOXs7IWQUOt_7n8-JdnwA?e=6lXWnn)

[1] OECD, FDI Qualities Indicators: Measuring the sustainable development impacts of investment, 2019, <<https://www.oecd.org/fr/investissement/fdi-qualities-indicators.htm>>.

World Bank, "Global Investment Competitiveness Report 2019/2020 : Rebuilding investor confidence in times of

uncertainty”,  
 <<https://openknowledge.worldbank.org/handle/10986/33808>>.

[2] See, for. e.g.: Rubery, Re-regulating for inclusive labour markets, Conditions of Work and Employment Series No. 65, ILO, 2015,  
 <[https://www.ilo.org/travail/info/publications/WCMS\\_428981/lang--en/index.htm](https://www.ilo.org/travail/info/publications/WCMS_428981/lang--en/index.htm)>.

Berg, Addressing the challenge of non-standard employment, World Bank Jobs and Development Blog, 2017, <<https://blogs.worldbank.org/jobs/addressing-challenge-non-standard-employment>>.

[3] Anner, Pons-Vignon & Rani, “For a future of work with dignity: A critique of the World Bank Development Report, The Changing Nature of Work”, Global Labour Journal, Volume 10, No.1, 2019,  
 <<https://doi.org/10.15173/glj.v10i1.3796>>.

ITUC, “World Bank’s World Development Report 2019: World Bank’s unhelpful contribution to debate on the future of work”, 2018, <<https://www.ituc-csi.org/world-bank-s-world-development>>.

[4] Storm & Capaldo, “Labor institutions and development under globalization”, Institute for New Economic Thinking Working Paper Series No. 76, 2019  
 <[https://www.ineteconomics.org/uploads/papers/WP\\_76-revised-Storm\\_Capaldo.pdf](https://www.ineteconomics.org/uploads/papers/WP_76-revised-Storm_Capaldo.pdf)>.

[5] This is acknowledged in the pre-concept note: “Over 10 years ago it was removed from the aggregate rankings, while the data continued to be collected and included as an Annex. In 2020 it was made a standalone project: [www.worldbank.org/employing-workers](http://www.worldbank.org/employing-workers).”

[6] Heimberger, “Does employment protection affect unemployment? A meta-analysis”, Oxford Economic Papers, Volume 73, Issue 3, July 2021,  
 <<https://doi.org/10.1093/oep/gpaa037>>.

Betcherman, Gordon, Labor Market Institutions: A review of the literature, World Bank Policy Research Working Paper No. 6276, 2012  
 <<https://ssrn.com/abstract=2181285>>.

Storm & Naastepad, “Why labour market regulation may pay off : Worker motivation, co-ordination and productivity growth”, 2007,  
 <[https://www.ilo.org/empelm/pubs/WCMS\\_113903/lang--en/index.htm](https://www.ilo.org/empelm/pubs/WCMS_113903/lang--en/index.htm)>.

[7] Evans and Spriggs, “The great reversal: The story of how an influential international organization changed its view on employment security, labor market flexibility, and collective bargaining”, Economic Policy Institute, 2022,  
 <<https://www.epi.org/unequalpower/publications/workers-and-economists-oecd/>>.

On the problems see, for e.g.: Liotti, Labour Market Regulation and Youth Unemployment in the EU-28

<<https://link.springer.com/article/10.1007/s40797-021-00154-3>>.

[8] Independent Panel Review of the Doing Business Report, 2013,

<[https://thedocs.worldbank.org/en/doc/237121516384849082-](https://thedocs.worldbank.org/en/doc/237121516384849082-0050022018/original/doingbusinessreviewpanelreportJune2013.pdf)

[0050022018/original/doingbusinessreviewpanelreportJune2013.pdf](https://thedocs.worldbank.org/en/doc/237121516384849082-0050022018/original/doingbusinessreviewpanelreportJune2013.pdf)>

[9] Burroni and Keune, “Flexicurity: A conceptual critique”, European Journal of Industrial Relations, Vol 17, Issue 1, 2011,

<<https://journals.sagepub.com/doi/10.1177/0959680110393189>>.

Janssen, “Flexicurity: The model that never was”, Social Europe Journal, 2013, <<http://gesd.free.fr/flexijan.pdf>>.

Viebrock & Clasen, “Flexicurity – a state-of-the art review”, Working Papers on the Reconciliation of Work and Welfare in Europe, 2015 <[http://old.adapt.it/adapt-indice-a-z/wp-content/uploads/2015/01/viebroc\\_lasen.pdf](http://old.adapt.it/adapt-indice-a-z/wp-content/uploads/2015/01/viebroc_lasen.pdf)>.

[10] Shahidi et. al., “Do flexicurity policies protect workers from the adverse health consequences of temporary employment? A cross-national comparative analysis”, Population Health, Volume 2, December 2016, <<https://doi.org/10.1016/j.ssmph.2016.09.005>>.

[11] World Bank, “Balancing regulations to promote jobs: From employment contracts to unemployment benefits”, 2015, <<http://hdl.handle.net/10986/23324>>.



**Organization Name**      Organization of Christian Writers

**Country**                      Nigeria

**Organization Type**        Civil Society Organization

**Identity Disclosure Authorization**      I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question

**Do not disclose my information**

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?**

Yes, the issues discussed are relevant for private sector development.. The need of having quality regulations for business entry and the availability of public service for transparency of information, and having the efficiency measured by indicators are all important for private sector development. Also, the issues of knowledge sharing and policy dialogue are very vital. This will help seal the gap between emerging markets and the developed economies, and promote private sector development. Take for example the issue of vaccine sharing and manufacturing face-off between the developed nations and the third world countries. The overall design is adequate though there's still room for one or two things to be added.

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

Maybe the BEE should look further at the market mechanisms - market unions, and market conditions that support private sector development. Finally, immigration should be noted as a key process that promote private sector development through the establishment of new firms.

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

Yes, it does.

**Does the BEE project get the balance right between de jure and de facto indicators?**

Yes, it does.

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

These indicators, when measured may contribute little or nothing to emerging markets or third world countries if they are not measured or looked at based on the potential and structure of the economy. For example, my country cannot boast of steady electricity for 96 hours without interruption. I mean it has never happened. Think of it. So, I think the potential and structure of a country should be looked at, for realistic measurements and data.

**Do you have any other general feedback?**

I think the BEE should extensively approach innovation or idea, a prerequisite for business entry. A regulatory framework should guide innovations prior to business registration. Idea rules the world, so a right balance should be struck between innovations, a government digital service of information for it and its regulatory framework. This, if created, would help a lot of countries, and be a boost to private sectors and firms.

<b>First Name</b>	Richard
<b>Last Name</b>	Hill
<b>Title</b>	Mr
<b>Organization Name</b>	Association for Proper Internet Governance
<b>Country</b>	Switzerland
<b>Email Address</b>	rhill@alum.mit.edu
<b>Organization Type</b>	Civil Society Organization
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	<p>I feel that there is an excessive reliance on the availability of online access and online services. These are not always easy to provide and to focus so much on them penalizes many developing countries.</p> <p>On p. 33, you should add a section a.(6) on data privacy: are there adequate regulations on protecting personal data.</p>
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	Regarding e-commerce, pp. 32-33, there is no discussion whatsoever of a key emerging issue: ensuring equitable distribution of the value-added of data. A serious discussion of this issue should be added, with a corresponding new section a.(7).

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

I think that the section on tax burden (pp. 39 ff.) is troublesome. One cannot consider the tax burden in isolation, it has to be put in the context of services provided by the state, such as security, education, health, etc. This section should be rewritten and propose an evaluation of the tax burden relative to the services provided by the state. For example, if taxes are low but the state does not provide any health services, then the private sector will have to provide the health services, and this will increase the cost of doing business. So a low tax burden does not necessarily equate to a low cost of doing business.

**Does the BEE project get the balance right between de jure and de facto indicators?**

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

See above comments

**Do you have any other general feedback?**

<b>First Name</b>	Amol
<b>Last Name</b>	Kulkarni
<b>Title</b>	Research Director
<b>Organization Name</b>	CUTS International
<b>Country</b>	India
<b>Email Address</b>	amk@cuts.org
<b>Organization Type</b>	Civil Society Organization
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?**

Yes, the issues included in the BEE project necessary but not sufficient for ensuring private sector development. Considering them in isolation from other socio-economic indicators affecting a country may result in presenting an incomplete picture. Any recommendation arising from such an incomplete assessment runs the risk of benefitting a few, widening inequalities, and exacerbating economic divide.

To prevent such a scenario, it is important to view private sector development in a holistic sense and consider industry as one of the key stakeholder groups, which along with other stakeholders, needs to grow together.

For instance, availability of skilled labour is a pre-condition for private sector development in developing countries, for which strong education (including skilling) and health systems and adequate law and order situation are essential. In such a scenario, without making progress towards improving health, education and law and order system in any country, it may not be possible to achieve private sector development. In addition, it will be important to consider interests of other stakeholders, which are often viewed as competing/ inconsistent with interests of private sector, and examine and promote co-existence and growth of different stakeholder groups.

For instance, traditionally freedom to hire and fire workers have been considered as a benchmark to allow businesses operate freely. However, it is increasingly being recognised that private sector development can only sustain when workers are considered partners in industrial development and not as another cost item. Decent compensation, fair working conditions, opportunities to grow, and social security are few basic rights of workers which can enable distribution of wealth in a country and give impetus to consumption cycle which can boost private sector development. It will therefore be important to recognise the policies and practices (such as not sourcing inputs from suppliers engaging in child labour) in place to promote worker welfare, which can contribute to private sector development. In addition, private sector development needs to be consistent with overall societal and environmental development in a country, particularly in light of the recent IPCC report on climate change. While the concept note does recognise environment as a cross-cutting theme, it appears to limit it to environment approvals and clearances which is a myopic vision. It needs to be recognised that environment and economic needs can co-exist and there need not be a trade-off between the two. Policies and practices (such as responsible business) that do promote sustainable development and environment protection or delaying the impacts of climate change must also be considered, while examining private sector development.

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

The concept note highlights that it intends to examine private sector development across stages of a business, i.e. establishment, operation, and exit. While these are important stages (and have been part of doing business studies as well), it may be useful to adopt a value chain approach to examine private sector development. A value chain approach examines the entire life cycle of a product, from production and sourcing of inputs to manufacturing, value add, transportation, packaging, marketing, sale, and supply of the end product. Typically, all industries need to source inputs for onward supply after appropriate value add. Thus, merely examining the policies and practices around manufacturing without according due importance to policies and practices around sourcing of inputs and onward supply of value added products may not be advisable. Such policies, rules, regulations, procedures, and practices could relate to export and import of goods and services, logistics and warehousing, global remittance and payments, and could include tariff and non-tariff measures imposed by countries. Considering all these will be extremely essential to assess private sector development in a holistic sense.

While the concept note recommends taking a sector agnostic/ neutral view, the key sectors relevant for an economy and the value chain, industry composition (MSME heaving or large industrial heavy, labour intensive or capital intensive, dependent on traditional or renewable resources) would be extremely crucial to understand the private sector development needs of a country in perspective, particularly when comparison with other countries is undertaken.

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

It also appears that the concept note targets stock of regulation and not flow i.e. capacity of state to continuously issue of sub-optimal regulation. It ignores state capacity to critically examine impact of policies on different stakeholders, capability to implement reforms, institutions/ processes in place to ensure independent functioning of key regulatory agencies (including appointment of experts and practitioners as members at the regulator, regulatory impact assessment/cost-benefit analysis, sunset clauses etc), efficient grievance prevention and redress, which is important for sustainable private sector development.

It is lauded that the concept note emphasises on stakeholder consultation, including firm level interactions. It should disclose more details, including on methodology of data collection and analysis, and ensure transparency to promote scrutiny and reliability. However, the scope of stakeholder consultations should be wider to include citizens, civil society and consumer organisations, who can keep a close watch on private sector development, policies and practices to the industry and can provide free and frank feedback.

<b>Does the BEE project get the balance right between de jure and de facto indicators?</b>	<p>It is crucial that the concept note highlights de-facto and de-jure factors affecting private sector development. However, examining both from the same yardstick, and according equal weights to both may be unwise. Specific objectives of de-facto assessments could be to identify overlaps, inconsistencies, redundancy (submission of same information, documents, all multiple times), criminalising/ imprisonment provisions, and identify scope of reduction. Specific objectives of de-jure assessment could be to understand implementation concerns, whether the requirement is legitimate, the officer is acting ultra-vires to the primary law, and if the desired objectives of the requirement are met. Such assessment can help in better analysis and examination of private sector development paradigm.</p>
<b>Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?</b>	<p>Include finance as a cross cutting issue as it required at all stages</p> <p>Include issues with respect to data security and protection as technology is considered as cross cutting issue. also, consider the exclusion impact of the technology</p> <p>Have specific focus on gendered private sector development i.e. businesses owned and operated by women</p> <p>Consider novel business models including community owned localised businesses, in addition to large scale businesses.</p> <p>Examine ways to include informal businesses and entrepreneurs in the assessment.</p> <p>Examine the success and potential of alternative and online means of dispute resolution</p> <p>Consider robustness of public consultation, notice and comment period, and global benchmarks in ensuring evidence based policy development.</p>
<b>Do you have any other general feedback?</b>	<p>Have multiple rounds of discussions before finalising BEE approach and methodology.</p>



<b>First Name</b>	LAURENT CHRISTOPHER
<b>Last Name</b>	BILIHANYUMA
<b>Title</b>	Mr
<b>Organization Name</b>	TANZANIAN YOUTHS BIODIVERSITY SOCIETY
<b>Country</b>	Tanzania
<b>Email Address</b>	bilihanyumahlpc19@gmail.com
<b>Organization Type</b>	Civil Society Organization
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	Yes,
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	Yes, the Bee project should base much on invention of science, technology and innovation for more improvement.
<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	Yes, the Bee project should continues the striking between the quality of regulations and the provision of public services
<b>Does the BEE project get the balance right between de jure and de facto indicators?</b>	Yes.

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

My feedback is to improve science, technology and innovation for best future .

**Do you have any other general feedback?**

Another feedback is to promote integrate, cooperation among researchers and hardworking for best Data research.

<b>First Name</b>	Kyle
<b>Last Name</b>	Ash
<b>Title</b>	Policy Director
<b>Organization Name</b>	Bank Information Center
<b>Country</b>	USA
<b>Email Address</b>	kash@bankinformationcenter.org
<b>Organization Type</b>	Civil Society Organization
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	Please, refer to our general comments below.
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	Yes. We elaborate below.

**Does the BEE  
project strike the  
right balance  
between the  
quality of  
regulations and  
the provision of  
public services  
for private sector  
development?**

**Does the BEE  
project get the  
balance right  
between de jure  
and de facto  
indicators?**

**Do you have any  
feedback  
regarding the  
indicators  
included in each  
specific topic  
(please indicate  
the topic)?**

**Do you have any other general feedback?**

Thank you for the opportunity to provide input to the pre-concept note on the Business Enabling Environment (BEE) project. We also appreciate that you will be making input public, and are happy for our input to be shared. The Bank Information Center (BIC) is an independent, non-profit, non-governmental organization that advocates for transparency, accountability, sustainability, and inclusion in development finance. In light of this mission, our comments are focused on the role the BEE might appropriately take to contribute to the Bank's mission to end extreme poverty and promote shared prosperity and equity.

BIC supported the Bank's discontinuation of the Doing Business Report, because in addition to corruption and lack of transparency around data, the aggregate ranking system encouraged a race to the bottom among governments and disincentivized a focus on environmental and social sustainability of private sector activities in favor of speed and economic efficiency. We strongly discourage the Bank from producing any form of comparative numerical rankings, which will by definition become competitive and we believe will constrain discussion of effective policy.

We encourage the Bank to completely rethink a return to any form of report that emphasizes quantitative indices. If the Bank does move forward with the BEE project, we urge the Bank to take a qualitative, holistic, and iterative, approach. The new report should give significant weight to issues that will factor in the future of the enabling environment for business, particularly (1) sustainability and resilience to climate impacts; (2) secure tenure and land rights, including for Indigenous Peoples/traditional communities, and their ability to control the resources in their territories; (3) workers, including respect for core labor standards; (4) the environment for public participation and ability of stakeholders to share their views without fear of retaliation; and, (5) inclusion, in terms of women's access to paid work and children's access to education — since all of these are prerequisites for a business environment that is sustainable and consistent with human development. Reducing government corruption can also improve the business environment and dramatically change how the BEE considers its scope since more transparency, accountability, and civic engagement, effectively enfranchising business owners, would greatly reduce “..the set of conditions outside a firm's control.”

<b>First Name</b>	Alex
<b>Last Name</b>	Cobham
<b>Title</b>	Chief executive
<b>Organization Name</b>	Tax Justice Network
<b>Country</b>	UK
<b>Email Address</b>	<a href="mailto:alex@taxjustice.net">alex@taxjustice.net</a>
<b>Organization Type</b>	Civil Society Organization
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	
<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	
<b>Does the BEE project get the balance right between de jure and de facto indicators?</b>	
<b>Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?</b>	Tax - see below.
<b>Do you have any other general feedback?</b>	<p>The Tax Justice Network is disturbed to see this project being floated.</p> <p>It is difficult to understand the rationale for the World Bank to pursue a 'Business Enabling Environment Project' (BEEP), and we have correspondingly few comments to make on the specific proposal. There is, in the pre-concept note, no apparent attempt to justify this focus for the World Bank's significant resources and its very substantial soft and hard conditionality power over country policy space. There is no rationale given to prioritise an environment that enables business – as opposed, to, for example, an environment that enables the reduction of inequality; an environment conducive to decent work conditions; an environment that enables the full achievement of human rights; or an environment that enables biodiversity and the necessary mitigation of the climate crisis.</p> <p>The full extent of the argument appears to be that offered in figure 1, in which an arrow labelled 'Private sector development' passes through points marked 'Growth', 'Equality of opportunity' and 'Sustainability'. We are unaware of any causal relationships of this sort, and the paper does not propose their existence.</p> <p>Absent a rationale related to the World Bank's stated aim of ending poverty, the clear concern is that this initiative might reflect a desire to retain the policy influence and financial return that were unfortunately associated with the discredited Doing Business Indicators (DBI), or continuing adherence to its equally discredited</p>

ideological basis. But like many, we would have hoped that the corruption of the World Bank as an institution that was associated with the DBI, and the continuing reputational damage, would have guarded against such a revival.

We will not offer a full review, nor close to it, but take the Tax Justice Network's own primary area of focus as an example of the revised approach.

The relevant section of the pre-concept note begins by recognising the central role of tax in development, but is then explicit that it will seek to retain its predecessor's anti-tax (and pro-inequality, anti-public services) ideology. On this basis, it includes a measure of tax 'burden', based on the predecessor's use of PwC's 'total tax contribution' – a deliberately misleading measure designed to grossly inflate the apparent tax paid by companies. (As straightforward alternatives, the ICTD/UNU-WIDER Government Revenue Dataset provides detailed data on the actual, aggregate contributions to tax of companies in each country; while researchers associated with the Tax Justice Network have generated consistent series of effective tax rates for multinationals that could be used to compare jurisdictional success in enforcing compliance.)

This 'burden' measure is combined in the pre-concept note with measures of the 'quality' of tax regulations, and of the 'services provided' by tax authorities. Under 'quality', for example, and intended to reflect 'complexity of record keeping and filing', we find for example one indicator on "the number of documents that are required by law to be filed with CIT returns, other than the financial accounts that businesses normally maintain (balance sheets, profit, and loss account)".

Many countries sensibly require additional information to be filed with their CIT returns. To give just two examples for multinational companies, this often includes a list of subsidiaries (crucial to confirm transfer pricing claims) and under an OECD standard, no less, country by country reporting (including via local filing where necessary). The apparent intention to incentivise the removal of such standard requirements is fully aligned with the regulatory race to the bottom that the DBI accelerated – but scarcely consistent with claims of a more nuanced approach in BEEP.

No element of the tax approach is consistent with the initial recognition of the contribution that tax can, and must, make to society. We summarise these as the 4 Rs of tax: revenue, redistribution, repricing (of public goods and bads such as tobacco consumption and carbon emissions) and political representation (because tax plays an important role in driving the accountability that underpins the social contract).

Delivered together, an effective tax system is thereby

central to the progressive achievement of human rights through an accountable state. The BEEP vision of tax, in contrast, is one in which the least trouble (for companies), lowest quantum tax is once again seen as best.

Measures of tax that were intended to support development would look very different indeed. Tax system effectiveness might be considered, including simple measures such as the tax/GDP ratio already established in the UN Sustainable Development Goals, along with estimates of losses due to tax abuse such as those published in the annual State of Tax Justice reports. The contribution of jurisdictions to cross-border tax abuse and other illicit financial flows suffered worldwide is tracked in detail in the many indicators of our Financial Secrecy Index and Corporate Tax Haven Index.

Even from the narrowest perspective of business ‘enabling’, the proposed indicators fail to address the potential of tax. Countries at all per capita income levels are struggling with the willingness and ability of multinational companies to abuse taxes, with an estimated minimum cost worldwide of some US\$312 billion annually (per State of Tax Justice). Aside from the revenue damage, this wedge also represents the unfair advantage gained over domestic, standalone businesses that are broadly tax compliant.

The failure to prevent tax abuse by the largest, international companies thereby undermines fair market competition. In the extreme, this can exacerbate the phenomenon of the ‘missing middle’, hollowing out the firm size distribution and leaving only disproportionate numbers of smaller firms, often informal, and dominant multinationals. This can also impose further tax losses, since economic activity is now overly concentrated in two groups that are poorly tax compliant on average, and likely a loss of employment and economic dynamism.

Unlike the DBI, the BEEP pre-concept note does explicitly recognise that there may be trade-offs, and even discusses this in the context of taxation. Specifically, it notes: “BEE acknowledges that some business regulations (e.g., certain regulations related to taxation) may add to the regulatory burden faced by individual firms but recognizes the positive impact that they may have on the economy. BEE will attempt to address this trade-off when deciding on the scoring methodology.”

In line with this, there are some elements that seek to recognise the value of effective government to individual businesses, such as efficient online registration; but little that recognises that there might be broader social value. Some of the most extreme elements of the DBI have been tempered – it appears, for example, that better labour protections might be rewarded rather than penalised – but the narrow focus dominates. None of the



	<p>tax indicators, for example, reward the kind of transparency measures that can strengthen public accountability – most obviously, public country by country reporting for multinationals (even in the aggregate), to put their tax behaviour on a level playing field with that of domestic firms filing public accounts. The narrow focus of the tax indicator bodes ill for the entire project. The BEEP may be somewhat better dressed but it appears to remain fundamentally consistent with the DBI’s aim to accelerate the race to the bottom on tax and regulation.</p> <p>In the absence of any clear rationale for the BEEP to exist, or any evidence base for how the particular measures would deliver broad, social benefits, there seems to be no case for further resources to be dedicated to this effort – especially in the case of an institution whose stated aim is to fight poverty.</p>
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**Organization  
Name** Oxfam International

**Country** Global

**Organization  
Type** Civil Society Organization

**Identity  
Disclosure  
Authorization** I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question

**Do not disclose  
my information**

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?**

We welcome the opportunity to comment on this pre-concept note. We start by expressing our grave concern on the re-launching of the World Bank's Doing Business Report as the Business Enabling Environment Report and which reads very much like an updated version of Doing Business. It is our strong view that the premise of the BEE is fundamentally flawed. The World Bank is arguably the most influential development institution in the world. It has a clear mandate of alleviating poverty and twin goals of boosting shared prosperity and ending extreme poverty. For almost 20 years, through the Doing Business Report (DBR), the World Bank promoted a private sector that increased inequality. It did this because the DBR was built on the premise that any private sector is good for development, and good for alleviating poverty. This ideological approach promoted a race to the bottom on corporate taxation and deregulation of standards. The scandals related to methodology, integrity and conflict of interest and which embroiled the DBR in 2021 were the straws that broke the camel's back but the DBR's framework and objective was fundamentally flawed.

What we see now is the BEE replicating the same problematic framework as the DBR.

The Bank should focus on building human economies within planetary boundaries, and hence only be promoting a responsible private sector: one that pays its fair share of taxes, and advances secure jobs with labor rights, environmental protections, human rights, and the Sustainable Development Goals. If the Bank were to reimagine the DBR, it can't just slap on some of these considerations. Rather it should fundamentally consider the objective of this initiative as one promoting responsible business, aligned with international standards and norms already agreed upon. Anything less than that reflects an outdated, short-sighted, and ideologically-driven institution rather than an evidence-based development institution.

In addition, for business to be responsible in respecting human rights in line with their global responsibilities and contributing equity and prosperity, it needs an enabling environment that goes beyond anti-corruption and transparency. Business needs rule of law, a level playing field of regulations and taxation, and freedom of association and expression. Business cannot conduct human rights due diligence in countries and regions where the government is complicit in human rights violations, prevents human rights defenders from speaking out and makes it illegal or impractical for workers to organize. However, the BEE as currently described does not even make one mention of the UN Guiding Principles on business and human rights – this is unacceptable.

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

There are any number of issues the Bank is not considering because the premise of the BEE itself is, in our view, not built on a foundation of a responsible private sector. However, one particular and glaring omission (by design we understand, but contest) is the lack of a gendered analysis. We find it extremely outdated for the Bank not to be considering any aspects of gender in this entire publication which the Bank presumably intends to become one of its flagship products again similar to the DBR. There are multiple opportunities for doing so and for which one can imagine the Bank is already collecting data on, for example women's access to finance.

An important further omission is the issue of inequality. Politicians and business alike recognize that rampant and growing inequality is a major problem for our societies, including for the capacity of the private sector to be able to do business in the long-term. Inequality should be considered a cross-cutting theme in any manifestation of this initiative.

In addition, the ability for workers to organize is a key accountability mechanism in ensuring private sector development delivers for those in global supply chains and operations. The World Bank cannot only focus on economic prosperity without civic and political rights—they are intertwined and enable those in countries to hold companies accountable for their impacts. The WB should consider an enabling environment as one that allows business to adhere to the UN Guiding Principles on Business and Human Rights.

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

Because the pre-concept note has tried to apply the same framework with a few band-aid fixes, for example on labor and tax, we find that this proposed initiative has irreconcilable contradictions and tensions with a feeling as one reads that the Bank is arguing with itself that “this is a good thing for workers/domestic revenues/countries/environment, but it's bad for business so we will weigh things carefully”. It also ignores huge swaths of the World Bank Group's own research, initiatives, and standards, for example the IFC's performance standards, that highlights the prohibitive nature of putting business first and above social protection/ human flourishing.

The Bank also seems to neglect the ways in which civil and political rights enable communities and workers to hold companies accountable and serve as a counterweight for bad development.

**Does the BEE project get the balance right between de jure and de facto indicators?**

While we recognize this is an attempt to establish a more holistic picture of country conditions by including perspectives not formalized into law/policy, and both de jure and de facto indicators, it is critical that the Bank ensure civil society and worker voices are sought as part of the process of data collection and verification in any manifestation of this initiative.

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

**LABOR:**

While it is clear that the Bank has made some effort to seek a compromise on this particular area by highlighting the importance of social protections, and including references to ILO standards and to decent work, it is our view that the pre-concept note's promotion of "flexicurity" as the desired institutional framework that countries should be aiming for is too risky and harmful a proposition. This is in line with our critique of this approach as articulated in the 2019 World Development Report on "The Changing Nature of Work". Realistically flexicurity has only been possible where there is also a large public investment in public services, social protection, highly efficient active labour market policies, a big public sector and publicly owned companies; everything based on very large fiscal space. Oxfam and Development Finance International's research found that in 2020, heading into the pandemic, only one in six countries were spending enough on health, only a third of the global workforce had adequate social protection, and in more than 100 countries at least one in three workers had no labour protection such as sick pay. We have a long way to go, and while we have to advocate for these policies to change, we shouldn't rely on them as a replacement for strong labor market regulation. We should have governments investing in social protection, a care-based economy, and universal health care, while also having strong protections, rights, and living wages for workers. Social protection and labor market regulations should complement one another. With the BEE's current framework, we are deeply worried that the Bank risks pushing countries towards deregulation and low wages, a situation of higher flexi-insecurity.

Unless the whole framing and purpose of the BEE initiative changes dramatically, the Bank should consider removing this indicator all together rather than risk it causing more harm and deregulation. Critically, the Bank should eliminate any and all content that could erode workers' rights and security.

**TAX:**

While the Bank has acknowledged the importance of taxing businesses, it continues to frame, and then treat, taxation as a burden rather than as a responsibility. Oxfam critiqued the DBR as promoting a dangerous race to the bottom on corporate taxation, and the deepening on inequality (see more here <https://politicsofpoverty.oxfamamerica.org/the-world-banks-incoherent-approach-to-taxes/>). The BEE is heading the same way. This is particularly egregious at a time when inequality is already deepening, and governments are desperately in need of mobilizing revenues to help fight the pandemic, to fund climate change mitigation and adaptation, to finance the SDGs, and more. The Bank has recognized the importance of domestic resource mobilization and of shifting tax responsibility to those who can pay, including corporations, for example through IDA20 commitments on DRM. The "total tax and contribution rate" undermines

those commitments and must be eliminated. (As an aside, we also note that the total tax and contribution rate also includes consumption tax such as VAT even though firms pass these taxes to consumers, thus the inclusion of such taxes is likely to inflate tax contributions of firms. With that being said, it is really important that the Bank is not inadvertently encouraging such regressive taxes using the rationale that consumers, not businesses bear the burden.)

Ultimately, the “total tax and contribution rate” does not conceptually belong to the index anyway. It is a measure of the cost of doing business, not of the regulatory environment or quality of business services. Labor costs are not included in the index because high labor costs can be justified by high productivity; the price of square foot of commercial property is not in the index because a good location can justify a high cost. Likewise a high effective tax rate can be worth it as it buys good infrastructure and human resources.

#### FINANCE:

The pre-concept note discusses access to finance as one of the indicators. The inclusion of green finance in this section is welcome and overdue. However, we are concerned that there was no consideration of the different levels of access to finance for women and men. This is remarkably absent and it is a missed opportunity considering the work that the World Bank Group is trying to do in this sector.

#### MARKET COMPETITION:

The pre-concept note’s discussion of competition policy is highly concerning as it relates to essential public services and warrants attention and revision.

“In certain major markets where governments are the sole or principal buyer (e.g., education, health, and infrastructure), market entry and firm behavior are directly influenced by the design and implementation of government regulations.” The pre-concept note then says it will look at the quality of regulations that promote market competition, and the adequacy and efficiency of key services.

It suggests that these key services should be subject to market competition and suggests that regulations that limit market entry for commercial providers of such services -- or that limit the for-profit nature of organizations that provide services -- should be reduced or eliminated. Many countries have legislative prohibitions on for-profit and commercial school operators, for example, in order to protect the right to education as defined in international law, to preserve the public purpose of education and to ensure equity. Many concerns have been raised about commercial provision of public services and their role in undermining rights, putting

profit motives before people's needs, and driving socio-economic and gender inequalities. Additionally, government regulations that ensure quality standards and accountability for private providers of public services are essential for protecting people's rights to decent quality services. Finally, essential public services should not be instrumentalized for the purpose of promoting business growth.

Quality and equitable public services like education, healthcare and water are basic rights that support human dignity and fight inequality. It is critical that the Bank ensures its advice or indicators do not encourage market competition in the provision of essential public services, and do not undermine or erode regulations that limit profit-making organizations or that ensure quality in private sector provision.

**Do you have  
any other  
general  
feedback?**

While the Bank appears to have addressed some concerns around the integrity of the methodology and transparency and replicability of the data, it appears to have simply tinkered around the edges when it comes to the many critiques that have been laid on the DBR by civil society over several years.

Once again, we reiterate that we don't think it is the Bank's role to be assessing the enabling environment for any private sector but rather considering what kind of private sector can best contribute to sustainable development that advances economic and social rights, that reduces inequalities, and that reduces environmental harm. By simply tinkering around the edges rather than fundamentally shift the objective of this project, the Bank will continue to inevitably face multiple contradictions, not just within the scope of this project, but also contradictions with the Bank's core mandate.

Despite the circumstances under which it happened, it was a highly welcome move when the Bank ended the Doing Business Report. The Bank should lay the DBR firmly to rest, and rather than undergo a rebranding and mending exercise, start from scratch in designing a new project fit for the era we are living in, that responds to the failures laid bear during this pandemic, and that supports countries to rebuild their economies in ways that promote a more equal future: Economies that are truly inclusive and reduce inequalities, that are sustainable, caring and that promote a just transition. Economies that are based in advancing the Sustainable Development Goals and ultimately our human rights. Below are some resources we believe could be helpful as the Bank reconsiders its approach:

Oxfam and Development Finance International's Commitment to Reducing Inequality Index  
<https://www.inequalityindex.org>

UN Guiding Principles on Business and Human Rights  
[https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr\\_en.pdf](https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf)

ITUC's Global Rights Index  
<https://www.ituc-csi.org/2021-global-rights-index>

Civicus Civic Space Monitor  
<https://monitor.civicus.org/>



<b>First Name</b>	Collective
<b>Last Name</b>	Submission
<b>Title</b>	Policy Researcher
<b>Organization Name</b>	Bretton Woods Project, Christian Aid, Eurodad, Society for International Development, Third World Network and Urgewald
<b>Country</b>	Global
<b>Email Address</b>	fsonkin@sidint.org
<b>Organization Type</b>	Civil Society Organization
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?**

In September 2021, the World Bank announced that it would discontinue the publication of the Doing Business Report and Ranking (DBR), following a series of internal audits and an investigation that revealed serious ethical improprieties, conflicts of interest inherent in the Bank's Advisory Services, and data manipulation in the development of the Doing Business.

Civil society organizations pointed to the fact that these revelations were just the tip of the iceberg of much wider issues, including the weak independence and integrity of the Bank's research and the widespread conflict of interest in its policy advice. They demanded that the DBR's discontinuation be followed by a deep rethinking of the World Bank's governance, processes and ideologies, and stated that the creation of a Doing Business 2.0 should be avoided.

Yet, on the grounds of the information provided in the pre-concept note, the BEE project proposes a rebranding exercise of the Doing Business Report, albeit with some methodological innovations that do not address its structural problems. In particular, the Project remains based on the same flawed understanding of the role of the private sector in development and now includes a problematic cooptation of public services language. Worryingly, none of the changes included in the BEE Project seems to address the root problems in the World Bank's engagement in private sector advice that emerged from the investigations published in September 2021.

As with the Doing Business, the BEE replicates a model of business and private sector development that promotes an increase in corporate power and concentration, the accumulation of obscene amounts of wealth, proliferation of tax dodging and tax havens, and the deepening of an unequal global division of labor through environmentally unsustainable global value chains.

The pre-concept note's narrow conceptualization of 'private sector development' fails to question what the role of the private sector should be in addressing the climate and the inequality challenges and in supporting the Covid-19 recovery, nor does it investigate what type of businesses and business models are needed to achieve these objectives. The concept note excludes the strategic importance of private sector development in supporting economic transformation, a key pillar of the 'development' paradigm and thus of crucial relevance to the World Bank's mandate. While questions of economic sustainability and growth are certainly important, the concept note does not link these to a broader human rights framework. It therefore fails to consider states' international human rights obligations and their role in regulating and strategically guiding private sector development to deliver public goods much beyond economic growth.

With its new focus on Public Services - framed by the BEE concept note as key for functioning markets - the World Bank once again risks promoting an unhealthy competition between countries. This can lead to skewed public priorities and to an increased focus on developing certain types of public services, which may be beneficial for private companies but are not necessarily the most urgent for the people. For instance, increasing 'efficiency' to obtain environmental permits as promoted by the BEE might be a priority for foreign and domestic private businesses, but increasing public investments in and the efficiency of public hospitals or schools for instance could be a more important priority for large segments of the population. A BEE ranking would likely fall into the trap of pitting private and public interests against each other.

The World Bank should review its understanding of the historical relationship between the public and the private sector and how together they create and distribute economic value in the economy, prior to embarking on any new project aimed at supporting low and middle-income countries in their private sector development.

Finally, the BEE concept note contains vague language on how the data will be displayed and whether this will involve use of aggregate scores and ranking. This is worrying, given that the country ranking was one of the most harmful aspects of the Doing Business project. Far from favoring a deeper understanding of country contexts and promoting international collaboration, the Doing Business ranking incentivized harmful competition and a race to the bottom in deregulation, interfering with politics and policies at national and international level and undermining economic and political sovereignty (as in the case of Chile). This has been made evident by the repeated political scandals emerged over the years, culminating in the investigation by the law firm WilmerHale in 2021, which revealed that the DBR had been manipulated to change the rankings of five countries and to accommodate vested interests, under undue pressure from World Bank management and leadership.

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

The BEE conceptual framework has several gaps and shortcomings. These reflect the limitations noted above and the fact that the tool itself is not fit for purpose to contribute to the World Bank's twin goals of ending poverty and sharing prosperity.

In the first instance, the document is unclear on its approach to foreign direct investment (FDIs). Evidence suggests that competition to attract FDIs can have several detrimental economic and social impacts and that policy scoring exercises such as the DBR and the BEE only incentivize this type of competition and result in a race to the bottom in deregulation as well as tax evasion and avoidance. The BEE concept note fails to address this contradiction from both a conceptual and a methodological point of view. For example, this type of exercise does not account for important context specific cases such as special economic zones, which tend to erode state control over its own territory and have very limited positive spillover effects to the local economy. Similarly, the Project ignores the asymmetries in power and regulation that exist between multinational corporations and country governments. For example, it is silent on the issue of international dispute settlement mechanisms, which often undermine state sovereignty and create debt burdens which limits public capacity to meet international human rights obligations, Paris Agreement commitments and support a just Covid-19 recovery.

Even more critically, the BEE ignores or downplays key policy areas such as workers' rights; gender equality; tax evasion, avoidance and illicit financial flows; environmental and climate change related safeguards; and the respect of human economic and social rights. In other words, it ignores countries' legal obligations to deliver on human rights conventions and commitments to the SDGs and the Paris Agreement, along with the required alignment with economic laws and customs, both de jure and de facto.

Like the Doing Business, the BEE Project is yet another problematic distraction to the type of knowledge building global institutions interested in equitable private sector development could be focusing on. This could for instance include qualitative research on legal and regulatory frameworks to provide an enabling environment for sustainable and inclusive businesses such as producers, employers or consumers cooperatives, B-Corps or other types of social enterprises, including helping them to access financial and technical support and addressing the specific challenges they face. While the concept note rightly highlights the importance of transparency of beneficial ownership information, its approach to issues of ownership is extremely superficial, as it does not engage with the impact of ownership arrangements more generally. This is a striking omission given the importance that different ownership structures have on the incentives and behavior of firms. The BEE project also fails to consider the state's role in incentivising stakeholder business models, that is businesses that create long-term

value not only for shareholders but also for customers, suppliers, employees, local communities, and others. It also fails to address the urgent need for legal, regulatory, policy and institutional reforms to mainstream sustainability and corporate accountability across all businesses. Overall, the BEE Project will not do anything to challenge the dominant shareholder-first model which has led to a 'crisis of greed' in corporate behavior.

The World Bank should shift from attempting to benefit the business environment for its own sake to tackling, for instance, the issue of financialization, which is one of the major drivers of global inequalities and which also hampers the business environment by trapping capital in speculation rather than expanding access to credit for firms and benefiting the real economy. The World Bank should instead focus on promoting sustainable and inclusive business models that favor innovation, are redistributive and regenerative by design and whose purpose goes beyond profit . Such an approach to business and private sector development is essential for achieving the SDGs and the Paris Agreement commitments. It should be the task of the World Bank to understand the kind of policies and government regulation needed to promote and nurture this type of business, and not to promote a top-down one-size-fits-all approach to be taken up across the world, irrespective of the diversity of country contexts.

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

Despite a more nuanced approach to regulations, the BEE Project retains a very narrow understanding of the role of the state in private sector development. In particular, it fails to recognize the role that the state can and should play in strategically managing and regulating private sector development in order to support a green and inclusive industrial policy for domestic economic diversification, decent work creation and technological innovation facilitation. For example, it fails to consider the multiple instruments that exist to achieve a better integration of the public and the private sector, such as the use of public banks to provide strategic support to domestic businesses and create public value.

It continues to conceptualize regulations and state provision of public services such as physical infrastructure and health and education as merely functional to the expansion of the private sector, rather than a generator of public value in themselves. On the other side, there is the risk that the BEE will integrate in its framework as 'public services' the use of public resources for the facilitation of private profit. In particular, this risks being the case with concepts such as the de-risking' state, when risks are socialized and profits privatized through a process in which the public sector provides guarantees and assumes substantial risks in order to make investments more appealing - and profitable - for private investors. The creation of Special Economic Zones and use of public private partnerships are but two examples of mechanisms through which the state cedes control to private sector actors in a context of important power imbalances.

**Does the BEE project get the balance right between de jure and de facto indicators?**

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

**Do you have any other general feedback?**

Bretton Woods Project, Christian Aid, Eurodad, Society for International Development, Third World Network and Urgewald express grave concern on the relaunching of the World Bank's Doing Business Report as the Business Enabling Environment Project. The Doing Business Report was ended in 2021 for blatant data manipulation and after years of promoting well-documented damaging policies with severe repercussions to the environment and workers around the world. Doing Business-inspired policy reforms have undermined the Bank's goals of shared prosperity and poverty elimination, as well as the Sustainable Development Goals.

It is therefore unacceptable for the World Bank to be pursuing a rebranding of the Doing Business as the Business Enabling Environment report without changing its main flawed assumption: that what is good for the international private sector is automatically good for national economic and social development and people.

As currently designed, the BEE will do nothing to address the challenges that developing countries are facing and going to face in the future, such as the energy transition and the creation of green and decent jobs, nor support the World Bank's ability to achieve its twin goals of ending poverty and sharing prosperity in the case of the Covid-19 and other crisis.

The World Bank should abandon the BEE project. Instead, we suggest the three following steps:

1) Before embarking into any new project, it should review and assess the impact on poverty, inequality and human rights of the implementation of 17 years of DBR-inspired policy reforms, especially in countries that have seen fast and large improvements in their scores. Such a review should be based on reparative justice, being led by a diverse committee of domestic and international participants and include the voices of affected communities, from entrepreneurs to the urban poor. This exercise should be accompanied by an investigation of what were the key national and global policy components in the countries where private sector development has been successful on the basis of equitable economic growth, decent work creation and social development and how past DBR policies worked toward or against these cases.

2) The World Bank should undertake a deep exercise of rethinking its understanding of the role of the private sector in development in light of the Covid-19 recovery, and the inequality and climate crises. Such an exercise should aim at setting out a new private sector strategy for the Bank, and ask questions such as:

- What type of a private sector is needed to achieve the SDGs, enable the improvement of states' ability to meet their human rights obligations and the World Bank's twin goals of eradicating poverty and sharing prosperity?

- What is the role of the state in this process?
- What types of businesses are needed? How can the World Bank promote a private sector made of sustainable and inclusive business models that favor innovation, are redistributive and regenerative by design and whose purpose goes beyond profit?
- What does a supporting ecosystem for sustainable and inclusive businesses in low and middle income countries look like? What type of regulations, policies, public services and relationship with the state are required?
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3) The World Bank should address its deep structural problems and implement the following measures proposed by 130 CSOs in a statement in September 2021:

- End the gentleman's agreement in the leadership selection process, reform the quota system to give more power to countries from the global south, as well as to economic ideas and policy tools from the global south in an effort to decolonize the World Bank Group's knowledge systems and decision-making. The use of policy conditionality and other forms of undue influence on the policy space of developing countries must also come to a termination.
- Overcome the ideological bias in favor of neoliberal policies starting with abandoning a 'private-first' agenda and adopting a definition of 'enabling business environment' that aims at economic diversification and resilience and properly values people and the planet. Operations must also be fully aligned with the Sustainable Development Goals and international standards on human rights, labor and the environment.
- Review the integrity and independence of the World Bank's research and technical assistance, and implement reforms that increase its internal and external scrutiny, avoid conflict of interest, ensure exposure to critical analysis, and enable greater transparency and citizen oversight.
- Adopt a 'do no harm approach' to its policy advice and lending operations, through systematic Human Rights Impact Assessments. The Bank must also engage in a more proactive way with the human rights framework.





<b>First Name</b>	Wardarina
<b>Last Name</b>	-
<b>Title</b>	Deputy Regional Coordinator
<b>Organization Name</b>	Asia Pacific Forum on Women, Law and Development (APWLD)
<b>Country</b>	Thailand
<b>Email Address</b>	rina@apwld.org
<b>Organization Type</b>	Civil Society Organization
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?**

In September 2021, the World Bank announced that it would discontinue the publication of the Doing Business Report and Ranking (DBR), following a series of internal audits and an investigation that revealed serious ethical improprieties, conflicts of interest inherent in the Bank's Advisory Services, and data manipulation in the development of the Doing Business.

Civil society organizations pointed to the fact that these revelations were just the tip of the iceberg of much wider issues, including the weak independence and integrity of the Bank's research and the widespread conflict of interest in its policy advice. They demanded that the DBR's discontinuation be followed by a deep rethinking of the World Bank's governance, processes and ideologies, and stated that the creation of a Doing Business 2.0 should be avoided.

Yet, on the grounds of the information provided in the pre-concept note, the BEE project proposes a rebranding exercise of the Doing Business Report, albeit with some methodological innovations that do not address its structural problems. In particular, the Project remains based on the same flawed understanding of the role of the private sector in development and now includes a problematic cooptation of public services language. Worryingly, none of the changes included in the BEE Project seems to address the root problems in the World Bank's engagement in private sector advice that emerged from the investigations published in September 2021.

As with the Doing Business, the BEE replicates a model of business and private sector development that promotes an increase in corporate power and concentration, the accumulation of obscene amounts of wealth, proliferation of tax dodging and tax havens, and the deepening of an unequal global division of labor through environmentally unsustainable global value chains.

The pre-concept note's narrow conceptualization of 'private sector development' fails to question what the role of the private sector should be in addressing the climate and the inequality challenges and in supporting the Covid-19 recovery, nor does it to investigate what type of businesses and business models are needed to achieve these objectives. The concept note excludes the strategic importance of private sector development in supporting economic transformation, a key pillar of the 'development' paradigm and thus of crucial relevance to the World Bank's mandate. While questions of economic sustainability and growth are certainly important, the concept note does not link these to a broader human rights framework. It therefore fails to consider the role of the state in regulating and strategically guiding the development of the private sector so that it delivers public goods, which go beyond economic growth and integrate the need to ensure private sector development enables states to meet their international human rights obligations through transformational changes in economic structures. With its new focus on Public Services - framed by the BEE concept

note as key for functioning markets - the World Bank once again risks promoting an unhealthy competition between countries. This can lead to skewed public priorities and to an increased focus on developing certain types of public services, which may be beneficial for private companies but are not necessarily the most urgent for the people. For instance, increasing 'efficiency' to obtain environmental permits as promoted by the BEE might be a priority for foreign and domestic private businesses, but increasing public investments in and the efficiency of public hospitals or schools for instance could be a more important priority for large segments of the population. A BEE ranking would likely fall into the trap of pitting private and public interests against each other.

The World Bank should review its understanding of the historical relationship between the public and the private sector and how together they create and distribute economic value in the economy, prior to embarking on any new project aimed at supporting low and middle-income countries in their private sector development.

The BEE concept note contains vague language on how the data will be displayed and whether this will involve use of aggregate scores and ranking. This is worrying, given that the country ranking was one of the most harmful aspects of the Doing Business project. Far from favoring a deeper understanding of country contexts and promoting international collaboration in the area of trade and investment, the Doing Business ranking incentivized harmful competition and a race to the bottom in deregulation, interfering with politics and policies at national and international level and undermining economic and political sovereignty (as in the case of Chile). This has been made evident by the repeated political scandals emerged over the years, culminating in the investigation by the law firm WilmerHale in 2021, which revealed that the DBR had been manipulated to change the rankings of five countries and to accommodate vested interests, under undue pressure from World Bank top leadership.

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

The BEE conceptual framework has several gaps and shortcomings, reflecting the limitations noted above and the fact that the tool itself is not fit for purpose.

In the first instance, the document is unclear on its approach to foreign direct investment (FDIs). Evidence suggests that competition to attract FDIs can have several detrimental economic and social impacts and that policy scoring exercises such as the DBR and the BEE only incentivize this type of competition and result in a race to the bottom in deregulation as well as tax evasion and avoidance. The BEE concept note is silent on this contradiction from both a conceptual and a methodological point of view. For example, it would be important to understand the Project's approach to special economic zones, which tend to erode state control over its own territory and have very limited positive spillover effects to the local economy. Similarly, the Project fails to address the asymmetries in power and regulation that exist between multinational corporations and country governments. For example, it is silent on the issue of the Project's approach to international dispute settlement mechanisms, which often undermine state sovereignty and state capacity to meet international human rights obligations, Paris Agreement commitments and support a just Covid-19 recovery. Even more critically, the Doing Business report ignores or downplays key policy areas such as workers' rights; gender equality; tax evasion, avoidance and illicit financial flows; environmental and climate change related safeguards; and the respect of human economic and social rights. In other words, it ignores countries' legal obligations to deliver on human rights conventions and commitments to the SDGs and the Paris Agreement, along with the required alignment with economic laws and customs, both de jure and de facto.

The BEE Project is silent on the need for legal and regulatory frameworks to provide an enabling environment for sustainable and inclusive businesses such as producers, employers or consumers cooperatives, B-Corps or other types of social enterprises, including helping them to access financial and technical support and addressing the specific challenges they face. While the concept note rightly highlights the importance of transparency of beneficial ownership information, its approach to issues of ownership is extremely superficial, as it does not engage with the impact of ownership arrangements more generally. This is a striking omission given the importance that different ownership structures have on the incentives and behavior of firms. The BEE project also fails to consider the state's role in incentivising stakeholder business models, that is businesses that create long-term value not only for shareholders but also for customers, suppliers, employees, local communities, and others. It also fails to address the urgent need for legal, regulatory, policy and institutional reforms to mainstream sustainability and corporate accountability across all businesses. Overall, the BEE Project will not do anything to challenge the dominant shareholder-first model which has led to a 'crisis of greed' in corporate behavior.

The World Bank should shift from attempting to benefit the business environment for its own sake to tackling, for instance, the issue of financialization, which is one of the major drivers of global inequalities and which also hampers the business environment by trapping capital in speculation rather than expanding access to credit for firms and benefiting the real economy. The World Bank should instead focus on promoting sustainable and inclusive business models that favor innovation, are redistributive and regenerative by design and whose purpose goes beyond profit. Such an approach to business and private sector development is essential for achieving the SDGs and the Paris Agreement commitments. It should be the task of the World Bank to understand the kind of policies and government regulation needed to promote and nurture this type of business, and not to promote a top-down one-size-fits-all approach to be taken up across the world, irrespective of the diversity of country contexts.

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

Despite a more nuanced approach to regulations, the BEE Project retains a very narrow understanding of the role of the state in private sector development. In particular, it fails to recognize the role that the state can and should play in strategically managing and regulating private sector development in order to support a green and inclusive industrial policy for domestic economic diversification, decent work creation and technological innovation facilitation. For example, it fails to consider the multiple instruments that exist to achieve a better integration of the public and the private sector, such as the use of public banks to provide strategic support to domestic businesses and create public value.

It continues to conceptualize regulations and state provision of public services such as physical infrastructure and health and education as merely functional to the expansion of the private sector, rather than a generator of public value in themselves. On the other side, there is the risk that the BEE will integrate in its framework as 'public services' the use of public resources for the facilitation of private profit. In particular, this risks being the case with concepts such as the 'de-risking' state, when risks are socialized and profits privatized through a process in which the public sector provides guarantees and assumes substantial risks in order to make investments more appealing - and profitable - for private investors. The creation of Special Economic Zones and use of public private partnerships are but two examples of mechanisms through which the state cedes control to private sector actors in a context of important power imbalances.

**Does the BEE project get the balance right between de jure and de facto indicators?**

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

**Do you have any other general feedback?**

This feedback in support with collective submission. Bretton Woods Project, APWLD, Christian Aid, Eurodad, Society for International Development, Third World Network and Urgewald express grave concern on the relaunching of the World Bank's Doing Business Report as the Business Enabling Environment Project. The Doing Business Report was ended in 2021 for blatant data manipulation and after years of promoting well-documented damaging policies with severe repercussions to the environment and workers around the world. Doing Business-inspired policy reforms have undermined the Bank's goals of shared prosperity and poverty elimination, as well as the Sustainable Development Goals.

It is therefore unacceptable for the World Bank to be pursuing a rebranding of the Doing Business as the Business Enabling Environment report without changing its main flawed assumption: that what is good for the international private sector is automatically good for national economic and social development and people.

As currently designed, the BEE will do nothing to address the challenges that developing countries are facing and going to face in the future, such as the energy transition and the creation of green and decent jobs, nor support the World Bank's ability to achieve its twin goals of ending poverty and sharing prosperity in the case of the Covid-19 and other crisis.

The World Bank should abandon the BEE project. Instead, we suggest the three following steps:

Before embarking into any new project, it should review and assess the impact on poverty, inequality and human rights of the implementation of 17 years of DBR-inspired policy reforms, especially in countries that have seen fast and large improvements in their scores. Such a review should be based on reparative justice, being led by a diverse committee of domestic and international participants and include the voices of affected communities, from entrepreneurs to the urban poor. This exercise should be accompanied by an investigation of what were the key national and global policy components in the countries where private sector development has been successful on the basis of equitable economic growth, decent work creation and social development and how past DBR policies worked toward or against these cases.

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prosperity?

What is the role of the state in this process?

What types of businesses are needed? How can the World Bank promote a private sector made of sustainable and inclusive business models that favor innovation, are redistributive and regenerative by design and whose purpose goes beyond profit?

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Overcome the ideological bias in favor of neoliberal policies starting with abandoning a 'private-first' agenda and adopting a definition of 'enabling business environment' that aims at economic diversification and resilience and properly values people and the planet. Operations must also be fully aligned with the Sustainable Development Goals and international standards on human rights, labor and the environment. Review the integrity and independence of the World Bank's research and technical assistance, and implement reforms that increase its internal and external scrutiny, avoid conflict of interest, ensure exposure to critical analysis, and enable greater transparency and citizen oversight.

Adopt a 'do no harm approach' to its policy advice and lending operations, through systematic Human Rights Impact Assessments. The Bank must also engage in a more proactive way with the human rights framework.

<b>First Name</b>	Matias
<b>Last Name</b>	Olivero Vila
<b>Title</b>	Abogado y contador publico
<b>Organization Name</b>	Bruchou, Fernandez Madero & Lombardi (law firm) - Socio a cargo del Depto Tributario de la firma entre 1997 y 2021. Actualmente en proceso de fundar una ONG dedicada a la "concientización fiscal".
<b>Country</b>	Argentina
<b>Email Address</b>	<a href="mailto:matias.olivero.vila@gmail.com">matias.olivero.vila@gmail.com</a>
<b>Organization Type</b>	Foundation
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	ver abajo
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	ver abajo
<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	ver abajo
<b>Does the BEE project get the balance right between de jure and de facto indicators?</b>	ver abajo
<b>Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?</b>	<p>En relación al ranking de "Total Tax and Contribution Rate" (TTCR) realizo los siguientes comentarios:</p> <ol style="list-style-type: none"> <li>1. He analizado el "Pre-concept Note" y su antecedente "External Panel Review". De este último surge que una de las alternativas analizadas ha sido la de eliminar el ranking de TTCR, lo que luego no se menciona como alternativa en el "Pre-Concept Note". La razón radicaría en que este índice ha sido criticado, principalmente por incentivar un "race to the bottom". Por otro lado, en el pasado el ranking de "Paying Taxes" fue elaborado sobre la base de 4 sub-rankings, uno de los cuales es el de TTCR (aspecto cuantitativo) mientras los otros tres hacen a las cuestiones administrativas (aspectos cualitativos) del sistema tributario.</li> <li>2. Ante la eventualidad que se reanalice la inclusión/exclusión del TTCR y a los efectos que se pondere adecuadamente el peso de este índice sobre el "Paying Taxes", vale la pena analizar el caso de Argentina. Especialmente lo que sucedió en el período 2015 a 2019, durante la administración del ex presidente Mauricio Macri. Y lo que está sucediendo en materia fiscal bajo la actual administración, cambio de signo político mediante, desde fines de 2019 a la actualidad.</li> <li>3. En la Argentina no se recuerda un período de mayores y mejores relaciones internacionales que el transcurrido en esos 4 años (2015-2019). El apoyo de la comunidad internacional (incluidos los organismos multilaterales) para con la Argentina ha sido similar y</li> </ol>

hasta quizás superior al que se tuvo durante la década del '90, época de las privatizaciones y de inversiones extranjeras y locales récord para nuestro país. Sin embargo, hubo una diferencia sustancial: la presión fiscal en el sector formal de la economía, en niveles razonables en la década del '90 y exorbitante en los últimos 15 años.

4. Según el TTCR bajo el Doing Business, desde 2013 Argentina, dejando de lado a Comoras por su insignificancia poblacional, ha sido prácticamente el país con el sistema tributario más gravoso del mundo, en el puesto 189 mundial, con un porcentaje del 106%. Esto significa que en el 'caso testigo' tomado como base por el Doing Business los impuestos totales argentinos (numerador) se consumen todas las utilidades antes de impuestos (denominador) y también parte del capital. Desde entonces Argentina ha estado en el último puesto mundial y ha llevado más de una década con porcentajes superiores al 100% (entre 106% y 137%). Sierra Leona, Burundi, República Centroafricana, Congo y Gambia tuvieron índices de TTCR superiores al 100% pero supieron salir de esa 'zona roja' antes de 2013 mediante reformas fiscales. La Argentina es la única que no ha logrado salir de dicha zona por más de una década. En consecuencia, y para que no queden dudas sobre la valoración que el Doing Business ha hecho de la faz cuantitativa del sistema fiscal argentino, la calificación en una escala de 0 a 100 puntos, ha sido "0,0" (cero coma cero), también por más de una década.

5. Durante ese período 2015-2019 se hicieron muchas y sustanciales reformas pro-inversión en distintos áreas de los negocios (por ejemplo, simplificándose los trámites de inicio de una empresa), salvo en una de ellos: la tributaria. Hubo sí un par de reformas fiscales relevantes pero que resultaron insuficientes para que los inversores locales y extranjeros realizaran nuevos negocios en la Argentina. E incluso varias de tales rebajas fiscales fueron dejadas de lado al poco tiempo, incluso por el mismo signo político. Así, el TTCR bajó de 137% a 106%. Pero Argentina siguió en la "zona roja fiscal" y la calificación siguió siendo "0,0".

6. El entonces presidente Macri había prometido una "lluvia de inversiones". Y es cierto que en el período 2016-17 se recibieron en general una "lluvia de consultas de inversiones". Esas consultas fueron en general atendidas por asesores tributarios, en general los primeros en ser requeridos a la hora de analizar los proyectos. Pero finalmente los nuevos negocios fueron pocos y en sectores muy puntuales (ej. energía eólica, incentivos fiscales específicos mediante). Los asesores tributarios hemos sido testigos que una de las principales razones (sino la principal) de la no-inversión en Argentina fue la presión fiscal en el sector formal de la economía. Es allí donde las consultas por inversiones en general se

diluyeron o directamente se abortaron. En tales ocasiones, en general, no se nos consultó por el tiempo de cumplimiento, cantidad de pagos, o el tiempo que dura una repetición. Las consultas laborales o por compliance sólo vinieron luego de traspasar el filtro tributario. Y vale destacar que en esos tres sub-rankings Argentina ha calificado relativamente bien, en el promedio de Latinoamérica (tiempo de cumplimiento y repetición de impuestos) e incluso mejor que el promedio (cantidad de pagos). Pero la casi totalidad de consultas se han referido a cuestiones que se relacionan con el TTCR. Es allí donde los inversores se encontraron con "el" obstáculo. La conclusión es que, en general, es muy difícil, si no impracticable, realizar inversiones si se trata del "país más gravoso del mundo". El caso argentino demuestra que los otros tres aspectos del "Paying Taxes" tienen relativa muy poca incidencia.

7. La situación fiscal se agravó bajo la actual administración desde fines de 2019, como resultado de 4 sucesivas reformas tributarias que crearon más impuestos y aumentaron alícuotas, en forma excesiva. La segunda de ellas se trató de la sanción del "impuesto a la riqueza" (mal denominado "aporte solidario", por única vez, con destino parcial para paliar los efectos de la pandemia), para patrimonios superiores a U\$S2,4 millones, con una alícuota máxima del 5,25% sobre el patrimonio total individual. Dicha impuesto extraordinario, sancionado a fines de 2020, se sumó en aquel año a uno de los impuestos patrimoniales más gravosos del mundo, de aplicación anual, como es el denominado "impuesto sobre los bienes personales", con alícuotas de hasta el 2,25% (según reforma de fines de 2019), sobre base bruta (sin deducir deudas) y con un mínimo imponible exiguo, de aproximadamente U\$S20 mil dólares. Es decir una alícuota conjunta de hasta 7,50% sobre el patrimonio total individual. Hemos analizado el derecho comparado y no hemos encontrado antecedentes comparables ni cercanos en el mundo.

8. El denominado "aporte solidario" y el "impuesto sobre los bienes personales" provocó un "éxodo fiscal" de miles de familias de alto y mediano patrimonio, sin precedentes en nuestra historia, principalmente hacia el Uruguay. Se recuerda que este impuesto sobre personas humanas no ha sido considerado hasta ahora en el TTCR pero debería serlo, por haber sido los dos impuestos que más han afectado el clima de negocios en un país como el de la Argentina reciente.

9. Mientras escribo esta nota, se recibe la noticia que tres diputados del oficialismo (Carro, Martínez y Yasky) han presentado un proyecto de ley que reedita el "aporte solidario" de 2020 (que se había sancionado por única vez), en esta oportunidad no con destino parcial de paliar los efectos de la pandemia sino de "mitigar el impacto del

	<p>endeudamiento con el Fondo Monetario Internacional", con alícuotas de hasta el 4,25% y por 10 años. Es decir, un impuesto total patrimonial (si se suma la alícuota del hasta 2,25% del mencionado impuesto sobre los bienes personales) del 6,50% sobre el patrimonio notal a lo largo de una década. Este tipo de proyectos y de anuncios sin dudas afecta el clima de negocios, ahuyentando inversiones y residentes fiscales, pero no está contemplado en el TTCR cuando, en nuestra opinión, debería estarlo.</p> <p>9. Como resultado de un clima de negocios negativo y la sanción de una decena de nuevos tributos que llevaron la cantidad de impuestos hasta un total de 167 (según conteo llevado periódicamente por el Instituto IARAF), las nuevas inversiones han caído a mínimos históricos y muchas empresas extranjeras decidieron emigrar, como es de público conocimiento.</p> <p>10. Es cierto que las causas de la no inversión en la Argentina no se reducen exclusivamente a lo fiscal; también las restricciones cambiarias (inexistentes en el período 2015-2019) y el marco legal laboral influyen, acompañadas de otras causas con menor incidencia. Pero sin dudas la presión fiscal en el sector formal de la economía ha sido el principal obstáculo para las inversiones y negocios en la Argentina y una de las principales razones del crónico estancamiento en la economía durante la última década. Y la causa de tal presión fiscal formal exorbitante se encuentra en un gasto público cada vez más elevado, acompañado de un déficit y alta inflación crónicas.</p> <p>Tal es la descripción, en nuestra visión, del caso fiscal argentino.</p>
<p><b>Do you have any other general feedback?</b></p>	<p>El análisis del caso argentino, en nuestra opinión, demuestra en cuanto hace a la cuestión fiscal una realidad inconstatable, la que nos hace llegar las siguientes reflexiones y sugerencias en relación al TTCR:</p> <p>(i) la eventual exclusión del TTCR del BEE no sería en absoluto razonable; su ausencia haría del BEE no sólo una investigación incompleta sino también engañosa; asumimos del "Pre-concept Note" que esa potencial exclusión ha sido dejada de lado, pero nos ha sorprendido que por sólo un momento se haya evaluado esa exclusión como una alternativa posible en el "External Panel Review";</p> <p>(ii) el peso que el TTCR debería tener sobre el índice general de "Paying Taxes" debería ser muy superior al 25% del total que tenía bajo el Doing Business; como fuera dicho, no se dejan de hacer inversiones o negocios en un país porque se paguen más o menos veces, ni</p>

porque se incurran en más o menos horas para el cumplimiento o para obtener la repetición de un impuesto; una de las razones principales por la que se dejan de hacer negocios en un país es por la presión fiscal en el sector formal de la economía (TTCR); por lo cual la ponderación del TTCR sobre el "Paying Taxes" general debería ser, en nuestra opinión superior al 70%; y nunca menos del 50%; este último porcentaje surgiría de tomar un 50% para el aspecto cuantitativo (TTCR) y el otro 50% para los aspectos cualitativos (los restantes) del TTCR;

(iii) a su vez, la ponderación que Paying Taxes (apalancado en el TTCR) ha tenido sobre el ranking general del Doing Business ha sido inferior a la que, en nuestra opinión, realmente tiene en la práctica; el "Paying Taxes" y especialmente el TTCR tiene una incidencia muy superior, por ejemplo, a "inicio de una empresa", "registro de propiedad", "protección de derechos minoritarios", etc. Cada una de las áreas analizadas (sea en el Doing Business o en el nuevo BEE) no pesan lo mismo y la del TTCR es de las más pesadas;

(iv) bajo el Doing Business, el TTCR computaba todo impuesto obligatorio, a nivel nacional, provincial y municipal; en el "Pre-concept Note" se menciona que se tomarán en cuenta "profit taxes, consumption taxes and social taxes and contribution"; si ese fuera el caso, muchos de los 167 impuestos existentes en Argentina quedarían fuera del TTCR; en nuestra opinión, el TTCR debe incluir cualquier tributo obligatorio (como bajo el Doing Business), cualquiera fuera la naturaleza del hecho imponible;

(v) el caso argentino demuestra que el "éxodo fiscal", especialmente de las familias de alto y mediano patrimonio (en su mayoría accionistas mayoritarios de las grandes empresas) tuvo lugar a raíz de los impuestos patrimoniales; tales impuestos, en nuestra opinión, no deberían quedar fuera del cálculo del TTCR porque han sido los principales que afectaron el clima de negocios en la Argentina reciente.

Quedo a disposición ante cualquier duda o consulta.

Atentamente,

Matias Olivero Vila

[matias.olivero.vila@gmail.com](mailto:matias.olivero.vila@gmail.com)

Cel: +54-9-11-3172-2037

PD: Para más información sobre el caso fiscal Argentino y sobre mi persona puede googlearse "Matias Olivero Vila país más gravoso del mundo", de donde surgirán

	artículos, conferencias y artículos periodísticos sobre esta temática.
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## ii. Private Sector Organizations



<b>First Name</b>	Masood
<b>Last Name</b>	Siddiqui
<b>Title</b>	Mr
<b>Organization Name</b>	Ashakoor & Bros
<b>Country</b>	Pakistan
<b>Email Address</b>	masood.siddiqui23@gmail.com
<b>Organization Type</b>	Other
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	Yes its pretty much adequate , especially the company registration process and upgrading info of companies
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	1) Hindrance in promoting and conduction business due to decaying infrastructure (roads , rails , electricity , Law & Order) 2) Incorrect enforcement of taxation laws on provincial level (sales tax and excise tax is more effective in south of Pakistan instead of Center) 3) Influence of politicians who are business men on the business environment versus normal business men
<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	Yes it does

**Does the BEE project get the balance right between de jure and de facto indicators?**

Yes it does

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

Yes it does

**Do you have any other general feedback?**

Since Pakistan is a third world country hence the condition of government & its fiscal requirement should be me more highlighted . There are some negative or no impact of FTAs signed by Pakistan with its trade patterners. The insurgence of new Afghani government and its impact on us . And some new retail market regulations should be added

<b>First Name</b>	Yuequan
<b>Last Name</b>	Bao
<b>Title</b>	Director of Marketing Business, Customer Center.
<b>Organization Name</b>	Shanghai Chengtou Water Group Co., Ltd.
<b>Country</b>	China
<b>Email Address</b>	baoyuequan@foxmail.com
<b>Organization Type</b>	Other
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')

**Do not disclose my information**

<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	From the perspective of the text of the Pre-Concept Note, it basically meets the requirements and looks forward to the relevant expression of the specific implementation plan.
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	No problems have been identified at this stage.
<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	Different economies have different understandings of the balance between the quality of regulation and the development and delivery of public services by the private sector. It is suggested to evaluate the experience and growth of the private sector.
<b>Does the BEE project get the balance right between de jure and de facto indicators?</b>	At this stage, it seems that a balance has been struck between the de jure and de facto, and we are looking forward to the full package.

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

"Quality of public services and transparency of information" in "Appendix II. Detailed Preliminary BEE Topics and Indicators", "Data collection approach" should be "Firmlevel surveys". Companies have more hands-on experience with this.

**Do you have any other general feedback?**

There is no more feedback at this stage.

**First Name** 庭磊

**Last Name** 李

**Title** 高级工程师

**Organization Name** 广东电网有限责任公司

**Country** 中国

**Email Address** 18818876655@139.com

**Organization Type** Other

**Identity Disclosure Authorization** I authorize the World Bank team to disclose my name on the web (Optional) ('YES')

**Do not disclose my information**

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?**

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

**Does the BEE project get the balance right between de jure and de facto indicators?**

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

**Do you have any other general feedback?**

“宜商环境概念书摘要”（BEE-Pre-Concept-Note）未提及参评城市，建议明确宜商环境评估是否针对原营商环境评估参评城市开展评估，是否扩大范围。如扩大，建议综合考虑经济体整体情况，选取代表评估样本城市，除了考虑人口数量因素外，还应考虑该城市应具有可代表经济体整体经济发展情况，尽量减少区域特性、政策扶持等因素，从而选取出更有该经济体代表性的样本城市，使得评估结果更合理、更具代表性。

**First Name** 智刚

**Last Name** 梁

**Title** 先生

**Organization Name** 广州金鹏律师事务所

**Country** 中国

**Email Address** liangzhigang@daxianglawyer.com

**Organization Type** Other

**Identity Disclosure Authorization** I authorize the World Bank team to disclose my name on the web (Optional) ('YES')

**Do not disclose my information**

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?**

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

**Does the BEE project get the balance right between de jure and de facto indicators?**

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

针对“市政基础设施接入（Utility connections）”指标

- 1.宜商环境评估考核获得接入时间，但该评估未设置任何标准案例或者提供案例参考，建议进一步明确宜商环境评估的规则和标准，提供案例供参考。
2. 针对接入时间的考评，建议仅考虑公用事业服务公司与客户发生交互的时间，剔除企业自身建设时间。



<b>First Name</b>	姝
<b>Last Name</b>	孙
<b>Title</b>	德勤中国 政府及公共事务服务经理
<b>Organization Name</b>	德勤中国
<b>Country</b>	中国
<b>Email Address</b>	susansun@deloitte.com.cn
<b>Organization Type</b>	Other
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	是的
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	否
<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	是的
<b>Does the BEE project get the balance right between de jure and de facto indicators?</b>	是的

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

否

**Do you have any other general feedback?**

建议指标中增加“政务服务”，这一指标对企业经营的软环境十分重要，也在多个国家发改委的评价体系中有所体系，因此建议在指标中增加“政务服务”，或考虑成为交叉主题选项之一。

**Organization Name** Deloitte China

**Country** China

**Organization Type** Other

**Identity Disclosure Authorization** I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question

**Do not disclose my information**

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?** Yes.

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?** No.

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?** Yes.

**Does the BEE project get the balance right between de jure and de facto indicators?**

I suggest it should be further considered how to conduct company survey and the scenario under the survey. It is good to see that BEE emphasizes more on corporate side as compared to DB. But there are still a few questions to be further addressed: 1) How to define or select the scenario in the company survey. For example, bankruptcy is not so easy to find applicable companies to interview. Also the questions are only limited to convenience and efficiency. 2) How to ensure the independence of the survey. It would be quite essential to decide how to pick up the sample companies and how to make sure the feedback is independence. 3) If BEE finalizes to make a three-year rolling process, then how to make the survey in consistency with the expert consultation in a timely manner.

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

No.

**Do you have any other general feedback?**

No.

<b>First Name</b>	Vivian
<b>Last Name</b>	Jiang
<b>Title</b>	Deputy CEO
<b>Organization Name</b>	Deloitte China
<b>Country</b>	China
<b>Email Address</b>	vivjiang@deloitte.com.cn
<b>Organization Type</b>	Other
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	To be further considered. Overall, I felt that sharing best practice is much much more important than ranking, given difference in each country's development stage, regulations, etc.
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	是的，建议在一级指标中增加“应急管理”：尽管BEE表明将重点关注微观经济层面（即对宏观经济状况、政府腐败和问责、性别等宏观方面不再关注），但鉴于近年来Covid-19疫情常态化，以及气候变化、自然灾害等情况频发，各经济体的应急管理越来越精细化、政策更新越来越及时化，应急管理与经济（尤其是私营经济）的发展越来越紧密不可分，也因此成为许多企业评估地区发展环境的重要因素，故建议将这一指标纳入新的体系进行设计考虑。

<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	N/A
<b>Does the BEE project get the balance right between de jure and de facto indicators?</b>	N/A
<b>Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?</b>	N/A
<b>Do you have any other general feedback?</b>	交叉主题选择应更具多样性：在目前已公开的10个指标基础上，BEE可能将融入两个跨主题相关的交叉主题，目前暂定为“数字技术”和“环境可持续性”。对此，我们建议：①交叉主题的数量可结合参考国际发展趋势相应增加，如国际经贸规则（CPTPP、RCEP、DEPA等）的相关内容；②针对上述两个主题，应每年根据发展对其进行内涵更新，如在“数字技术”中引入人工智能、元宇宙、AR/VR等，在“环境可持续性”中引入碳中和、碳达峰等。

<b>First Name</b>	hyacintha
<b>Last Name</b>	makileo
<b>Title</b>	Consultant Quantity Surveyor; construction contract and Expert in construction Claims
<b>Organization Name</b>	ncc
<b>Country</b>	Tanzania
<b>Email Address</b>	makyasintha@gmail.com
<b>Organization Type</b>	Other
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	Yes
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	The issue of assessing Value for Money (VfM) in and project. The private sector is the one implementing and supervising most projects but there are some deficiencies in assessing VfM. A Value for Money framework that standardizes parameters and tools for assessing Value for Money in construction projects (a private sector) is lacking. The parameters used in the existing Value for Money instruments are also arbitrary and are not based on scientific study. It is also not known whether these criteria, when applied to the same project, will give the same results and conclusion regardless of the criteria used. Furthermore, the existing Value for Money tools cannot assess or predict Value for Money results prior to project execution. Thus world Bank group can also include a study that attempts to fill these gaps.

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

Yes

**Does the BEE project get the balance right between de jure and de facto indicators?**

Yes

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

No maybe in the future after researching out

**Do you have any other general feedback?**

none



<b>First Name</b>	zuming
<b>Last Name</b>	xu
<b>Title</b>	德勤中国税务及商务咨询、客户与行业领导合伙人
<b>Organization Name</b>	Deloitte China
<b>Country</b>	China
<b>Email Address</b>	jexu@deloitte.com.cn
<b>Organization Type</b>	Other
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	yes
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	<p>Yes. Cyber security and data privacy is omitted in the life cycle of "operating business". In the context of accelerated digitalization penetrating into almost all industry sectors, data is regarded as one of the most important production factors as talent, capital and etc..</p> <p>Cyber security and data privacy related issues could not be omitted in the life cycle of "operating business". The regulations to manage and protect cyber security and data privacy have been issued and implemented in the economies embracing an open and equal environment for doing business, which is also facilitating the enhancement of IP protection. Accordingly, relevant functional departments of companies, government institutions and platforms have been established to improve the management efficiency on cyber issues. We believe both de jure and de factor information/data would be collected in this aspect and case studies as well.</p>

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

yes

**Does the BEE project get the balance right between de jure and de facto indicators?**

yes

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

no

**Do you have any other general feedback?**

no

<b>Organization Name</b>	MeliesArt
<b>Country</b>	Germany
<b>Organization Type</b>	Private Sector
<b>Identity Disclosure Authorization</b>	I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	As a Kfz professional and freelancer, I have been using the Doing Business Report for 20 years, up to and including 3D printing of data sculptures and AR/VR use. ( <a href="https://www.linkedin.com/pulse/wirtschaftsdaten-attraktiv-sichtbar-machen-eine-1-schweisfurth">https://www.linkedin.com/pulse/wirtschaftsdaten-attraktiv-sichtbar-machen-eine-1-schweisfurth</a> ). For example, I have used 3D printed sculptures to make the investment climate of many target countries "tangible" and sustainable. And I will tell you this: I Know that WB has a China Problem: An 800 pounds Gorilla is sitting at your table. But you will fail in any attempt to whitewash the investment climate of the People's Republic of China.
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	See above
<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	See above

**Does the BEE project get the balance right between de jure and de facto indicators?**

See above

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

See above

**Do you have any other general feedback?**

<https://www.linkedin.com/pulse/investment-landscapes-chinas-great-leap-forward-volker-schweisfurth>  
<https://www.linkedin.com/pulse/can-data-float-digital-ocean-volker-schweisfurth>  
<https://www.linkedin.com/pulse/comparing-national-economies-rest-us-volker-Schweisfurth>  
<https://www.linkedin.com/pulse/data-presentation-present-arms-volker-schweisfurth>  
<https://www.linkedin.com/pulse/coming-trade-war-leading-economies-2030-volker-schweisfurth>

<b>First Name</b>	JOSE J
<b>Last Name</b>	GARCIA P
<b>Title</b>	Tax & Legal Partner
<b>Organization Name</b>	PwC Venezuela
<b>Country</b>	Venezuela
<b>Email Address</b>	jose.j.garcia@pwc.com
<b>Organization Type</b>	Private Sector
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	Yes they are
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	I think it is covering all the important and necessary issues
<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	yes there is a right balance
<b>Does the BEE project get the balance right between de jure and de facto indicators?</b>	yes tehre is a right balance
<b>Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?</b>	I do nit have any commnets

**Do you have any other general feedback?**

I do ot have more comments

<b>Organization Name</b>	Lifestorch Consulting
<b>Country</b>	Uganda
<b>Organization Type</b>	Private Sector
<b>Identity Disclosure Authorization</b>	I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	The BEE identifies the private sector as key to sustainable and rapid growth which is relevant to expanding and strengthening private sector participation in the national and global development. Therefore, the issues included in the BEE project is relevant for private sector development and its overall design is comprehensive and adequate.
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	The BBE project covers the important issues in the private sector development especially as affecting developing countries. The BBE project addresses the issues of regulatory procedure and related delays, unnecessary control, and lack of finance and credit among other. These are important issues.
<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	The quality of regulations and the provision of public services for the private sector in Africa have been challenging. However, the BBE project Fig. 3 demonstrate how BBE project strikes the right balance between the quality of regulations and the provision of public services for private sector development.

**Does the BEE project get the balance right between de jure and de facto indicators?**

There exist a huge gap between statutory regulations and the required implementations in Africa. However, while de jure indicators will analyze the business environment based on statutory regulations, laws, and jurisprudence, whereas de facto indicators will analyze how regulations and government services are implemented in practice as experienced by the private sector implies that the BEE project get the balance right between de jure and de facto indicators.

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

The indicators in each of the topics including business entry, business location, utility connections, labor, financial services, international trade, taxation, dispute resolution, market competition, and business insolvency are all adequately comprehensive.

**Do you have any other general feedback?**

The BBE Pre-Concept Note is excellently detailed and comprehensive. The indicators will enhance the development of the private sector towards achieving sustainable development.



**Organization Name** 上海锦天城（广州）律师事务所

**Country** China

**Organization Type** Private Sector

**Identity Disclosure Authorization** I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question

**Do not disclose my information**

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?** 市政基础设施接入指标包括电力、水、互联网，基于该三类指标的物理属性差异，相关技术标准、管理规范等均存在较大差异，难以通过同一模型量化、评价该三类公用事业服务。

建议将“获得电力”设为一级评价指标，以便于建立更科学合理的方法论。

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

**Does the BEE project get the balance right between de jure and de facto indicators?**

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

**Do you have any other general  
feedback?**

**Organization Name** 上海锦天城（广州）律师事务所

**Country** China

**Organization Type** Private Sector

**Identity Disclosure Authorization** I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question

**Do not disclose my information**

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?** 目前全球仍有超过30%的企业将电力供应视为其活动的主要制约因素，电力供应的质量关系企业发展，电力供应的中断会对生产活动、公司收入和经济增长产生负面影响。因此建议“获得电力”里的指标评价内容，能够避免作为二级指标量化加权后被弱化，能更直观、准确反映营商环境水平。

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

**Does the BEE project get the balance right between de jure and de facto indicators?**

**Do you have any feedback  
regarding the indicators  
included in each specific  
topic (please indicate the  
topic)?**

**Do you have any other  
general feedback?**

**Organization Name** 广州南方投资集团有限公司

**Country** 中国

**Organization Type** Private Sector

**Identity Disclosure Authorization** I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question

**Do not disclose my information**

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?**

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

**Does the BEE project get the balance right between de jure and de facto indicators?**

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?** 针对“市政基础设施接入（Utility connections）”指标对“电力损耗”的描述不明确，建议详细描述电力损耗的考核对象、范围等参数。

**Do you have any other general feedback?**

**First Name** BEN ABDALLAH

**Last Name** PARTNERS

**Title** Chartered accountant

**Organization Name** RBB AFRICA

**Country** Tunisie

**Email Address** anis@benabdallah.com.tn

**Organization Type** Private Sector

**Identity Disclosure Authorization** I authorize the World Bank team to disclose my name on the web (Optional) ('YES')

**Do not disclose my information**

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?**

Yes, the issues included in the BEE project are relevant for private sector development but it is important to examine in details the conditions to access to different markets. Sometimes, the obstacles are due to administrative procedures and to the length of a process which could impact the competitiveness of investors and protect actual actors.

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

Yes, the BEE project should consider also the quality of human resources available, the quality of education, the incentives to improve professional skills, the level of taxation of salaries.

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

I think that the BEE project should take into consideration the respect of public services of the deadlines of administrative services. Moreover, it is important that the public sector accelerate the reforms and evaluate the efficiency of last reforms. Also, it is necessary to notice the delays in the digital transformations. Another point to consider is the stability of laws and regulations.

**Does the BEE project get the balance right between de jure and de facto indicators?**

Yes, but it is important to consider if the public sectors respect their obligations in the right time.

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

It is important to include the reactivity of the government to resolve the difficulties encountered by companies and investors.

**Do you have any other general feedback?**

<b>First Name</b>	ELYES
<b>Last Name</b>	CHAFER
<b>Title</b>	MANAGING PARTNER
<b>Organization Name</b>	CHAFER RAOUADI LAW FIRM
<b>Country</b>	TUNISIA
<b>Email Address</b>	elyes@chafterlegal.com
<b>Organization Type</b>	Private Sector
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	<p>I think that the issues included in the BEE project relevant for private sector development and is the overall design adequate. As mentioned in the note, I think that it 's preferable to concentrate on the regulatory framework and public service provision at the microeconomic level</p> <p>The fact to evaluate the business environment not only from the perspective of an individual firm's ease of doing business but also from the standpoint of private sector development as a whole, is very interesting.</p> <p>The fact that BEE will not only collect de jure information (i.e., according to statutory laws and regulations) but also de facto measurements is always important.</p>
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	According to the note, I think that all the issues that we faced with the DB project have been redressed.



**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

YES. I think it strikes the right balance. It is important to have modern regulation. Nevertheless, the most important is how these regulations are applied.

**Does the BEE project get the balance right between de jure and de facto indicators?**

YES. I think it does. The firm level surveys would provide many benefits.

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

Starting from my experience as a lawyer in Tunisia, I think that the biggest challenge in my economy is the execution of the judicial decision.

This topic is very important for new businesses which suffer a lot from cash flow problem in case the debtor doesn't pay. The questions that could be included:

-The fact to have a public register of bad debtor or debts court actions: This would help a business to anticipate and check the solvency of its contractor prior to establish a business relationship. In Tunisia, certain persons create several businesses among which shell companies. They use shell companies to buy resources and avoid execution acts on their real companies. I think that it is important to take that issue into account in the surveys.

-How to combine between the topic of insolvency and dispute resolution.

I think that it is interesting to create an automatic launching of the insolvency procedure after failing in executing a judicial decision.

For example among the question that the survey may include, a question as to the existence or not of a judicial institution (juge d'execution) focusing specifically on monitoring the execution. In case it mentions that the execution failed, it launches the insolvency procedure immediately.

**Do you have any other general feedback?**

I think that the the biggest issue with DB was the limited scope of auditing in terms of the issues treated and their details. The DB was based on a quick, basic and formal control of how an economy facilitate very basic businesses.

I think that setting common parameters to guide the data collection (i.e., firm size, sector, type, and ownership for comparability of expert consultations; and representative sampling for firm level surveys) is very important to give a faithful idea as to the business environment in a specific country.

**Organization Name** 广州供电局

**Country** 中国

**Organization Type** Private Sector

**Identity Disclosure Authorization** I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question

**Do not disclose my information**

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?**

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

**Does the BEE project get the balance right between de jure and de facto indicators?**

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

对于“市政基础设施接入（Utility connections）”指标

1.在评估提供环境友好服务方面，建议增加促进可再生能源发展和绿色电力消费内容，如是否建立可再生能源交易机制，包括可再生能源电力交易和可再生能源消纳量交易。

2.在评估提供环境友好服务方面，建议增加为新能源接入电网提供服务内容，如是否建立新能源接入电网技术标准，是否可通过线上申请新能源接入电网等。

3.在评估内部和外部水电连接的检查方面，建议扩大检查认定范围，如评估是否允许建设单位、水电供应商和政府部门组织开展连接检查，且对检查范围、标准进行监管。

4.该指标包括电力、水和互联网三种公共事业服务，建议考核时做权重区分，例如电力权重50%，用水权重30%，互联网权重20%。

**Organization Name** 广州供电局

**Country** 中国

**Organization Type** Private Sector

**Identity Disclosure Authorization** I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question

**Do not disclose my information**

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?**

建议对各项指标进行量化评分，并分区段对评价结果进行评级，一方面可有效避免针对排名的炒作，一方面有利于参评城市掌握自身不足，针对性提升服务能力。例如，得分100至90为一个评估区间、89至80为一个评估区间，依次往下。

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

**Does the BEE project get the balance right between de jure and de facto indicators?**

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

对于“市政基础设施接入（Utility connections）”指标

1.市政基础设施接入指标包括电力、水和互联网，而电力、水、互联网存在物理属性差异，有着截然不同的技术标准、管理准则等，难以实施共同挖掘工作或者使用共同的管道。建议取消电、水、网络共同挖掘施工方面的考核。

2.建议增加接入能力相关内容，如公用事业提供商是否公布建设项目周边配电网接入能力和容量情况。

3.建议参照DB评估方法论，设置标准案例来进行评估，如申请容量200千伏安及以下的电力接入，连接线长为150米。

4.建议考核是否对客户投诉建立监管机制，如政府部门是否发布客户投诉监管文件，公用事业提供商是否在自身营业场所、网站等对外公开投诉热线，

**Organization Name** 广州南方投资集团有限公司

**Country** 中国

**Organization Type** Private Sector

**Identity Disclosure Authorization** I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question

**Do not disclose my information**

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?**

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

**Does the BEE project get the balance right between de jure and de facto indicators?**

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

针对“市政基础设施接入（Utility connections）”指标在评估促进可持续供电、供水和互联网服务的环境法规方面，建议对公共基础设施建设施工环境保护进行监管，例如：

- 1.是否建立施工环境保护监管机制，建设单位在施工前获取政府部门环境影响审批。
- 2.是否建立施工过程中对环境影响公开机制，如建设单位向社会公开建设项目环境影响情况、污染物排放情况、突发环境事件应急预案等环境信息。



**Organization Name** 广州南方投资集团有限公司

**Country** 中国

**Organization Type** Private Sector

**Identity Disclosure Authorization** I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question

**Do not disclose my information**

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?** 建议选取宜商环境评估对象上，参照营商环境评估方法论，充分考虑政策扶持、人口数量等因素，在直辖市、省会城市等代表国家水平的城市中选择评估对象。

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

**Does the BEE project get the balance right between de jure and de facto indicators?**

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

**Do you have any other general feedback?**

<b>First Name</b>	Daniel
<b>Last Name</b>	Lago
<b>Title</b>	Mr
<b>Organization Name</b>	MAONI NETWORK
<b>Country</b>	Kenya
<b>Email Address</b>	maoni_scholar2002@yahoo.com
<b>Organization Type</b>	Private Sector
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	Yes
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	Well there could be, though to me you have exhausted many, however, as for me, in order that you pilot BEE through RUMA NATIONAL PARK, Homa-Bay County, Kenya, there is need for further consultation[s].
<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	Yes

**Does the BEE project get the balance right between de jure and de facto indicators?**

Yes please

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

As per my suggestion on RUMA NATIONAL PARK in Kenya, Cabinet Secretary, Mr Najib Balala expressed last year in May during Kenya WEBINAR with European Union[EU] that in future , National Parks would be run as private entities. There emerged several questions over the same on the credibility and authenticity of the same.

My personal reaction was that EU wanted to run and manage profit making parks like Amboseli, Maasai Mara Researve, Lake Nakuru, The Tsavos[East & West] and lastly , Nairobi National parks as western Kenya Parks like Lake Kanyaboli Researve, Mt Elgon , Impala and Ruma National Parks are not making any business.

My iopinion over private management is that there should be Concessionairing agreements or Public and Private Partnerships[PPPs]-I am comfortable with all angles as there will always be terms of engagements, legalities, and community relationships

**Do you have any other general feedback?**

Yes, I feel your consultation should join the other initiative of World Bank under Innovation for Climate Change[I4CC] , which is planned for May 24-26th, 2022.

MAONI NETWORK submitted affirmation to it, and I signed it. The consultation would continue during such dates and let MAONI NETWORK pilot everything with KWs/Ruma National Park, under cultural Bandas earlier suggested 20 years ago but non had the idea.

Using our local communities, and BEE-Keeping[Eco-Tourism], we have the culture to drive the kick off in collaboration with Forest Department-Kenya Forest services[KFS], Lambwe Forerst

<b>Organization Name</b>	Claro & Cia.
<b>Country</b>	Chile
<b>Organization Type</b>	Private Sector
<b>Identity Disclosure Authorization</b>	I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	Yes, in particular those related to the topics of business entry and financial services (though subject to the comment made in the answer to the immediately following question). The first will give an initial impression on the overall business environment and the second will cover one of the most critical areas of project development and one that has been deeply transformed by technology; it is great also that it will cover green financing related aspects.
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	I would suggest renaming the topic "financial services" as "Financing". And would also add in the indicators therein an item specifically related to capital markets including, venture capital.
<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	In my opinion, yes specially through the indicators in the area of business entry.
<b>Does the BEE project get the balance right between de jure and de facto indicators?</b>	YEs; all that relates to quality of regulations should be (as it is) covered by de jure indicators; and factual aspects related to quality of services, reporting, and efficiency are covered by de facto.

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

As previously indicated, I would suggest renaming the topic "financial services" as "Financing". And would also add in the indicators therein an item specifically related to capital markets including, venture capital.

**Do you have any other general feedback?**

In the preliminary timeline the data collection for the first edition of the BEE report will be January 2023. Consider extending it through the end of February 2023.

<b>Organization Name</b>	北京中电紫荆电力工程有限公司
<b>Country</b>	中国
<b>Organization Type</b>	Private Sector
<b>Identity Disclosure Authorization</b>	I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	充分
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	没有
<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	是的
<b>Does the BEE project get the balance right between de jure and de facto indicators?</b>	是的
<b>Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?</b>	市政接入主题 希望“获得电力”指标能继续作为一个单独指标设立，因为企业经营对用水、互联网连接的需求都相对没有那么大，但对电力需求还是非常大的。对水、电、互联网是否联合办理不是特别关注，主要还是关注能否及时接电、还有供电是不是稳定。

**Do you have any other general  
feedback?**

没有

**Organization Name** 北京中电紫荆电力工程有限公司

**Country** 中国

**Organization Type** Private Sector

**Identity Disclosure Authorization** I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question

**Do not disclose my information**

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?** 充分

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?** 没有

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?** 是的

**Does the BEE project get the balance right between de jure and de facto indicators?** 是的

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?** 市政接入主题  
希望“获得电力”指标能继续作为一个单独指标设立，因为企业经营对用水、互联网连接的需求都相对没有那么大，但对电力需求还是非常大的。对水、电、互联网是否联合办理不是特别关注，主要还是关注能否及时接电、还有供电是不是稳定。



**Do you have any other general feedback?**    没有

**Organization Name** Beijing Re-code Trade Security and Facilitation  
Research Center

**Country** China

**Organization Type** Private Sector

**Identity Disclosure Authorization** I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question

**Do not disclose my information**

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?** Architecture is well formed.

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?** I think so.

**Does the BEE project get the balance right between de jure and de facto indicators?** I think so.

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

**Do you have any other general feedback?**

Beijing Re-code Trade Security and Facilitation Research Center is a licensed private academic institute specialized in trade facilitation.

In the past 7 years since its establishment, Re-code has conducted extensive and in-depth studies on China's overall trade facilitation as well as time, cost, procedures and paperless applications and so on of cross-border trade goods at major maritime ports. We would like to share dozens of our research reports and findings closely related with China's business environment for international trade with the World Bank BEE team. (Here are some of our research reports.

<http://www.recode-research.org> )

We are also very happy to participate in BEE assessment in China and contribute our opinions and suggestions.

<b>Organization Name</b>	陕西国兴会计师事务所有限责任公司
<b>Country</b>	中国
<b>Organization Type</b>	Private Sector
<b>Identity Disclosure Authorization</b>	I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	包含
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	基本已考虑到
<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	是的
<b>Does the BEE project get the balance right between de jure and de facto indicators?</b>	是的

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

暂无

**Do you have any other general feedback?**

影响营商环境的指标：第一是国家的政治制度是否明确、是否符合本国国情，人民是否自由，政治是否民主，法制是否健全有效。其次国家政权更续是否实现制度化科学有序，权利是否被个别利益集团、财阀家族势力绑架和控制。三国家文化建设是否优秀，人文环境是否具备健康稳定的主流价值观。人民是否安居乐业，贫富差距是否太大，民族矛盾是否紧张冲突。四国家宏观决策，经济政策、财政政策、货币政策是否受到控制，是否不具备随意性，币种是否稳定，私人财产是否得到保值和保护，人民是否拥有尊严，是否不受任意欺凌，各种决策程序是否科学民主有效。五国家机构和各种社会是否健全有效。

<b>Organization Name</b>	特斯拉公司
<b>Country</b>	美国
<b>Organization Type</b>	Private Sector
<b>Identity Disclosure Authorization</b>	I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	“市场竞争”主题第一组指标关注反托拉斯法、政府采购招投标政策的质量；第二组评估相关制度执行的质量，以及线上采购平台透明度；第三组考察并购重组审核流程是否简化，政府采购合同授标时间和账期，直接向企业采访调研市场活力和竞争情况。事实上，大量面向大众消费者的企业（B2C）参与政府采购的情形较少，政府采购能衡量的公平竞争程度尚不全面。另一方面，企业重组并购日常发生概率较低，以此衡量市场竞争效率样本有限。
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	<p>地方保护主义在不同体制的经济体较为常见，建议可围绕公平竞争审查制度在“市场竞争主题下”新增四个指标</p> <ol style="list-style-type: none"> <li>1、通过企业调研或案例研究，考察一些行业的扶持政策是否存在隐性技术门槛（例如名义上所有企业普惠，实际以非核心、非先进的技术指标将部分品牌排除在外）；</li> <li>2、监管框架层面，中央是否设立了公平竞争审查制度以规范地方立法和出台政策（以此避免地方保护主义）；</li> <li>3、法律法规配套方面，是否建立起路径明确的投诉举报处理机制以应对不公平竞争市场主体行为和监管立法；</li> <li>4、实践和结果层面，对于市场主体就一些违背公平竞争原则的政策进行举报时，是否能按照规定得到响应以及处理时限长短。</li> </ol>

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

是的

**Does the BEE project get the balance right between de jure and de facto indicators?**

是的

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

**Do you have any other general feedback?**

<b>First Name</b>	Jinrong
<b>Last Name</b>	LIU
<b>Title</b>	Managing Partner
<b>Organization Name</b>	Global Law Office
<b>Country</b>	China
<b>Email Address</b>	liu@glo.com.cn
<b>Organization Type</b>	Private Sector
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	Most of the issues included in the BEE project are relevant for the private sector development and is overall adequate. However, for the indicators of “Market Competition”, BEE adopts the time to award a public contract and time to pay government contractors to describe the efficiency in the implementation of key services promoting market competition. These two factors, of course, can promote the efficiency of implementation of key services, but they are not related to the key services of market competition. These two factors are more relevant to the efficiency of the executive branch itself. A fair and transparent bidding process can help in promoting the market competition and reducing corruptions, while a shorter processing time itself cannot.



**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

For the “Labor” indicator, BEE considers the workers’ social protections, public employment services, and individual labor dispute resolution. Although these factors affect the business environment, the quality of labor, which is also critical in operating business, is ignored. Factors such as whether the population is well-educated, and the sufficiency of labors shall be considered in scoring the Labor indicator.

For the “Market Competition” indicator, BEE focuses on the public contracts which are made between government and private enterprises, which, to some extent, ignores the competitive activities among the private enterprises. Except for the general evaluation of the quality and enforcement of competition regulations, only the “effective implementation of the simplified merger review” talks about the market competition among private enterprises. More feasible indicators which evaluate the competitive behaviors of the private enterprises shall be included in BEE because competitive activities among private enterprises are critical to demonstrate the whole picture of one country’s market competition.

For the “Utility Connections”, BEE focuses on the connection to the electricity, water, and internet connections, without considering the connections to road, railways, airplanes, and other communication facilities. However, convenient access to public transportation is critical for business operation and is ignored in BEE.

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

In general, BEE project keeps the right balance between the quality of regulations and the provision of public services for private sector development. BEE talks about the role government plays in promoting the private sector development from two perspectives: as a legislative department (the regulation pillar) and as an executive department (the public service pillar). It seems like that BEE gives equal weight to these two pillars for all indicators. However, for some indicators, a higher weight should be given to the “provision of public services” and for some other indicators, a higher weight should be given to the “quality of regulations” in producing the aggregate score. For example, a higher weight should be given to the provision of public services for “Utility Connection” because government is the service provider and the regulations in this area are intent to regulate the public services provider itself. It is, of course, important to evaluate the quality of the regulations, however, it is better to evaluate how good the government’s jobs are done which is more direct and straightforward. While a higher weight should be given to the quality of regulations for “Taxation” because government is the regulator here and it is the enterprises which are regulated. It is better to evaluate the structure and details of the regulations of taxation in advance because the taxation bureau usually strictly executes these regulations.

**Does the BEE project get the balance right between de jure and de facto indicators?**

In general, de jure and de facto are deemed evenly important in BEE. It is recommended that BEE may consider giving a higher weight to de facto because, the de facto factor, i.e., the execution of the regulations, decides what enterprises will face in a country. It is possible that a country has a great regulatory system while executes them badly. Gaps always exist between the regulations designed by the government and the execution of these regulations.

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

The components of "Market Competition" indicator are, either too abstract to evaluate, or too specific to describe the whole picture of market competition. It is hard to score the market dynamism and competitive behaviors because it is too abstract and confusing. It shall be divided into measurable factors and dimensions, otherwise it is not feasible. On the other hand, although it is easy to calculate the average time to award a public contract, it is hard to conclude that the shorter time it takes, the better, because, except for a perfect executive branch, an arbitrarily executive branch without any internal control or supervise can also do things quickly. In addition, a component like the time to award a public contract and time to pay government contractors are too little pieces on the huge puzzle of the topic of "Market Competition," the readers learn little about whether a country has excellent performance in promoting market competition from the specific number of days it takes to award a public contract.

**Do you have any other general feedback?**

BEE provides a feasible tool to evaluate the private sector development. Taking the adoption of digital technologies and environmental sustainability into consideration shows World Bank's commitment to adapt to the changing world. BEE is a great guideline to evaluate a country's business enabling environment, however, it does not provide a detailed description about how it will be implemented at the current stage. BEE does not indicate whether this approach will be used equally to each country, or it will be used in a more flexible way by taking different countries' specific situations into account. For example, since different industries may have different demands of public services and are regulated by different regulations, the provision of public services and regulations may be sufficient for certain industries while not satisfactory to other industries. For example, the provision of connection of water can be sufficient for banking industry, but can be far from enough for paper and allied industries which require huge volume of water. In other words, it is possible that one country has done a great job in a specific industry while done a bad job in other industries. Will BEE consider all industries of a country and give some specific weight to each industry in producing the aggregate score? Or will BEE pick some certain industries and only consider these industries? If so, how will these certain industries be picked? Will it be unfair for those countries who accidentally do a bad job on this industry or even do not have such industry at all?



<b>First Name</b>	Jinrong
<b>Last Name</b>	LIU
<b>Title</b>	Managing Partner
<b>Organization Name</b>	Global Law Office
<b>Country</b>	China
<b>Email Address</b>	liu@glo.com.cn
<b>Organization Type</b>	Private Sector
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	Most of the issues included in the BEE project are relevant for the private sector development and is overall adequate. However, for the indicators of "Market Competition", BEE adopts the time to award a public contract and time to pay government contractors to describe the efficiency in the implementation of key services promoting market competition. These two factors, of course, can promote the efficiency of implementation of key services, but they are not related to the key services of market competition. These two factors are more relevant to the efficiency of the executive branch itself. A fair and transparent bidding process can help in promoting the market competition and reducing corruptions, while a shorter processing time itself cannot.

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

For the “Labor” indicator, BEE considers the workers’ social protections, public employment services, and individual labor dispute resolution. Although these factors affect the business environment, the quality of labor, which is also critical in operating business, is ignored. Factors such as whether the population is well-educated, and the sufficiency of labors shall be considered in scoring the Labor indicator.

For the “Market Competition” indicator, BEE focuses on the public contracts which are made between government and private enterprises, which, to some extent, ignores the competitive activities among the private enterprises. Except for the general evaluation of the quality and enforcement of competition regulations, only the “effective implementation of the simplified merger review” talks about the market competition among private enterprises. More feasible indicators which evaluate the competitive behaviors of the private enterprises shall be included in BEE because competitive activities among private enterprises are critical to demonstrate the whole picture of one country’s market competition.

For the “Utility Connections”, BEE focuses on the connection to the electricity, water, and internet connections, without considering the connections to road, railways, airplanes, and other communication facilities. However, convenient access to public transportation is critical for business operation and is ignored in BEE.

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

In general, BEE project keeps the right balance between the quality of regulations and the provision of public services for private sector development. BEE talks about the role government plays in promoting the private sector development from two perspectives: as a legislative department (the regulation pillar) and as an executive department (the public service pillar). It seems like that BEE gives equal weight to these two pillars for all indicators. However, for some indicators, a higher weight should be given to the “provision of public services” and for some other indicators, a higher weight should be given to the “quality of regulations” in producing the aggregate score. For example, a higher weight should be given to the provision of public services for “Utility Connection” because government is the service provider and the regulations in this area are intent to regulate the public services provider itself. It is, of course, important to evaluate the quality of the regulations, however, it is better to evaluate how good the government’s jobs are done which is more direct and straightforward. While a higher weight should be given to the quality of regulations for “Taxation” because government is the regulator here and it is the enterprises which are regulated. It is better to evaluate the structure and details of the regulations of taxation in advance because the taxation bureau usually strictly executes these regulations.

**Does the BEE project get the balance right between de jure and de facto indicators?**

In general, de jure and de facto are deemed evenly important in BEE. It is recommended that BEE may consider giving a higher weight to de facto because, the de facto factor, i.e., the execution of the regulations, decides what enterprises will face in a country. It is possible that a country has a great regulatory system while executes them badly. Gaps always exist between the regulations designed by the government and the execution of these regulations.

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

The components of "Market Competition" indicator are, either too abstract to evaluate, or too specific to describe the whole picture of market competition. It is hard to score the market dynamism and competitive behaviors because it is too abstract and confusing. It shall be divided into measurable factors and dimensions, otherwise it is not feasible. On the other hand, although it is easy to calculate the average time to award a public contract, it is hard to conclude that the shorter time it takes, the better, because, except for a perfect executive branch, an arbitrarily executive branch without any internal control or supervise can also do things quickly. In addition, a component like the time to award a public contract and time to pay government contractors are too little pieces on the huge puzzle of the topic of "Market Competition," the readers learn little about whether a country has excellent performance in promoting market competition from the specific number of days it takes to award a public contract.

**Do you have any other general feedback?**

BEE provides a feasible tool to evaluate the private sector development. Taking the adoption of digital technologies and environmental sustainability into consideration shows World Bank's commitment to adapt to the changing world. BEE is a great guideline to evaluate a country's business enabling environment, however, it does not provide a detailed description about how it will be implemented at the current stage. BEE does not indicate whether this approach will be used equally to each country, or it will be used in a more flexible way by taking different countries' specific situations into account. For example, since different industries may have different demands of public services and are regulated by different regulations, the provision of public services and regulations may be sufficient for certain industries while not satisfactory to other industries. For example, the provision of connection of water can be sufficient for banking industry, but can be far from enough for paper and allied industries which require huge volume of water. In other words, it is possible that one country has done a great job in a specific industry while done a bad job in other industries. Will BEE consider all industries of a country and give some specific weight to each industry in producing the aggregate score? Or will BEE pick some certain industries and only consider these industries? If so, how will these certain industries be picked? Will it be unfair for those countries who accidentally do a bad job on this industry or even do not have such industry at all?



**First Name** LAN

**Last Name** CHEN

**Title** Partner

**Organization Name** Deloitte China

**Country** China

**Email Address** lydchen@deloitte.com.cn

**Organization Type** Private Sector

**Identity Disclosure Authorization** I authorize the World Bank team to disclose my name on the web (Optional) ('YES')

**Do not disclose my information**

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?** YES

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?** NO



**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

YES

**Does the BEE project get the balance right between de jure and de facto indicators?**

YES

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

NO

**Do you have any other general feedback?**

Yes. Scoring approach and survey focus should be differed among different size level of private companies. We noticed that the scoring approach has yet been decided. Considering BEE will cover the private sector as a whole, we recommend the scoring approach and survey focus be differed among individual, SMEs and large-sized private companies. Under higher uncertainties caused by various emergency and crisis, plus quicker iteration of technology, government policies and regulations should become more precise and agile to tackle the different pain points of differently sized private enterprises.

<b>VI Organization Name</b>	Visa Inc.
<b>Country</b>	United States
<b>Organization Type</b>	Private Sector
<b>Identity Disclosure Authorization</b>	I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	<p>We believe the issues included in the BEE project are relevant for private sector development and we agree with many of the key topics and proposed indicators raised.</p> <p>However, the full range of indicators (pg. 61) would benefit from additional detail to allow a clearer determination of what would constitute good policies and practices that the Bank would encourage and to avoid the risk of unintended consequences and harmful practices that could be replicated by countries globally. A more comprehensive set of criterion/components for some of the proposed indicators needs to be clearly laid out - what they are, how exactly they will be measured and through what standards. This includes for some of the specific indicators in the areas of international trade and financial services, where digital and e-Payments have been specifically identified (pg. 31 and pg. 27). We will elaborate on this further below. At the moment, we believe there is room for the current set of indicators to better reflect key success factors for safe and sound payments systems and infrastructures and an enabling policy and regulatory environment for digital and e-payments.</p> <p>We believe the way to ensure a more vetted and improved methodology/indicator set is to have targeted consultations with stakeholders having expertise and experience in particular areas, for example in digital and e-payments. This will help bring about stronger indicators that would mitigate the risks identified above.</p>
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	<p>In the World Bank's (the "Bank") pre-concept note, the Bank states that regulatory framework indicators will consider the "quality of regulations, using, to the extent possible, the best practices of transparency, clarity, predictability, and relevance, as well as internationally recognized topic-specific best practices." (pg. 5)</p> <p>In this regard, we believe that the current methodology is not comprehensive of all the key components for a healthy and robust electronic payments ecosystem and enabling international trade regime. The Bank should elaborate further what it is referring as "internationally recognized topic-specific best practices." We would like</p>

to understand better what those best practices should be and from what criterion or assessment standards, so that we could provide guidance based on our own experience and perspective. This needs to be clearly laid out.

For example, government recognition and adherence to best practices for regulatory oversight and governance are outlined in key principles by the OECD, World Bank, and other international organizations. We would like to know which standards will the Bank use and apply, for example would it be the Bank's PAFI principles and Application tools or other criterion. One concern we have is how the Bank will reflect and account for the diverse range, types and variation of payment systems and infrastructures globally. This clarity is required so that shared alignment can be reached across stakeholders.

In our view, an important component of the quality of the regulatory framework, for both the international trade and financial services indicators, that is not currently clearly set out in the current BEE indicator set, is national treatment and a level playing field for all players and stakeholders. These should be included as part of the methodology. Visa believes that payment- and financial-systems work well when appropriate policies are fairly enforced. In Visa's view, government policies that embrace pro-consumer policies and promote competition help create balanced payment ecosystems that benefit all players.

Indicators in the area of international trade (pg. 31)

Specifically, with respect to indicators for international trade (pg. 31), we are pleased that "the BEE indicators will expand the scope of the topic to include the quality of the regulatory framework, as well as the quality of public services provided by governments." (pg. 32).

BEE proposes a specific indicator, "the quality of regulations for international trade in goods, e-commerce and environmentally sustainable trade" (pg. 31). The quality of regulations will be assessed by BEE through the selection of internationally recognized good practices, which include "regulatory restrictions on international trade" including "assessing whether regulatory framework establishes restrictive trade policies" (pg. 33) and "Regulatory restrictions on eCommerce...assessing whether regulatory framework establishes restrictive or discriminatory measures such as... standards on cross border data flows." (pg. 33).

We agree on the need for the free flow of cross border data flows. However, we recommend that to improve this

indicator further and assess its impact, we would need additional clarity on the underlying components beyond the information provided on pg. 33.

The ability to move data freely across borders is an important indicator of digital economy maturity and the level of openness. We believe that data localization and other barriers that limit the free movement of data can impede the development and growth of the digital economy, with adverse consequences for businesses of all sizes, as well as consumers. These views are consistent with findings from the World Bank's 2020 World Development Report, which found that "restrictions on data flows have large negative consequences on the productivity of local companies using digital technologies. Countries would gain on average about 4.5 percent in productivity if they removed their restrictive data policies, whereas the benefits of reducing data restrictions on trade in services would on average be about 5 percent." Further, a recent Moody's report found that increased worldwide card use supports meaningfully stronger economic growth, with countries with the largest increases in card usage experiencing the biggest contributions to growth. These large contributions in growth are possible due to policy and regulatory regimes that are enabling, open and support the free flow of data across borders. The importance of this is echoed in other literature as well, such as from this ITIF report and IIF work in this area.

#### Indicators in the areas of financial services (pg. 27)

The indicators offered under this segment of the module are also very general and require additional detail and clarity to determine potential impacts and outcomes. We note that for indicators in the areas of financial services (pg. 27), the indicator set For the Ease of Receiving Financial Services (pg. 27) will measure "the time and cost (de facto elements) to obtain a loan and make an e-payment in each economy." (pg. 27-30)

Our preliminary reaction to this indicator (without having additional detail) is that the indicator should take a more comprehensive approach than the one currently suggested by the Bank, one that reflects a fuller value proposition that defines the overall quality of a payment system. There are a variety of factors and considerations that reflect the overall quality of a payment system, including robustness, security, resilience and customer centricity. These considerations ensure safe and sound infrastructure that can better respond to consumers' needs and requirements and are critical to ensuring these systems can remain viable over the longer term.

	<p>Better reflecting the current context and needs of Micro and Small Businesses</p> <p>We believe there could be a stronger consideration of the impact of the current business environment on micro and small businesses in the BEE and associated country rankings. In the past, the Ease of Doing Business survey was oriented toward the formal, larger sized enterprises and the BEE seems to have the same orientation. Yet, micro and small businesses are important for livelihoods and jobs, and contribute significant amounts to GDP. COVID-19 underscored this and we saw it reflected in policy responses around the world. The key considerations to potential indicators BEE may consider for micro and small businesses would be registration, compliance and financial regulation requirements, as well as the actual availability and use to infrastructure, utilities, and financial services to these smaller businesses. In addition, the data the BEE gathers and the sources for data may need to be adapted to better reflect the small business considerations and perspective.</p> <p>Other considerations for micro and small businesses are if there is flexibility and policy responses to accommodate various stages for small business informality that are often seen in practice, and to encourage formalization for micro and small businesses of different levels and kinds. There are multiple practices across the world to support micro and small business formalization that could be evaluated for consideration, such as one-stop shops for business registration (e.g., Rwanda), lighter requirements for registration and compliance (e.g. KYC/KYB) and simplified taxation and filing requirements. A few countries have enabled a pathway to encourage micro and small businesses to formalize, without penalty for past informality.</p>
<p><b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b></p>	<p>Overall, we believe the BEE project strikes the right balance between quality of regulations and the provision of public services. However, As reflected in pg. 3 (Figure 2) of pre-concept note, the BEE project measures the balance between the quality of regulations and the provision of public services for private sector development through the efficiency with which the goals of these topics are obtained in practice.</p> <p>In this regard, it is important to have a more contextualized, fuller, longer-term value proposition to strike the right balance between the quality of regulations and the provision of public services for private sector development rather than efficiency being defined through a limited interpretation of “time and</p>

	<p>cost.”. It is important the Bank recognizes and reflects all the various attributes contributing to a fuller long-term value proposition of payment infrastructures and services, such as resilience, security, customer centricity and other key value considerations, that are critically important and separate from only time and cost considerations.</p>
<p><b>Does the BEE project get the balance right between de jure and de facto indicators?</b></p>	<p>For now, we believe the pre-concept note seems to strike a good balance, but we would be interested to see this more fully elaborated in the Concept Note.</p>
<p><b>Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?</b></p>	<p>For electronic payments, there are already recognized, established methodology and indicators that evaluate the level of sophistication from both a regulatory perspective and infrastructure readiness perspective. These approaches and methodologies should be closely evaluated and reflected into the Bank BEE methodology and the indicators currently being developed. We would like to know and understand which approach and methodologies the Bank will be utilizing.</p> <p>We recommend, for example, the Economist Intelligence Unit (EIU)’s 2018 Government E-Payments Adoption Ranking. The study proposes electronic payments infrastructure indicators including 1) broadband access, 2) mobile subscribers, 3) wireless spectrum availability, 4) per capita point-of-sale terminals, among others. Policy environments conducive to electronic payments include 1) ability of private firms to compete on a level playing field, whether domestic or foreign; 2) adequate levels of IP protection and enforcement; 3) government commitment to e-payment security; 4) government recognition and commitment to industry-led, global standards.</p> <p>While some of the aforementioned components have already been reflected in the BEE indicators being developed, others are not and therefore the Bank team should evaluate further for inclusion. The specific categories and indicators included in the 2018 GEAR study are listed in the table (pg. 15). The scoring criteria are listed in Appendix III (pg. 127).</p>
<p><b>Do you have any other general feedback?</b></p>	<p>Thank you very much for the opportunity to share our feedback on the pre-concept note.</p> <p>We would be happy to discuss with you further to help improve the current set of BEE indicators. We would like to work closely with the Bank in developing the finalized set of BEE methodology and indicators and be part of the forthcoming steps towards creation of the final report in the last quarter of 2023. We have significant experience in the digital and digital technologies arena, one of the</p>

two cross-cutting themes relevant across topics (as reflected in pg. 5), and would be happy to share our insights, experiences and lessons learned in the forthcoming steps of the BEE development process.

At the moment, the current timeline as reflected in the document does not capture plans for further open consultations with stakeholders beyond this initial period. As we would be interested to engage further, the Bank may wish to reflect relevant amendments to the pre-concept note in this regard.

<b>Organization Name</b>	American Council of Life Insurers
<b>Country</b>	United States of America
<b>Organization Type</b>	Private Sector
<b>Identity Disclosure Authorization</b>	I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	Yes, with detailed comments being sent directly to bee@worldbank.org,
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	Yes, with detailed comments being sent directly to bee@worldbank.org,
<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	Partially, with detailed comments being sent directly to bee@worldbank.org,
<b>Does the BEE project get the balance right between de jure and de facto indicators?</b>	Partially, with detailed comments being sent directly to bee@worldbank.org,
<b>Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?</b>	Yes, detailed comments being sent directly to bee@worldbank.org,
<b>Do you have any other general feedback?</b>	Yes, detailed comments being sent directly to bee@worldbank.org,



<b>First Name</b>	丽
<b>Last Name</b>	王
<b>Title</b>	北京德恒律师事务所首席全球合伙人
<b>Organization Name</b>	北京德恒律师事务所
<b>Country</b>	中国
<b>Email Address</b>	<a href="mailto:wangli@dehenglaw.com">wangli@dehenglaw.com</a>
<b>Organization Type</b>	Private Sector
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<p><b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b></p>	<p>BEE 项目中包含的问题与私营部门的发展相关，整体设计比较充分。BEE涵盖的具体分析主题是按照企业的生命周期及其在市场中的参与来组织的，目前主要议题包括商业进入、商业地点、公用事业连接、劳工、金融服务、国际贸易、税收、争端解决、市场竞争和企业破产。</p> <p>私营经济的发展在BEE被定义为三个特征:首先，通过创新和创业促进经济增长，促进市场参与者之间的机会平等，确保经济的长期可持续性。其次，私营部门的发展是由私营企业家的努力和创新推动的，并在很大程度上受到一系列营商环境的政策和法规的影响。再次，激励了新公司的成立、现有企业的便利化、良好就业机会的创造以及非正规企业向正规企业的转型。BEE不仅从个体经济开展业务的便利性角度，而且从整个私营经济发展的角度来评估商业环境。例如一些与税收有关的商业法规，可能会增加某个企业的经营负担，但是这个法规对整体经济发展会产生积极影响，BEE会在评分的时候试图权衡这些影响。</p>
<p><b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b></p>	<p>BEE侧重于与私营部门发展相关有限领域的原始数据，这些领域有助于BEE 体现价值。BEE将重点放在微观经济层面的监管框架和公共服务提供上。微观经济层面的监管法规和公共服务是指颁布和实施的直接影响企业行为和绩效、市场、工人等方面的法规和公共服务。然而，其局限性在于BEE不包括所有可能影响私营企业发展的方面，没有涵盖宏观经济状况和稳定性、国家的国际化程度、政治保障和社会安全、教育医疗的福利、性别歧视情况、生态环境、文化环境等方面。</p>
<p><b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b></p>	<p>BEE不仅关注监管法规方面，还关注公共服务的提供。公共服务也是市场运作的关键。这种新的平衡试图对政府在创造有利的商业环境中的作用提供一个更加积极的视角。BEE将政府主动作为、提供公共服务等内容纳入考量，对一个地区的商业环境评估将更为全面，可以对政策的落实机构进行有效评价，看重政策如何落实和是否好落实。</p> <p>在监管法规体系和公共服务提供方面，BEE尚存在需要完善的地方，例如忽略了与其对应的“节约、高效利用电力和水”监管体系，导致在一定程度上会忽略各国在创建良好营商环境过程中对减少温室气体和污染物排放、保护环境做出的努力。再如，在劳动力章节，</p>

	<p>法律监管质量会考核工人保护监管制度（涉及种族、宗教、性别歧视、安全健康工作条件等指标），但在劳动力市场公共服务所列举的指标，却仅限于工人的社会保障、公共就业服务等领域。在这个考核维度，法律监管质量和公共服务并没有一一对应，这是因为，劳动领域公共服务涉及社会各个方面（除了社会保障、公共就业服务，还包括人才引入、医疗、教育、生活环境等），应扩大公共服务的内涵，使其与法律监管质量相对应。</p>
<p><b>Does the BEE project get the balance right between de jure and de facto indicators?</b></p>	<p>BEE不仅会收集法定信息，还会收集事实信息，两者基本达成了平衡。BEE会直接通过企业调查来获得相关信息以提高信息的准确性，也会通过市场主体反馈数据并更加注重市场主体的感受。BEE将努力在各国的数据可比性和特定经济体的数据代表性之间取得平衡。这种平衡的实现，可以通过在收集数据时将专家咨询和企业调查的方式相结合，还可以通过设置通用参数来指导数据收集过程，例如在专家咨询的过程中，可以规定统一的企业规模、行业类型、公司类型以及所有权种类，以实现专家咨询的可比性。在企业调查中，可以通过代表性抽样来实现。</p>
<p><b>Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?</b></p>	<p>针对BEE所涵盖的主题：</p> <p><b>A.企业准入</b></p> <p>BEE在企业准入领域使用了三组指标：（a）企业准入监管质量（监管框架支柱）；（b）开办企业数字化服务和信息透明度（公共服务支柱）；（c）开办企业流程效率（反映前两大支柱影响的衡量标准）。企业准入监管质量是第一个新领域——衡量设立企业的良好做法和企业准入的限制。数字公共服务的可用性和创业信息的透明度是第二个新领域。企业进入的效率将建立在前一个设立指标的基础上，并将是反映前两个支柱影响的衡量标准。</p> <p><b>B.经营地点</b></p> <p>BEE在经营地点方面使用了三组指标：（a）不动产租赁、产权和城市规划法规的质量（监管框架支柱）；（b）公共服务的质量和信息的透明度（公共服务支柱）；（c）关键服务在获得经营选址方面的效率（反映前两个支柱影响的衡量标准）。与之前处理建筑许可证和不动产登记的主题不同，BEE主题将涵盖新的领域，且不限于国内中小企业的经验。例如，监管法规将包括限制房地产租赁的措施。此外，这些指标还将涵盖绿色建筑法规和环境许可方面的环境问题。</p> <p><b>C.公用设施便利性</b></p> <p>BEE使用三组指标来衡量公用设施便利性：（a）公用设施监管质量（监管框架支柱）；（b）公用设施的可靠性和公用设施服务的透明度（公共服务支柱）；（c）公用设施和服务监管实施效率（这两个支柱在实践中结合的效率）。在衡量与水、电和互联网的连接</p>

时，BEE的“获取电力”指标远远超出了原有的范围，因为后者仅包括一种公用设施类型。BEE指标还包括衡量公用设施连接安全性以及公用设施服务质量、环境可持续性和交互操作性。

另外，城市基础设施建设指标具体可以涵盖轨道交通、公共设施建设、垃圾处理、城市污水处理、城市排水管道建设等考核指标；市场监管指标具体可以涵盖创新监管方式、企业信用体系建设等考核指标；政务服务指标具体可以涵盖标准化、一站式政务服务体系建设等考核指标。

#### D.劳动力

BEE在劳动领域使用了三组指标：（a）劳动法规质量（监管支柱）；（b）劳动力市场公共服务的充分性（公共服务支柱）；（c）雇佣劳动力的难易程度，从公司和员工的角度评估两大支柱（监管和公共服务）在实践中如何促进劳动力市场的有效运作。这些指标将衡量劳动法规和公共服务，因为它们适用于不同合同安排的不同类型的工人，包括但不限于长期、定期雇用、自由职业和外籍工人。这是为了了解各国政策和实践如何因工人类型而异，以及各国如何应对劳动力市场分割问题。

与之前的《营商环境报告》劳动力市场监管主题相比，BEE会更明确地考虑员工的观点。它将提供一个更平衡的观点，包括关于工人保护（失业保险、医疗保健、养老金）、体面工作条件（工作权利、社会对话等）和公共服务的指标，以及劳动力市场灵活性的数据。另一个重要的补充是效率部分，它将直接从企业收集数据，以了解规则和法规在实践中的应用。最后，与《营商环境报告》不同的是，BEE指标将包括不同类型的企业和工人，包括签订不同类型雇佣合同的工人。

#### E.金融服务

BEE在金融服务领域使用了三组指标：（a）担保交易、电子支付和绿色融资（监管支柱）监管的质量；（b）信贷报告框架的质量，包括通过信贷机构和登记机构分发的信贷信息的范围和可用性，以及抵押品登记机构的可用性和功能（公共服务支柱）；以及（c）接受金融服务的便利性（监管和公共服务支柱的结合）。虽然金融服务领域可能非常广泛，不同类型的公司可能对不同类型的融资感兴趣，但选定的措施被确定与整个私营经济广泛相关，无论公司的规模、法律结构、所有权和其他具体因素。

金融服务主题包含了“营商环境获得信贷”主题，并添加了四个新部分。信贷机构和登记机构运行的报告质量框架还捕获了信贷报告服务提供商（CRSP）与多个CRSP运行时重新评估信贷资格标准的数据交换。同样，抵押品登记部分执行的报告框架质量引入了记录抵押品的成本、更新频率和潜在使用数据（视情况而

定)的数据。剩下的四个部分(电子支付监管质量、绿色融资监管质量、获得贷款的难易程度和进行电子支付的难易程度)是新增加的内容。

针对金融服务主题,在当前经济下行、疫情蔓延的环境下,可以考虑增加指标,用于全面考核该地区的金融环境和投资环境,具体可以涵盖金融法律、政策创新、社会信用体系建设、中小企业投资服务、多元化纠纷解决机制建设等考核指标。

#### F.国际贸易

**BEE**在国际贸易领域使用了三组指标:(a)国际货物贸易、电子商务和环境可持续贸易的监管质量(监管框架支柱);(b)促进国际货物贸易便利化的公共服务质量(公共服务支柱);以及(c)进口商品、出口商品和从事电子商务的效率(这两个支柱在实践中结合的效率)。虽然**BEE**专注于国际货物贸易,但它承认服务贸易是国际贸易中越来越重要的组成部分。然而,考虑到覆盖这方面所需的资源以及**BEE**可用的资源,目前没有衡量国际服务贸易的计划。

**BEE**指标将扩大该主题的范围,包括监管框架的质量,以及政府提供的公共服务的质量。此外,其他领域,如电子商务和环境可持续性贸易,也体现了**BEE**对采用数字技术和环境可持续性跨领域主题的关注。国际贸易主题将不限于具有标准化情景和具体假设的案例研究。这些数据将通过专家咨询收集监管框架和公共服务支持,以及对效率指标的代表性企业层面的调查。

#### G.税收

**BEE**在税收领域使用了三组指标:(a)税收监管法规的质量(监管框架支柱);(b)税务部门提供的服务(公共服务支柱);以及(c)税收负担和税收系统的效率(反映前两个支柱影响的衡量)。**BEE**开发了一个框架,提供了评估税收法规复杂性、税收制度效率、税收负担和合规成本的方法。税务法规的质量和税务局提供的大部分服务都是新领域。税收负担将以总税率和缴款率来衡量,该税率根据外部小组审查概述的一些建议对其进行了修订,以使其能够代表各个国家的经济状况,并使其更符合经济学理论。税收制度的效率将建立在以前的纳税指标之上。此外,**BEE**还包括环保税收方面,衡量经济体是否利用财政工具阻止或限制对环境有害的活动,具有创新性。

#### H.争议解决

**BEE**在争议解决领域使用了三组指标:(a)商业争议解决监管的质量(监管支柱);(b)商业诉讼中公共服务的充分性(公共服务支柱);以及(c)解决商业纠纷的难易程度(反映出监管质量和公共服务充足性这两大支柱在实践中如何有助于有效、公平地解决纠纷)。

	<p>这些指标集将侧重于解决商业纠纷——私营企业之间在商业环境中产生的纠纷。私营方与公共机构或国有企业之间争议解决的方面也将有限地被衡量。在整个主题中，商业纠纷并不意味着包括更具体的诉讼类型，如公司诉讼或知识产权案件。尽管如此，该指标衡量的某些参数（例如，法规监管质量、法院专业化、数字化等）也可能附带有利于纠纷解决的其他领域。<b>BEE</b>项目将评估商业纠纷解决的效率和质量，而不关注单个中小企业或特定的案例研究场景。此外，新的指标集还将纳入解决争端的国际方面事务，涵盖国内外企业。</p> <p>鉴于多元化纠纷解决机制对于商业争议的解决越来越重要，建议加强有关调解等多元化纠纷解决机制方面的指标体系。</p> <p><b>I.市场竞争</b></p> <p><b>BEE</b>在市场竞争领域使用了三组指标：（a）促进市场竞争的监管质量（监管支柱），（b）促进竞争的公共服务的充分性（公共服务支柱），以及（c）实施促进市场竞争的关键服务的效率（反映出监管质量和公共服务充足性这两大支柱在实践中如何有助于促进市场竞争）。每组指标将涵盖竞争政策和法规的执行方面，这些政策和法规侧重于改善私营经济的竞争，包括政府作为服务或商品购买者的市场竞争。</p> <p><b>J.企业破产</b></p> <p><b>BEE</b>在企业破产领域使用了三组指标：（a）破产程序监管的质量（监管支柱）；（b）破产程序的体制和运行基础设施的质量（公共服务支柱）；（c）解决破产司法程序的难易程度（这反映了前两个支柱的结合）。</p>
<p><b>Do you have any other general feedback?</b></p>	<p><b>BEE</b>体系重点强调影响企业经济体的商业法规以及为企业提供的公共服务，这一均衡化的设计有利于促使各经济体各领域的政府部门在制定出台相关法规措施的同时，同等重视该措施在实操中的政策效果。同时，<b>BEE</b>评估体系相较于原<b>DB</b>体系具有较强的突破性和创新性。一方面新体系对原体系的限制性和不足之处进行了针对性的优化，例如原体系对假设案例的扩展应用，虽提高了数据的可比性，但也忽略了不同经济体的实际发展情况；同时，“保护中小投资者”等部分指标未能兼顾商业法规和事实信息数据，其结论也因此缺乏代表性。总体来说，<b>BEE</b>体系完整、指标明确，可量化，地简化和便利了营商环境评价的开展，但其在内容上却有一定局限性。因此<b>BEE</b>可以考虑参考各国营商环境评价标准，制定可以充分、客观体现各国真实营商环境的评价体系。</p>

<b>First Name</b>	TAO
<b>Last Name</b>	BAI
<b>Title</b>	Partner, attorney at law
<b>Organization Name</b>	JunHe LLP
<b>Country</b>	China
<b>Email Address</b>	<a href="mailto:BaiTao@JunHe.com">BaiTao@JunHe.com</a>
<b>Organization Type</b>	Private Sector
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	yes
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	emergency response
<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	yes
<b>Does the BEE project get the balance right between de jure and de facto indicators?</b>	yes
<b>Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?</b>	poverty reduction should be included as well as environmental protection efforts
<b>Do you have any other general feedback?</b>	no

<b>Organization Name</b>	Apex Law Chamber
<b>Country</b>	Nepal
<b>Organization Type</b>	Private Sector
<b>Identity Disclosure Authorization</b>	I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	Yes, BEE project has included various issues relevant for the private sector development, also these issues have been addressed in a detailed manner, making it easy for the private sector to analyze before its establishment and preparing it for the works it will have to deal with.
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	BEE here has covered many issues segregating them as in Opening a business, operating a business and closing a business. However, under Closing a business, there could be other topic such as, company dissolution, making a company dormant, or pre pack administration, including insolvency as mentioned.
<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	Yes, BEE has tried to strike the balance between the regulatory framework and the provision of public services for the same. As, For each topic it has clearly mentioned quality of regulations and quality of public services and it's efficiency which will make it easy to understand for the concerned.
<b>Does the BEE project get the balance right between de jure and de facto indicators?</b>	It has used the de jure and de facto indicators to simplify the understanding of the Business environment. Thus those indicators have tried to get the balance right by mentioning the efficiency under each topic by analyzing those indicators.

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

No

**Do you have any other general feedback?**

This Business Enabling Environment Project has covered an enormous sector as starting a business requires a link with various sector, which seems very good. However, collection of such data seems a very tough job, as data to be collected are unique primary data. Also regarding the provision of public services, similar type of practice from public services may not last longer as it keeps on changing, so the data could not be accurate in that sense.



<b>First Name</b>	Aggrey
<b>Last Name</b>	Marsh
<b>Title</b>	CEO
<b>Organization Name</b>	Issachar and associates
<b>Country</b>	Guyana
<b>Email Address</b>	aggreymarsh@gmail.com
<b>Organization Type</b>	Private Sector
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	yes it is
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	no
<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	In its current form it does
<b>Does the BEE project get the balance right between de jure and de facto indicators?</b>	I am not sure
<b>Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?</b>	Not at this time

**Do you have any other general feedback?**

I like the move and i am willing to help with the grown work of data collection in the Caribbean

**Organization Name**      Inkrumah Agriculture, Exports, Food, and Infrastructure Services Inc.

**Country**                U.S.A

**Organization Type**      Private Sector

**Identity Disclosure Authorization**      I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question

**Do not disclose my information**

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?**

The BEE project is relevant for private sector development and the overall design is adequate but can become extraordinary and beyond adequate by involving or promoting government intervention in economic/financial crisis situation outside the current legal and regulatory framework of and requiring bill collectors/collections agencies and/or filing a lawsuit to recoup economic/financial losses involving two or more private businesses. Doing so better and further ensures comprehensive and holistic government services in the interest of the public. Specifically, under the current existing business legal and regulatory frameworks; the course of action adopted by an economically/financially aggrieved and disadvantaged business to recoup any economic/financial losses involves the courts and/or bill collectors or collection agencies; both of which can amount to substantial costs to both sides. The outcome of both processes neither reduces costs to both the aggrieved and aggressor businesses nor ensures the long term viability of both business staying in operations and contributing to a healthy economic/financial environment at the community, local, municipal and by extension the nation or state; as in the latter, the aggrieved business reporting to bill collectors/ collections agency ensures the possibility or potential of the aggressor business incapable or unable to meet its debt obligations absent reserve funds to do so and as such ceasing to exist as the report to bill collectors/collection agency affecting it's credit score and ability to obtain funds to cover the cost. While in the former involving the legal recourse, a judgement of payments to the aggrieved business by the aggressor business not necessarily immediate while having incurred costs that further exacerbates the economic/financial situation of both parties i.e. the aggrieved and aggressor businesses. Duly a solution entailing a framework and mechanism (legal and regulatory) whereby government absorbs the cost on behalf of the aggressor business via making direct payments to the aggrieved business and requiring the aggressor business to in turn make payments under conducive arrangements directly to the government for the services that it (the government) has rendered for the aggressor business as an intermediary as it reduces costs to both business parties and ensures the long term viability and good economic/financial health to businesses and the governments at the community, local and national/state levels.

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

See under question above/topic regarding whether or not BEE project design adequate and relevant for private sector development.

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

N/A

**Does the BEE project get the balance right between de jure and de facto indicators?**

N/A

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

N/A

**Do you have any other general feedback?**

N/A

**Organization Name**      Inkrumah Agriculture, Exports, Food, and Infrastructure Services Inc.

**Country**                U.S.A

**Organization Type**      Private Sector

**Identity Disclosure Authorization**      I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question

**Do not disclose my information**

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?**

\*\*\*Please note the statement below is a corrected and updated response to a previously submitted one.\*\*\*

The BEE project is relevant for private sector development and the overall design is adequate but can become extraordinary and beyond adequate by involving or promoting government intervention in economic/financial crisis situation outside the current legal and regulatory framework of and requiring bill collectors/collections agencies and/or filing a lawsuit to recoup economic/financial losses involving two or more private businesses. Doing so better and further ensures comprehensive and holistic government services in the interest of the public. Specifically, under the current existing business legal and regulatory frameworks; the course of action adopted by an economically/financially aggrieved and disadvantaged business to recoup any economic/financial losses involves the courts and/or bill collectors or collection agencies; both of which can amount to substantial costs to both sides. The outcome of both processes neither reduces costs to both the aggrieved and aggressor businesses nor ensures the long-term viability of both business staying in operations and contributing to a healthy economic/financial environment at the community, local, municipal and by extension the nation or state. As in the latter, the aggrieved business reporting to bill collectors/ collections agency ensures the possibility or potential of the aggressor business incapable or unable to meet its debt obligations absent reserve funds to do so and as such ceasing to exist as the report to bill collectors/collection agency affecting its credit score and ability to obtain funds to cover the cost. While in the former involving the legal recourse, a judgement of payments to the aggrieved business by the aggressor business not necessarily immediate while having incurred costs that further exacerbates the economic/financial situation of both parties i.e., the aggrieved and aggressor businesses. Duly a solution entailing a framework and mechanism (legal and regulatory) whereby government absorbs the cost on behalf of the aggressor business via making direct payments to the aggrieved business and requiring the aggressor business to in turn make payments under conducive arrangements directly to the government for the services that it (the government) has rendered for the aggressor business as an intermediary serves to mitigate these costly concerns as it reduces costs to both business parties and ensures the long term viability and good economic/financial health to businesses and governments at the community, local and national/state levels.

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

N/A

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

N/A

**Does the BEE project get the balance right between de jure and de facto indicators?**

N/A

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

**Do you have any other general feedback?**

N/A



**Organization Name** Mastercard

**Country** United States

**Organization Type** Private Sector

**Identity Disclosure Authorization** I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question

**Do not disclose my information**

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?**

- We would like to congratulate the team for identifying topics of high relevance to business entry and operations as well as the broader private sector development. Mainstreaming discussion of digitalization as a cross-cutting theme is also very timely.
- The overall design is very ambitious. The frequency of the Report and the level of depth reflected in this initial description will be challenging. The design described in the concept note did not explain how the combined challenges of depth, breadth and frequency will be addressed.
- Many of the areas covered by the Report are in a state of rethinking and flux. Trade, competition, payments, data governance are all areas that are currently being shaped. How is the Report going to define and measure good practice without prematurely locking in policy certain options over others.

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

There are issues such as trade in services and data governance that are not covered sufficiently in the project. However, considering the issue of ambition and complexity described above it may not be wise or feasible to further expand the coverage of this project.

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

The space allocated to the two aspects as described in the pre-concept document seems balanced.

**Does the BEE project get the balance right between de jure and de facto indicators?**

The ambition is there and is reflected clearly in the document. Considering the complexity mentioned above, success will depend on how the indicators are designed and how the proxies are selected. The document is not detailed enough on the indicators and sources of data to allow for a clear view on this balance.

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

- The emphasis on government digitalization is timely and commendable. The indicator relating to e-procurement under the competition module is particularly relevant. Procurement is a major force in private sector development and e-procurement has the potential to increase the access for smaller firms. Robust reforms in this direction will have significant spillover effect for private sector dynamism. Cross-country tracking of progress will give impetus to the reform in this area.
- Financial services: The BEE introduces an assessment of quality of regulation relating to e-payment. The indicators offered under this segment of the module are very broad. The note does not specify the standard of assessment, or the source of best practices as is done under other modules in the note. Which standards or principles is the Project going to reference in defining the indicators of good practice? indicators in this regard does not lead to indicator-driven as opposed to policy/context-driven regulatory and operational choices. How is the BEE process going to address the data gaps and the challenges relating to the variabilities of payment systems and payment instruments? How can the Project ensure that the selection of proxy indicators does not lead to indicator-driven as opposed to policy/context-driven regulatory and operational choices?
- In relation to the ease of making an e-payment, how can the measurement approach and reporting design ensure that the report does not trigger indiscriminate price regulation that does not take into account the market implications of direct economic regulation especially in countries with constrained policymaking and oversight capacity?

**Do you have any other general feedback?**

- Considering the specialized nature of the different modules, and its potential impact on the business operating environment, it is important to allow for private sector consultation on more developed versions of the indicators and on the results of the pilot process.
- It is also important to organize targeted consultations on individual modules to allow for meaningful feedback by relevant stakeholders.
- The current timeline as reflected in the document does not seem to reflect plans for further consultation. The schedule does not include open consultation beyond the pre-concept stage.
- The operational nature of this flagship report and its potential direct impact on business in different countries justify more extensive consultation with stakeholder. A consultative approach will support the effectiveness of the BEE as a reform advocacy tool.

**First Name** 欣欣

**Last Name** 黄

**Title** 女士

**Organization Name** 广州金鹏律师事务所

**Country** 中国

**Email Address** huangxinxin@daxianglawyer.com

**Organization Type**

**Identity Disclosure Authorization** I authorize the World Bank team to disclose my name on the web (Optional) ('YES')

**Do not disclose my information**

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?**

市政基础设施接入指标包括电力、水、互联网，基于该三类指标的物理属性差异，相关技术标准、管理规范等均存在较大差异，难以通过同一模型量化、评价该三类公用事业服务。

建议将“获得电力”设为一级评价指标，以便于建立更科学合理的方法论。

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

**Does the BEE project get the balance right between de jure and de facto indicators?**

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

**Do you have any other general feedback?**

**First Name** 依

**Last Name** 陈

**Title** 女士

**Organization Name** 广州金鹏律师事务所

**Country** 中国

**Email Address** chenyi@daxianglawyer.com

**Organization Type**

**Identity Disclosure Authorization** I authorize the World Bank team to disclose my name on the web (Optional) ('YES')

**Do not disclose my information**

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?** 建议在宜商环境考核城市选择上，应综合考虑政策扶持等影响因素，尽量选择能够代表国家平均水平的城市。

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

**Does the BEE project get the balance right between de jure and de facto indicators?**

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

**Do you have any other general feedback?**

<b>Organization Name</b>	北京龙湖房地产开发公司
<b>Country</b>	中国
<b>Organization Type</b>	
<b>Identity Disclosure Authorization</b>	I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	BEE项目设计比较全面，与私营部门发展紧密相关。关于其中的获得经营场所指标，建议对于买卖和租赁部分增加考察比重。
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	对于获得经营场所指标，目前大多采用租赁或者买卖房屋的方式取得，建议区别于以往DB中新建的方式获得。土地所有制建议需要考虑各国不同的情况。
<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	是的。
<b>Does the BEE project get the balance right between de jure and de facto indicators?</b>	是的，建议在事实方面加大比重。
<b>Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?</b>	对于获得经营场所指标，目前大多采用租赁或者买卖房屋的方式取得，建议区别于以往DB中新建的方式获得。土地所有制建议需要考虑各国不同的情况。
<b>Do you have any other general feedback?</b>	无



### iii. Think Tanks and Academic Institutions

<b>First Name</b>	Joachim
<b>Last Name</b>	Wagner
<b>Title</b>	Professor Dr.
<b>Organization Name</b>	Leuphana University Lueneburg
<b>Country</b>	Germany
<b>Email Address</b>	wagner@leuphana.de
<b>Organization Type</b>	Academic Institution
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	Yes
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	Yes - Innovation, i.e. the devolpment and introduction of new products and processes of production , and policies that foster or hinder innovative activies by firms. In my view this topic deserves much more attention.
<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	Yes
<b>Does the BEE project get the balance right between de jure and de facto indicators?</b>	De facto indicators collected in firm surveys should be updated on an annual basis, too.

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

Topic F. International Trade

- I fully agree that trade in services is very important - it should be included from the start of BEE.
- Basic information on international activities of the firms surveyed (exports, imports, foreign direct investment, licensing, ...) should be reported - participation, number of HS6 goods, number of countries traded with, volume of activity)
- Types of government policies to foster international activities should be recorded and firms surveyed should be asked which programs they participated in and how much.

**Do you have any other general feedback?**

First of all, the intention of BEE to produce granular data that cover most economies world wide and that will be provided as a public good is simply great! As regards the data collected in surveys, I strongly suggest to go for panel data. Only longitudinal data can be a sound basis for empirical analyses that can inform evidence based policy.

<b>Organization Name</b>	II Business School
<b>Country</b>	Spain
<b>Organization Type</b>	Academic Institution
<b>Identity Disclosure Authorization</b>	I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	<p>I have a very general comment which I hope is relevant. I have used your indicators for years for research purposes. They are a wonderful source of quantifiable information on the quality of institutions. Having a time series makes it possible to test what importance institutions had in various measures of economic success. To be able to test the role of institutions in this way is key to knowing how policy should be best used to promote economic success.</p> <p>I mourn the end of that wonderful series. I hope that you will keep researchers in mind as you craft the new one, and make it compatible with the 20 years of previous data. If we could somehow link the two sets, the time series indicators you have provided will continue to be a lifesaver for researchers who want to know how important different types of institutions are to a country's economic performance. If the two data sets cannot be linked, it will take us another two decades before we can do meaningful time series/dynamic research on this issue.</p>

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

**Does the BEE project get the balance right between de jure and de facto indicators?**

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

**Do you have any other general feedback?**

Please make the two series linkable and comparable for research purposes.

<b>First Name</b>	Andre
<b>Last Name</b>	Sapir
<b>Title</b>	Professor
<b>Organization Name</b>	Université libre de Bruxelles (ULB)
<b>Country</b>	Belgium
<b>Email Address</b>	andre.sapir@ulb.ac.be
<b>Organization Type</b>	Academic Institution
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	Yes
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	No
<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	Yes

**Does the BEE project get the balance right between de jure and de facto indicators?**

Yes

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

I was rather surprised about one of the indicators proposed in the area of international trade. Under the heading "a. Quality of regulations for international trade in goods and e-commerce", you propose to include the following indicator: "(3) Good regulatory practices enabling environmentally sustainable trade" that deals with carbon emissions.

I was surprised for two reasons:

1/ Although I do not dispute that carbon emissions is one of the big challenges of our time and that it is good therefore that the BEE indicators reflect this, I'm puzzled by the fact that the word 'carbon' appears only 9 times in the pre-concept note and that these 9 times are all included in the paragraph (3) on page 33 dealing with sustainable trade. To say the least it is odd that you have decided to refer to carbon only as far as trade is concerned as if trade was the most important source of carbon emissions, which it obviously is not.

2/ Although I am personally in favor of the EU introducing BCAs, I am obviously aware that (a) the EU has not done so far, (b) it would be the first-ever instance of a BCA if it does, and (3) BCAs are highly controversial and probably opposed by many developing countries (and also some advanced countries). So it is an instrument that no country has used so far and that would be quite controversial if and when the EU (and others) may introduce it.

I repeat that I am not opposed to BCAs per se and see their potential value, but I am aware of the controversy that surrounds them and find it surprising that a multilateral institution like the World Bank would decide to include an indicator about BCAs, while no such instrument exists so far anywhere in the world and the EU is the only jurisdiction that currently plans to introduce it.

**Do you have any other general feedback?**

<b>Organization Name</b>	Kwame Nkrumah University of Science and Technology
<b>Country</b>	Ghana
<b>Organization Type</b>	Academic Institution
<b>Identity Disclosure Authorization</b>	I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	<p>F. International Trade</p> <p>In relation to international trade, the three sets of indicators considered are highly relevant to private sector development and the motivation section carefully outlines and justify the need for these indicators. Compared to Doing Business, the BEE approach is much more comprehensive as it considers the issue from a broader perspective.</p>
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	<p>F. International Trade</p> <p>Though acknowledge, given the role of trade in services in recent decades, it remain my hope that this aspect is considered as a matter of urgency as the limitations of not considering trade in services are much too obvious.</p>
<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	<p>F. International Trade</p> <p>May be among the primary indicators considered under a. Quality of regulations for international trade in goods and e-commerce, will it be possible to also consider regulatory restrictions on environmentally sustainable trade, if any as point 6. (page 33), also for consistency. Aside this there seem to be a fair balance among these two sets of indicator domains</p>
<b>Does the BEE project get the balance right between de jure and de facto indicators?</b>	<p>F. International Trade</p> <p>Adequate</p>



**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

F. International Trade

See comment on "Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?"

**Organization Name** International Electrotechnical Commission

**Country** China

**Organization Type** Academic Institution

**Identity Disclosure Authorization** I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question

**Do not disclose my information**

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?** Yes.

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?** No.

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?** Yes.

**Does the BEE project get the balance right between de jure and de facto indicators?**

Yes.

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

Indicator:Utility Connections

Since the 20th century, the influence of electricity on society has gradually expanded, and electricity has become a social necessity. The normal operation of all enterprises cannot do without electricity supply, electricity is particularly important for industrial and economic development. Large empirical literatures show that, at the macroeconomic level, electricity access and use are strongly correlated with economic development, and once the society loses electricity, it will not be able to functioning well. At the same time, the increase and decrease of electric energy consumption is closely related to the social economic growth, and social and economic growth is conditional on the development of electric energy. Compared with electricity, water and Internet have less indispensability, not necessary for the development of all enterprises, and do not play a decisive role in social and economic development. Therefore, I suggest that the “getting electricity” should be set as a independent indicator to improve its proportion in BEE project quantitative assessment, so as to further prompt the government to improve the optimal deployment of public service.

**Do you have any other general feedback?**

No.

<b>Organization Name</b>	China University of Political Science and Law
<b>Country</b>	中国
<b>Organization Type</b>	Academic Institution
<b>Identity Disclosure Authorization</b>	I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	yes
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	<p>Focuses on SME owners, whether their applications to the courts for bankruptcy as creditors or debtors are accepted, why they think they are accepted, and what the reasons are for not accepting them.</p> <p>The question is set to: (1) lay the foundation for clarifying the criteria for judicial acceptance of bankruptcy cases and enhancing the certainty and convenience of the legal system; (2) provide transparent and readable rules for regulating the behaviour of market players and reducing moral hazard; and (3) provide a fair competitive environment for SMEs, improve the rate of debt settlement, optimise the financial structure, revitalise corporate property or enhance business value.</p> <p>关注中小企业主，其作为债权人或者债务人向法院申请破产是否得到受理，他们认为受理的原因，以及不受理的原因是什么。</p> <p>该问题的设置，旨在：（1）为明确司法受理破产案件标准、提升法律制度的确定性与便捷性奠定基础；（2）为规范市场主体行为，降低道德风险，提供透明、可读的规则；（3）为中小企业提供公正竞争环境，改善债权清偿率，优化财务结构，盘活企业财产或提升经营价值。</p>

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

The balance between the quality of regulations and the private sector also requires that enforcement authorities are able to understand regulations effectively; that market players are able to access regulations that benefit them and regulate their business practices in a timely and proactive manner; and that special circumstances that go beyond the scope of the regulations are addressed and further responded to.

法规质量与私营部门的平衡，还需要执法机关能够有效理解法规；市场主体能够及时并主动获取有利于自己、规范经营行为的法规；特殊情况若超出法规范围，是否能得到处理与进一步回应。

**Does the BEE project get the balance right between de jure and de facto indicators?**

yes

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

currently i do not have.

**Do you have any other general feedback?**

no.

**Organization Name** South China University of Technology

**Country** China

**Organization Type** Academic Institution

**Identity Disclosure Authorization** I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question

**Do not disclose my information**

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?**

C.市政基础设施接入（Utility connections）：  
基础设施涵盖范围较广，包括供水、供电、供气、通信网络等。而不同类企业不同种类的基础设施的需求程度不同。为企业提供更好的发展支持，建议将供水、供电、网络等评价指标进行独立评价，提供覆盖面更广的数据支撑。

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

**Does the BEE project get the balance right between de jure and de facto indicators?**

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

**Do you have any other general  
feedback?**

**Organization Name** South China University of Technology

**Country** China

**Organization Type** Academic Institution

**Identity Disclosure Authorization** I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question

**Do not disclose my information**

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?**

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

**Does the BEE project get the balance right between de jure and de facto indicators?**

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

针对“市政基础设施接入（Utility connections）”指标通常企业并不会自行进行市政基础设施接入工作办理，而委托第三方代为办理，这将对调查数据准确性造成影响。建议同时采用企业调查和咨询公共私营部门专家两种模式获取信息数据，并通过交叉验证，得出公平客观的评价结果。



**Do you have any other general  
feedback?**

**Organization Name** South China University of Technology

**Country** China

**Organization Type** Academic Institution

**Identity Disclosure Authorization** I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question

**Do not disclose my information**

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?** BEE概念书尚未提及各指标评分方法，以及与最终结果的影响关系。建议对各项指标进行量化后，分区段对评价结果进行评级，一方面可有效避免针对排名的炒作，一方面有利于参评城市掌握自身不足，针对性提升服务能力。

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

**Does the BEE project get the balance right between de jure and de facto indicators?**

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

**Do you have any other general  
feedback?**

**Organization Name** 中山大学

**Country** 中国

**Organization Type** Academic Institution

**Identity Disclosure Authorization** I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question

**Do not disclose my information**

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?** Yes, they are relevant and adequate.

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?** 暂时没有发现。

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?** 从目前的指标体系看，BEE已经努力平衡监管质量与公共服务提供。与原先的评价体系相比，这方面有较大改进。

**Does the BEE project get the balance right between de jure and de facto indicators?** 从目前的指标体系看，BEE尝试努力平衡法律框架指标与实际实施效率指标；在数据采集上，专家咨询与企业层面调查相互佐证。这些都是明显的改进。

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

针对C.市政基础设施接入，有四个如下建议：

- 1、政基础设施接入指标包括电力、水和互联网，而电力、水、互联网存在物理属性差异，有着截然不同的技术标准、管理准则等，而且这三类市政基础设施由不同部门管理，建议设置可区分、可量化的指标，并分类统计得分。
- 2、建议界定清楚“市政基础设施接入的时间和成本”的具体内容，比如只考虑公用事业服务公司与客户发生交互的时间，不包括企业自身建设所耗费的时间等。
- 3、建议进一步明确“电力损耗”的具体内容。
- 4、建议考虑增加有关清洁能源等相关指标。

**Do you have any other general feedback?**

建议明确BEE样本城市范围，应减少政策扶持等影响因素，选取更能代表国家水平的样本城市。

<b>First Name</b>	世英
<b>Last Name</b>	王
<b>Title</b>	研究员
<b>Organization Name</b>	广州市社会科学院
<b>Country</b>	中华人民共和国
<b>Email Address</b>	ivanwshy@163.com
<b>Organization Type</b>	Academic Institution
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	是的
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	在数字化时代，大数据的应用非常广泛。在类似中国这样的国家，在电力、水和互联网接入等方面有非常丰富的大数据可以获得，这些大数据可以更好地反映电力、水和互联网接入的效率。通过大数据渠道获取数据，比通过代表性企业或者通过专家更有效，数据的质量更高。由于世界各国发展不平衡，应该承认数字化发展程度高的国家，通过大数据等更有效的途径获取评估数据。

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

是的

**Does the BEE project get the balance right between de jure and de facto indicators?**

是的

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

建议明确“代表性”企业的选择标准，按照原全球营商环境评估方法论思路，选取商业类型、建设规模等条件一致的企业进行市政服务实施效率调查，选取的企业要与评估指标条件吻合，且该企业在评估期内有相关事项办理经验，方能如实反映改革变化，使得评估结果更真实、更具科学性。

**Do you have any other general feedback?**

<b>First Name</b>	Thorsten
<b>Last Name</b>	Beck
<b>Title</b>	Professor
<b>Organization Name</b>	EUI
<b>Country</b>	Italy
<b>Email Address</b>	<a href="mailto:thorsten.beck@eui.eu">thorsten.beck@eui.eu</a>
<b>Organization Type</b>	Academic Institution
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	<p>Please note that these comments are joint by Thorsten Beck and Margherita Fabbri (both EUI)</p> <p>At first look, the issues included seem adequate and relevant. Ultimately, however, this is an empirical question that can only be answered through Enterprise Surveys and Investment Climate Assessment. It is therefore also important to reassess the topics covered on a regular basis through such empirical exercises as they might change (just to give a very current example: international sanctions and how they impact firms active in international trade might become an increasingly important).</p> <p>On the methodology, the scattered use of case studies may pose some concern, as it is not clear from the Pre-Concept Note according to which criteria they will be used, and why only in a few cases. While it is obvious that the ranking is no longer going to be the main outcome of the study, the benchmarking exercise is still a core element of the project, and the absence of a common case study may hamper the comparability process.</p> <p>The introduction of cross-cutting themes represents an interesting and welcome element, but it is not clear how environmental sustainability will be evaluated. For example, for the Taxation indicator, will the presence of an environmental tax be considered positively, or negatively – as it will contribute to the overall administrative burden but also support environment objectives?</p> <p>For some indicators, some of the data will be collected through firm level surveys, but it is not clear if such data are available at all, or at the same extent, for each country. If they are not – as quite likely, also considering the overall coverage of the Enterprise Survey – this may affect the data collection process. It is also important to note in this context, that Enterprise Surveys are not necessarily representative in all countries, as the surveying often depends on corporate registries, which in some developing countries are available – if at all – only</p>



	for capitals or large cities.
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	see above
<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	Our answer also relates to points 4 and 5 of our response to the final question: it is important to focus on the balance and possible trade-off between regulatory requirements for firms (which might impose costs on firms) and provision of public services. This trade-off is bigger along some dimensions (e.g., labour and taxation) than others but should be stressed in communication of the new project and used as important argument for not providing country rankings.
<b>Does the BEE project get the balance right between de jure and de facto indicators?</b>	In principle, the introduction of a clear distinction between de jure and de facto indicators represents a positive step in terms of transparency and clarity. At the same time, some concerns may arise on how these indicators are built and how balanced their use is. In fact, de jure indicators tend to provide a clearer picture than de facto indicators, as the latter often don't provide unique outcomes and are strictly related to the source they come from (experts consulted, survey, etc.). One example is given below in the finance segment – few firms actually applying for a loan and getting such a loan relatively quickly might simply show a banking system that lends to few repeat customers, while the large majority of firms is discouraged from applying. It is thus important to provide the necessary interpretation to the de facto indicators.
<b>Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?</b>	<p>1. Business entry This indicator will include both domestic and foreign private firms, but regulations and the administrative burden for domestic firms may be quite different from foreign firms. We wonder how data for benchmarking will be weighted and compared?</p> <p>2. Business location We think that the evaluation of both property leasing and ownership, for both domestic and foreign firms, with no case study, poses some issues in terms of actual comparability of data across countries and over time.</p> <p>3. Utility connections One of the aspects that will be measured is the safety of internet connections in terms of cybersecurity: but, is this something that providers can ensure? Also, cyber-attacks are not necessarily frequent events but have a big impact once they happen; how will this be captured?</p> <p>4. Labour The document states that BEE will consider aspects on</p>

working conditions, including “social dialogue” and non-discrimination at the workplace, but these aspects seem difficult to measure. Also, these aspects will be covered with de jure indicators, but practice might vary significantly from law.

There will also be an indicator on Employment restrictions, assessing flexibility in hiring and dismissal, but it is not clear if a strong flexibility will be considered positively. In fact, it might help the company managing changes and economic shocks, but it can make generally vulnerable categories of workers even more vulnerable.

The adequacy of public services for the labour market will also be measured through the assessment of digital job-seeking platforms: this does not seem significant, as most job offers are published online these days, almost everywhere.

The involvement of unions might also be considered for the data collection process.

#### 5. Financial services

On green financing: we wonder about the importance of this segment in economies with few if any corporate bond issues. Specifically, in many small developing economies, corporate bond markets are even less developed than equity markets, so that one would not necessarily expect green financing to work through bond markets, but rather through bank lending (if at all). A broader approach to green financing might thus be required, considering different segments of the financial system. Capturing green banking would involve assessment to which extent banks have committed to follow certain standards, such as the Equator Principles. Similarly, the presence and activity of ESG rating agencies could be assessed.

On the ease of receiving financial services:

First, e-payments are assessed, assuming business-to-business and person-to-business transactions. Given the importance of digitalization in public services, we wonder whether it might be worthwhile to include business-to-government transactions.

Second, deposit account services (beyond payment) are critical for businesses, so we suggest to include an additional indicator concerning the cost of opening and maintaining a deposit account in a bank. Similarly, to the other two indicator in this segment, this information can be obtained from firm-level surveys.

Third, it might be important to note a certain bias in the obtaining a loan variable: data can only be collected for firms that have applied for a loan. However, Enterprise Surveys have shown that there is a large share of firms that are discouraged from applying, because the cost of applying (e.g., documentation needs, collateral requirements, timing etc.) is prohibitively high. So, we wonder whether it might be good to combine this information with information on the share of firms that are discouraged from applying to get a more accurate picture. Finally, including information on firms that applied for loans, but whose application was declined, for what reason and after what time frame would also be important.

Fourth, on the last two items, it might be worthwhile to compare firm-level responses with a bank-level survey as undertaken by Beck, Demirguc-Kunt and Martinez Peria (2008, 2011).

#### 6. International trade

The indicators on the efficiency of importing and exporting goods and engaging in e-commerce will also measure the time and cost to engage in e-commerce, assessing the time and cost associated with obtaining, registering and protecting domain names and the time to receive online payments. However, domains and payments can be registered and processed, respectively, everywhere, so this measure might not vary significantly across countries.

#### 7. Taxation

The indicator measuring the quality of tax regulation will take into account, among other dimensions, the existence of long-term stability in tax regulation. So, if a country will implement a reform to reduce the tax burden, will this be considered a negative action?

VAT will also be included in the total tax and contribution rate, but this is not something that affects private firms in terms of tax burden and should only be considered in terms of administrative burden.

Several case studies will be developed to represent 2-3 dominant sectors in the economy, but this might pose benchmarking issues, as different countries have different dominant sectors. Also, it is unclear why the case study companies will be defined based on the top decile.

Environmental taxes will be counted in the time to comply with tax regulations, so does this mean we want

	<p>to encourage governments not to tax negative externalities?</p> <p>As the report will also consider foreign firms, wouldn't it be appropriate to take into account tax justice issues, i.e. if there are legislation in place to ensure that taxes are paid in the countries where goods are produced and/or profits are being earned?</p> <p>8. Market competition When measuring the efficiency in the implementation of key services promoting market competition, it might be good to also consider the requirements of contractors to take part in public bids (as too strict prerequisite might hamper the participation of a plurality of actors)</p> <p>References:</p> <p>Beck, Thorsten, Asli Demirgüç-Kunt and Maria Soledad Martinez Peria (2008) "Banking Services for Everyone? Barriers to Bank Access and Use around the World", World Bank Economic Review 22, 397 – 430.</p> <p>Beck, Thorsten, Asli Demirgüç-Kunt and Maria Soledad Martinez Peria (2011) "Banking Financing for SMEs: Evidence Across Countries and Bank Ownership Types", Journal of Financial Services Research 39, 35-54.</p>
<p><b>Do you have any other general feedback?</b></p>	<p>1. One of the critical elements that have led to the suspension of Doing Business and the current revamp under new title was the governance structure and protection of staff from undue influence. To our best reading, this problem is not being addressed in the Pre-Concept Note. There are different structural elements that one can envision to put in place to ensure that there will be no undue influence, including direct involvement of outside academics in the process, locating the data collection unit in an arms-length relationship with the WBG (like IEG) and independent verification of all data points/qualitative assessment.</p> <p>2. On page 2, the development purpose is state as: (1) to advocate for policy reform and (2) to inform economic research and specific policy advice. We think that this order should be revisited as: (1) to inform economic research and (2) provide specific policy advice and advocate for policy reform.</p> <p>3. We are a bit sceptical that government corruption/accountability can be completely cut out from the analysis, as one of the components is public service provision, which in turn is influenced by government corruption/accountability. While we understand that direct indicators on this dimension are not included the</p>

link should be acknowledged.

4. We agree with the move away from the “hype around aggregate rankings”, as one of us has also repeatedly called for (Beck, 2013, 2021). In this context, benchmarking might be an important alternative, as increasingly done in financial development (see, e.g., Barajas et al., 2013) where countries are not compared with a global best-practice (where the latter might not even exist), but rather scored according to their socio-economic characteristics.

5. The last point also relates to the point made on page 7 of the Pre-Concept Note: “Indicators are Proxies”. This will be critical in the communication strategy for the BEE. While this might lose the project quite some frontpage newspaper headlines, it might ultimately provide more insightful information and become more influential in the policy reform space.

#### References

Barajas, Adolfo, Thorsten Beck, Era Dabla-Norris, and Reza Yousefi (2013) “Too Cold, Too Hot, or Just Right? Assessing Financial Sector Development Across the Globe.” IMF Working Paper 13/81.

Beck, Thorsten (2013) “Doing Business – less icing, more cake!” VoxEU 6 June.

Beck, Thorsten (2021) “The demise of Doing Business: Goodhart’s Law in action.” VoxEU 29 September.

<b>First Name</b>	Yang
<b>Last Name</b>	He
<b>Title</b>	Professor
<b>Organization Name</b>	Central University of Finance and Economics
<b>Country</b>	China
<b>Email Address</b>	heyang@cufe.edu.cn
<b>Organization Type</b>	Academic Institution
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	Yes, the overall design of the BEE project is relevant for private sector development.
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	The improving ability of the provision of public service be considered as well, such as the training program, the clear strategy to enhance the governance. This indicates the future potential to build a better environment for private sectors.
<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	Yes, it does quite well at this point.
<b>Does the BEE project get the balance right between de jure and de facto indicators?</b>	Yes, I think the BEE project has tried the best to make the balance.

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

Some indicators may be unfriendly for the developing countries. For example, at the topic of taxation, the indicator of tax administration only consider the frameworks included a few developed countries.

**Do you have any other general feedback?**

I hope it is more easier for developing countries to get all the needed data.

<b>Organization Name</b>	China Electric Power Research Institute, State Grid Corporation of China
<b>Country</b>	China
<b>Organization Type</b>	Academic Institution
<b>Identity Disclosure Authorization</b>	I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	The issues included in the BEE project are relevant for private sector development, but the overall design needs some optimization.
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	Yes. For example, 'Access to electricity' is very important, but not mentioned.
<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	I think it's ok.



**Does the BEE project get the balance right between de jure and de facto indicators?**

Yes.

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

BEE概念书中市政基础设施报装评价领域由三部分构成：公用事业监管质量、公用事业服务绩效和透明度、公用事业法规和服务的实施效率，建议单独设立“获得电力”指标，可沿用市政基础设施报装评价指标结构框架，对企业办电、用电的全生命周期开展评价，全面衡量电力获得及供应对企业经营的影响。

- 1.公用事业监管的质量。增加企业合法权益维护评分点，如监管部门对企业投诉举报的处理效率，电力公司对企业服务要求的满足程度。
- 2.公用事业服务的公用事业绩效和透明度。一是在监控公用事业供应的质量、可靠性和可持续性方面，增设“电力公司的增值服务”评分点，如企业客户安全用电指导、企业电气负责人的技术培训、自然灾害下供电设备抢修和供电恢复，企业节能诊断等；增设“绿色电力使用便利度”评分点，如绿色电力供给水平，可再生能源消纳能力等；增设“综合能源服务便利度”评分点，如用户可获得的综合能源服务的丰富性、便捷性、经济性，能源企业综合能源服务的业态、模式和技术创新等；增设“数字化用电水平”评分点，如用户用电的线上化智能化水平等。二是在价格和技术要求的透明度方面，增设“用电过程中电力公司服务便利度”评分点，如可否多渠道方便地获得电费账单、供电服务问题能否快速得到解答、停电后可否便捷报修及恢复时间等。
- 3.公用事业法规和服务的实施效率。增设“获得电力的便利度”评分点，包括当地电网的超前规划建设，以及原《DB报告》中的环节指标。在评价大中型企业接入的时间和成本时，建议对大、中、小型企业分别设定接入方式、容量、接入距离等案例假设条件，以更公平地评价各类企业“获得电力”的便利度。

**Do you have any other general feedback?**

- 1.建议尽快明确世行营商环境新评估体系（BEE）的评估标准，并公开征求意见。目前发布的世行营商环境新评估体系前期概念说明，内容表述不明确，缺乏细致的评估内容和标准。建议世行尽快发布新评估体系标准细则，并在世行内部审议前公开向各经济体征求意见，确保评估工作的客观、公正和可操作性。
- 2.建议评估工作继续沿用现场或视频磋商等有效的方式。世行通过现场或视频磋商等方式能够真实获取各经济体的相关数据和改革政策信息，亲身感受改革实施情况，并有利于提高评估工作效率，更好地实现新评估体系设定目标，促进被评估城市持续优化营商环境。
- 3.建议优化完善企业调查方式。一是建议沿用标准化案例模型的方法，并同步开展企业调查和专家问卷调查，通过交叉验证获取更为准确的信息数据，展示公平客观的评价结果。二是建议被调查企业应为评估周期内实际办理过相关事项的企业，受访人员（包括大型中介（代理）机构、大型工业园区或者企业人员）应为对具体办事的流程、时间等具有切身感受的实际经办人，以便能够客观、真实地反映出企业对营商环境改善的实际感受。三是建议在内外资、大中小所有私营企业的调查基础上，增加国有企业和混合所有制类型企业，更好地体现世行营商环境评估的全面性、公平性。

**Organization Name** Observatorio Nacional de Logística de la Republica Dominicana (ONLT-RD)

**Country** Dominican Republic

**Organization Type** Academic Institution

**Identity Disclosure Authorization** I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question

**Do not disclose my information**

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?** Yes

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?** Yes

**Does the BEE project get the balance right between de jure and de facto indicators?** Yes

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

My feedback is regarding representativeness of the survey sample and consultants selected to evaluate indicators. It is indicated that a representative sample will be considered to measure indicators, but not clear how would it be determined (for example: using probability methods? A similar observation about the consultants, what are the qualifications considered to defined a representative consultant in the topic? what is also the number of consultants considered.

**Do you have any other general feedback?**

Basically the feedback regarding methodology included before.

<b>First Name</b>	Deirdre
<b>Last Name</b>	McCann
<b>Title</b>	Professor
<b>Organization Name</b>	Durham University
<b>Country</b>	UK
<b>Email Address</b>	<a href="mailto:deirdre.mccann@durham.ac.uk">deirdre.mccann@durham.ac.uk</a>
<b>Organization Type</b>	Academic Institution
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	<p>My focus in this submission is on the labour dimension of the BEE project. My comments draw in part on a series of research papers that evaluated the BEE's predecessor, the Doing Business Employing Workers Index (see 'References' below).</p> <p>My overarching observation is that it is surprising how constrained the Pre-Concept Note is in its engagement with the forceful criticisms and lengthy debates on the Doing Business project. It appears that a limited amount has been learnt from the substantial research and advocacy efforts that ultimately led to the Employing Workers Index being removed from the Doing Business aggregate rankings.</p> <p>In relation to the overall design of the BEE project, it is worth returning to some of the central criticisms of the Employing Workers Index to reconsider them in light of the Pre-Concept Note for the BEE project.</p> <p>THE OBJECTIVES AND EFFECTS OF LABOUR REGULATION</p> <p>The Doing Business Employing Workers Index was used to contend that rigid regulation of employment conditions is significantly responsible for aspects of poor labour market performance, namely low productivity and high unemployment and informal employment (e.g. Doing Business 2005 (World Bank 2004); see Lee and McCann 2008). As a result, the Bank's assessment of labour regulations, in developing countries in particular was, at least initially, overwhelmingly negative.</p> <p>The BEE project suggests a similar conceptual imbalance. In particular, the Pre-Concept Note's section on 'Labor' (Section D. pp 22-25) opens by exclusively referencing studies that point to the association between 'rigid' labor market regulation and higher levels of unemployment. It does not refer to the substantial literature that explores the benefits of labour regulation, including by the World Bank itself (e.g. the World Development Report 2013 (World Bank 2012)). This approach to the research cannot capture the social objectives of labour market regulation e.g. ensuring justice, protecting workers' wellbeing and</p>

security, improving quality of life for workers and their families (Lee McCann and Torm 2008). Nor can it recognise that labour regulations can generate positive economic outcomes or underpin a rigorous exploration of the features of effective and protective labour regulations in specific contexts. The risk in designing legal regulation indicators is that the benefits of labour market institutions are not clearly recognised, while labour markets with very limited regulation are assumed to be ideal (Lee and McCann 2008).

#### THE DE FACTO EFFECTS OF LABOUR REGULATION

In the Doing Business literature, the distinction between de jure and de facto regulation was frequently alluded to without any proper analysis of the influence of laws on working life. It was highlighted at the time that the relationship between statutory provisions on actual working hours cannot be assumed. The relationship between labour regulations, income, and the observance of legal measures is not clear-cut, primarily an empirical question and, especially in low-income countries, often very complex (Lee and McCann 2008).

The Employing Workers Index and the Doing Business literature implicitly assumed that a legal standard is comprehensively applied and then further assumed the kinds of impacts the legislation would have on working life. The methodology outlined in the Pre-Concept Note does not suggest a radical change of approach (see further below).

#### INTERNATIONAL LABOUR STANDARDS

The Doing Business Employing Workers Index initially neglected the International Labour Organization (ILO) International Labour Standards (ILS) with the exception of the core standards identified in the ILO's 1999 Declaration on Fundamental Principles and Rights at Work.

It is not clear that the BEE project will take the range of ILO standards into account. The Pre-Concept Note states that it will 'build on' relevant ILO International Labour Standards (p 23). The only reference, however, is to the ILO's 1999 Declaration on Fundamental Principles and Rights at Work, rather than to the range of International Labour Standards that align with the broader set of workers' rights that will be covered by the BEE Labor indicators. This suggests a worrying degree of uncertainty about the content and relevance of the International Labour Standards.

## PROMOTING LEGAL REFORM

Doing Business was not exclusively a research project. It had a significant influence on labour market policy and laws, especially in developing and transition economies. A particular concern about the Employing Workers Index was its use to guide legal reform, in which the Index was adopted as a benchmark against which to measure progress.

Given the limitations of the Employing Workers Index, and the concerns that emerged about the incentive for governments to weaken protective laws in order to ascend the Doing Business rankings, it is worrying that 'advocating for policy reform' is identified as a central objective of the BEE project (Pre-Concept Note, p 4). The Pre-Concept Note states that 'the hype around aggregate rankings will be avoided.' Yet how the BEE indicators will be designed to produce aggregate scores is 'yet to be decided' (p 6). A repeat of the experience of Doing Business would be very unfortunate.

## REFERENCES

Sangheon Lee and Deirdre McCann (2008) 'Measuring Labour Market Institutions: Conceptual and Methodological Questions on "Working Hours Rigidity"' in Janine Berg and David Kucera, (eds.) In Defence of Labour Market Institutions: Cultivating Justice in the Developing World (Geneva: ILO and Palgrave MacMillan).

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**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

Does the BEE project get the balance right between de jure and de facto indicators?	
<p><b>Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?</b></p>	<p>The following comments relate to the Labor indicators (Pre-Concept Note, Section II.D, pp 22-25).</p> <p>The Note indicates that a set of indicators – on ‘Quality of Labor Regulations’–will measure labour market regulation in relation to (1) ‘Workers’ Protection’ and (2) ‘restrictions on hiring, working hours and redundancy’ (‘Employment Restrictions’) (p 23).</p> <p><b>EMPLOYEE PROTECTIONS V EMPLOYMENT RESTRICTIONS</b></p> <p>The workers’ protection indicator is most promising for capturing the social objectives of labour regulation. This indicator will measure regulations that require ‘employee protection and decent working conditions in accordance with international labour standards.’ It will cover the right to a minimum wage, equal remuneration for work of equal value, non-discrimination, rights to organise and collective bargaining, safe and healthy working conditions, and rights to annual leave and family leave (p 23). This indicator appears to be inspired by the more sophisticated approach to labour market regulation elaborated in the World Development Report 2013 (World Bank 2012; see McCann 2019), even if tentative in its grasp of the range of pertinent International Labour Standards (see above).</p> <p>Yet the BEE’s vision of the objectives and function of labour laws remains constrained. Centrally, the second indicator – Employment Restrictions - artificially bifurcates the labour law corpus. The language of ‘Employment Restrictions’ treats the related legal instruments as distinct from the social objectives of labour laws. This point can be illustrated by considering the sub-indices on working time, which can also be used as an illustration of how the BEE Labor indicators risk missing key functions and features of labour regulation regimes.</p> <p><b>THE WORKING TIME SUB-INDICES</b></p> <p>Working time regulations are included under the Employment Restrictions indicator. Yet working time protections are essential social rights that serve crucial social objectives: supporting workers’ health and safety, sustaining family life, preserving community time etc. They are therefore more suited for inclusion among the Worker Protection indicators.</p> <p>On a technical level, the sub-indices for working hours are identified as ‘working hours per day/week, restrictions,</p>



and premiums for work during irregular working hours, such as night work or work on rest days' (p 24). To assess the likely outcomes of these (and other) sub-indices, more information is needed on how they will be scored. The proposed sub-indicators, however, are strikingly similar to the working time indicators in the initial version of the Doing Business Employing Workers Index (the 'Rigidity of Hours' index). As observed at the time, the Index conflicted with the international standards and trends in country-level working time laws (Lee and McCann 2008, p 44). It is notable that the International Labour Standards are not explicitly mentioned in relation to the new Employment Restrictions indicator. It is unclear, then, whether the scoring on the sub-indices will take account of the demands of the international working time standards. Even if that is the case, it appears that it could be open for the index to integrate the requirements of the international standards as a maximum level of protection, penalising countries that provide for a higher standard of working time protection.

Neither do the working time sub-indices appear, as was the case in the Doing Business Employment Workers Index, to adequately capture the complex relationship between the different components and functions of working time regimes (see further Lee and McCann 2008, pp 43-45). In particular, the modes in which working time laws support 'flexibility' is much more complex than can be captured by these indicators (the use of hours averaging mechanisms, for example; or the broader 'incentive' function of working time laws, in which limiting recourse to long hours can, in carefully designed legislative frameworks, encourage managerial and organisational innovation).

#### INFORMALITY AND NON-STANDARD WORK

As in the Doing Business literature, 'rigid' labour regulations are identified in the Pre-Concept Note as the primary driver of informality (p 22; see McCann 2019, p 88). Informality is not recognised as spanning a continuum and regulatory conduits to informalisation are overlooked. The Labour indices do not appear to be designed to capture how legal frameworks channel informalisation. The indicators appear, for example, to be oriented towards substantive standards, missing the 'procedural' drivers of exclusion from labour law protections such as the 'personal scope' of legal measures (coverage of workers, including the ostensibly self-employed.)

The indicators appear also unable to capture the crucial role of non-standard work regulation in propelling

workers towards the continuum of informality. There is little detail, for example, on how the indicators will treat fixed-term contracts, although it is notable that in the Doing Business Hiring sub-index, even in its more sophisticated incarnations, the benefits of using fixed-term contracts was assumed and there was little recognition of the risks of short-term work or any attempt to quantify and compare protections for fixed-term workers (McCann 2019).

The World Development Report 2013 and the Bank's 2015 report on Balancing Regulations to Promote Jobs (Kuddo, Robalino and Weber 2015) have a more refined and expansive grasp of the regulatory dynamics of informalisation (McCann 2015). The World Development Report, for example, recognised the de jure routes to informality by including features of legal frameworks that preclude protected status: exclusions of domestic workers, small enterprises, and export zones; the complexities of regulating multilateral working relationships; and limited access to adjudication mechanisms. The Balancing Regulations report also recognised the significance of nonstandard work regulation, capturing key regulatory conduits to precarious work and highlighting certain of the measures that are being used to protect non-standard workers: legislation that entitles temporary and part-time workers to protections equivalent to permanent/full-time workers; restrictions on the use of fixed-term contracts (citing ILO Convention No 166 on preventing abusive recourse to fixed-term work); legislation to combat disguised employment, and requirements that employees receive written employment contracts.

#### WORKER VOICE

For a comprehensive and accurate view of the impact of labour regulations, the experience of workers is critical.

The Pre-Concept Note states that, in contrast to the Doing Business Employing Workers Index, BEE will 'consider more explicitly the perspective of employees' (p 23). Yet consultation with workers is not an element of the methodology outlined in the Note in relation to the 'de facto indicators' on labour (p 25). Survey questions on working hours, non-wage costs and labour inspections will be addressed to firms (p 25). Data on discrimination, hiring and dismissals, and public employment services will be derived through consultation with labour lawyers (p 25). These respondents, however, cannot effectively convey the experience of workers, including in accessing their legal rights, nor elicit robust findings on the de facto

	influence of legal norms.
<b>Do you have any other general feedback?</b>	Given the concerns outlined in my responses to the above questions, I urge the World Bank Group to remove the 'Labor' topic from the BEE project, at least until it can be substantially reconsidered, including in consultation with the ILO.

<b>First Name</b>	WEILI
<b>Last Name</b>	LIU
<b>Title</b>	Director
<b>Organization Name</b>	Shenzhen University
<b>Country</b>	China
<b>Email Address</b>	liuwl@szu.edu.cn
<b>Organization Type</b>	Academic Institution
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	The BEE project includes the development of the private sector, and the design includes objectives, definitions, methods, principles, etc., which include the scope of the private sector.
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	Sustainable and inclusive development in the private sector, as well as healthy elimination mechanisms, need to continue to be considered.
<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	I think the BEE project has struck a balance in this regard.
<b>Does the BEE project get the balance right between de jure and de facto indicators?</b>	I think the BEE project has struck a balance in this regard.

**Do you have any feedback regarding  
the indicators included in each specific  
topic (please indicate the topic)?** No.

**Do you have any other general  
feedback?** No.

<b>Organization Name</b>	Tsingyan Lingzhi Information Consulting (Beijing) Co., Ltd
<b>Country</b>	China
<b>Organization Type</b>	Think Tank
<b>Identity Disclosure Authorization</b>	I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	Yes.
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	No.
<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	I think so.

**Does the BEE  
project get the  
balance right  
between de jure  
and de facto  
indicators?**

Yes, I think so.

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

Yes. We conduct extensive research and consulting experience in energy and electricity, thus I am interested in Utility connections and give some tips. In DB, getting electricity is an independent topic, and I think BEE can still take Getting Electricity as the independent topic. The evaluation index structure framework of utility connections can be used to evaluate the whole life cycle of electricity connection and consumption of enterprises, comprehensively measure the impact of electricity connection and supply on enterprises.

According to the World Bank Enterprise Survey, over 30% of businesses globally identified electricity supply as a major constraint to their activities. Faster electricity accesses speed and higher reliability of electricity supply, lead more efficiency of the enterprises. According to the statistics, the GDP of Eastern Europe and Central Asia might increase by 0.5% to 6% if they recover from the interruption in electricity. Therefore, we should set Getting Electricity as an independent indicator, which will help solve the difficulties of electricity supply, promote the development of enterprise, economic reformation and poverty eradication.

Electricity, water, and the Internet have different physical attributes and can barely be assessed with a scientific methodology. Getting Electricity indicator in the Doing Business (DB) has been verified and validated for many years. The assessment is carried out from multiple dimensions such as time, cost, procedures and transparency, which is highly reasonable and has been widely accepted all over the world. Therefore, taking Getting Electricity as an independent indicator for evaluation, and continuing to enrich and improve the evaluation aspects and contents based on the Doing Business (DB) assessment is more conducive to obtaining results that are objective, reasonable and be recognized by all economies.

For the utility performance and utility services' transparency, we propose to monitoring the quality, reliability and sustainability of utility supply. Add the points of "Value-added services of electric power company", such as guidance on using electricity safely, technical training for enterprise managers, emergency repair and restoration of power supply equipment under natural disasters, energy-saving diagnosis, etc. Add the points for "Convenience of green electricity use", such as green electricity supply level, renewable energy consumption capacity, etc. Add the points for "Convenience of comprehensive energy services", such as the richness, convenience and economy of comprehensive energy services for users, and the business condition and technological innovation of comprehensive energy services for energy enterprises. Add the points for "Digital electricity consumption level", such as the level of online and intellectualization of electricity consumption. In terms of the transparency of price and technology, we suggest to add the points for "Service convenience of electricity consumption", such as



whether users can easily obtain the electricity bill, whether the electricity supply service problems can be solved quickly, whether the apply for repair is concenience and whether the recover time is short, etc.

**Do you have any  
other general  
feedback?**

<b>Organization Name</b>	Guangzhou Nansha International Exchange And Promotion Center for Business Environment
<b>Country</b>	China
<b>Organization Type</b>	Think Tank
<b>Identity Disclosure Authorization</b>	I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	<p>The BEE system has improved the limitations of the original DB system. In the DB system, even though the method of hypothesis cases improved the comparability of data, it ignored the actual development conditions in different economies. On the other hand, the selective application of hypothesis cases in the BEE system will further improve the comprehensiveness and objectivity of the evaluation system. The new evaluation system is more reasonable and comprehensive than the old one, and it is also a better opportunity for China to examine itself and improve itself. However, in the future implementation, some BEE indicators are questionable: the BEE project collecting data through a combination of expert consultations and firm surveys. Expert consultation is the collection of data from experts at institutions that regularly process relevant legal arrangements and public services. However, these affairs are also managed by large consulting or tax advisory firms. The data and cases collected by this method may only cover the larger firms in the private sector who have the resources to take advantage of such services. Many registration, legal and financial affairs of small and micro enterprises are handled through relatively smaller firms. Therefore, the selected scope of experts needs to be further considered and assessed. Meanwhile, the large-scale firm surveys can cover a large range of private market entities by handing out questionnaires to enterprises and will serve as a decent and appropriate method.</p> <p>In addition, for the International trade indicator, the BEE system has not included air and land transportation, transportation will be assessed according to maritime standards, which may not be scientific enough.</p>
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	In contrast to the DB projects, the BEE project not only cover the perspective of the enterprises, but also the perspective of the development of the whole private sector. The BEE's coverage also extended from major cities in the 191 economies to the 191 economies' overall situations. The evaluation perspective of BEE project emphasizes both macro and micro level, but there are some problems in the rules and index setting, which makes it hard to grasp the context and focus points, mainly because the evaluation indicators are not

comprehensive enough.

First, the indicator settings of the World Bank evaluation system cannot fully reflect the business environment. The indicators for measuring the level of government services and the rule of law environment are incomplete, and there is a lack of relevant indicators to measure market capacity and innovation and entrepreneurship environment. Second, the World Bank indicators put more emphasis on incremental enterprises, but not enough on existing enterprises, and the selected samples and survey objects also have limitations. The World Bank ignores important factors such as potential business opportunities, predictability of economic development, and ease of access to factors (such as transportation, mineral resources, etc.), which can easily lead to biased evaluation results. Third, the World Bank did not take into account the new features of the era of big data, and could not reflect the new requirements for the business environment of enterprises in new industries, new formats, and new models. It does not take into account the new characteristics of enterprise development in the era of big data and the new requirements for the business environment. The problems are mainly reflected as the following:

Intellectual property (IP) is one of the important soil to cultivate innovative enterprises, but the BEE project did not set intellectual property as a separate topic, it may only be assessed in the Dispute resolution topic. However, topics such as intellectual property innovation, IP transfer and IP application, and the availability of IP protection policy system should be taken into consideration. Intellectual property is important to maintain the fair competition of market entities. Without enough supervision, the rights and interests of market entities will not be guaranteed, there may be a higher probability of companies leaving the region. It is suggested to refer to the standard of intellectual property in China's national business environment project and increase the proportion of intellectual property in the BEE system.

(2) Government service is an important factor affecting the development of enterprises, but the BEE project does not include relevant elements. BEE is trying to evaluate the government from the perspective of a public service provider, but that is not enough. For example, many cities in China have set up an agency as an efficient and convenient one-stop administrative center called government service center (Chinese: 政务服务中心), which provides all kinds of convenient services and government information for enterprises and citizens. The

	<p>information related to public service affairs is tremendous and complex, the establishment of the government service center can facilitate this concern, improve work efficiency, disclose government information, and promote the benign development of administrative services. Sufficient offline government service capacity is also a vital factor affecting the operation of enterprises after their investment in the region. The implementation of many management policies and systems cannot be completely solved online. Therefore, offline government services are very necessary, especially for local-level governments. For example, centralized office halls, fully standardized service processes, and considerate services can provide great services for investors of different backgrounds.</p> <p>(3) The innovation and entrepreneurship environment is an important indicator to measure the development environment of Small and Medium Enterprises (MSMEs) in developing countries, but it is not included in the BEE system. The innovation and entrepreneurship environment are important to breed unicorn companies. It is recommended to refer to the exploration of China's national doing business evaluation system.</p> <p>China's DB system includes indicators of inclusiveness, public good, and innovation, which mainly examine the progress of cities in providing basic public services, carrying out inclusive cooperation, leading innovation, and creating a development environment for fair competition. The motivation of the evaluation of this indicator is mainly based on the following three points: promoting inclusive cooperation is conducive to creating a new situation of synergy and win-win. Implementing inclusiveness, prudent and flexible supervision of market entities is conducive to creating a relaxed environment suitable for the development of the new economy and improving the convenience of investment and trade. Implement the reform of the mechanism of co-construction, co-governance and sharing of basic public services oriented by enterprise services, and provide enterprises and citizens with high-quality, efficient, and equal basic public services.</p>
<p><b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b></p>	<p>For all indicators, BEE does focus more on regulation. For China, it may be inevitable that some indicators may be over-regulated, which will increase the difficulty of information collection, for instance:</p> <p>(1) Foreign business entry restrictions in the Business Entry indicator. At present, there is no country or region in the world that will fully open the market to foreign-funded enterprises. Therefore, the business entry restrictions on foreign-funded enterprises in the Business</p>

	<p>Entry indicators need to consider different evaluation criteria of different countries, if the evaluation is refined to a specific industry field, it is necessary to consider whether it is over-regulated.</p> <p>(2) About the safety factors in the Utility Connections indicator, the BEE system does not specifically describe how to assess network security, and it is nearly impossible to assess the security of privacy and property of enterprises. The identification of the independent complaint mechanism in the Utility Connection index is not clear, there may be excessive supervision on this matter. In addition, in terms of establishing a national infrastructure database, it is not necessary to require the aggregation of all public affairs infrastructure, and it is relatively reasonable to achieve the aggregation of infrastructure data within one administrative block.</p> <p>(3) There is a certain degree of over-regulation involving enterprise-level data in financial service indicators, which makes information collection uncertain.</p>
<p><b>Does the BEE project get the balance right between de jure and de facto indicators?</b></p>	<p>The contents of "Good regulatory practices for land administration" and "Restrictions on property leasing and ownership" are investigated from the aspects of land management policies and the regulatory restrictions on leasing and ownership for domestic and foreign firms. The data collection approach was stated as "consultations can be conducted with public officials familiar with the regulatory framework for real estate transactions, the building permitting processes and related environmental clearances, including Environmental Impact Assessments (EIAs)". However, this section did not mention how the de facto data will be collected.</p>
<p><b>Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?</b></p>	<p><b>【B— Business location】</b></p> <p>The Business Location topic largely correspond to the previous Dealing with Construction Permits topics of Doing Business. However, the efficiency of key services in getting a business location is not included. BEE uses three sets of indicators in the efficiency of key services in getting a business location: (1) time and cost to purchase a property, (2) time and cost to obtain building-related permits, and (3) time and cost to obtain environment-related permits. The frequent interactive procedures in investment projects as well as complicated de jure regulations, affect the project owner's experience in the field of engineering construction. The Business location topic will include restrictions on leasing and ownership of properties. However, there is a lack of data that can effectively reflect the effectiveness. At present, excessive emphasis is placed on the restrictions on leasing and ownership of properties, and to a certain extent, the control of construction quality is neglected. The reform</p>

and innovation in the field of engineering construction should be based on the quality, safety and reliability.

The Business Location indicator evaluates principles and policy on land governance. But the land application procedures were not included in the assessment scope.

The Business Location topic will cover immovable property lease, property transactions, land administration, building permit approval and green building, etc. However, the efficiency of key services in getting a business location was not covered.

It is not defined whether the assessment is the property right or the land right. The main measurement content does not include the content of urban planning quality.

The Business location topic will cover the time and cost to purchase a property, the time and cost to obtain building-related permits, and the time and cost to obtain environment-related permits. We recommend using assumption cases for the evaluation. If the case is designed well enough, the indicators of time and cost to purchase a property, time and cost to obtain building-related permits, time and cost to obtain environment-related permits can be effectively evaluated.

#### 【C—Utility connections】

The issue of voltage levels is not mentioned in the utility connections. In terms of electric power supply reliability, it is necessary to strengthen the management of planned maintenance, power outage plans; The indicator should also include contents such as the efficiency of power grid repair, the time and frequency of power outages.

The Utility Connection index does not clearly state how to collect data if there are more than one water company with different policies in one region.

Natural gas is not included in the Utility Connection indicator. In most countries, gas is also one of the basic public services for families.

#### 【D—Labour】

In terms of supervision quality, there is a loophole supervision problem - supervision of "human resources market system". This part lacks the content of the supervision and management of human resource service agencies including career intermediary agencies, talent agency service agencies, etc.).

#### 【E—Financial services】

It is mentioned in the Financial Service topic that "Obtaining a loan – This de facto component measures the time and cost required for a firm to obtain a loan, focus on domestic loans provided by commercial banks, investigate factual data on loans that firms have recently obtained." This part is greatly influenced by the variety of banks and enterprises, so it is not easy to judge.

The types of loans (credit, mortgage, guarantee, etc.) obtained are not specified in the Financial Service indicator. The types of loans are different, and the time and cost of obtaining loans are also different. The scope of credit loans is also relatively narrow. In the BEE project, the collaterals and guarantees involved are still conditional loans.

When evaluating the financing environment of enterprises, Financial service indicators do not consider the use of financial innovation to efficiently and controllably serve new financial formats and products for start-ups (such as financial support for start-ups), it also not consider the integration of big data and cloud computing, blockchain, artificial intelligence, mobile Internet and other high-tech applications.

#### 【F—International trade】

Compared with the Doing Business Trade Across Borders topic, the International Trade indicator adds content of the quality of supervision and other areas such as e-commerce and environmentally sustainable trade, enriching the details of this indicator. In addition, there is no inspection of the domestic trade in the indicator. For an economy, the trading environment between enterprises (including domestic and foreign investment) is also an important factor in promoting local economic development. At present, only the scope of cross-border trade is considered. In addition, the original concept of time cost of cross-border trade indicators in the DB system is relatively vague, and the BEE project has not clarify this part.

As for the mode of transportation, different modes of transportation take different time, the time consuming of air transportation is lower than that of land transportation, which is lower than that of water transportation, however, there is no clear scientific classification in the international trade index, but all modes of transport are assessed in accordance with the form of sea transportation. Many countries in the world are inland bordering, there is a form of land transport, to use sea transport for this indicator is not rational.

Regarding costs, such as border compliance costs, the



	<p>indicators do not clearly state whether this part of the cost is the "port operation fee" charged by the terminal operator or the "terminal operation fee" charged by the shipping company (according to the project evaluation, it is basically the default port operation cost, but this will lead to the final statistical cost will be lower than the actual cost of the enterprise)</p> <p><b>【G—Taxation】</b>  “time to file and pay mandatory taxes, including the time to prepare, file and pay profit taxes and VAT/sales taxes.” This statement is too subjective. The assessment of tax indicators also relies too much on experts. The subjective bias of experts can easily affect the evaluation results.</p> <p><b>【I—Market competition】</b>  In terms of Market Competition, the assessment content on the supervision system and supervision service is relatively weak. It is necessary to strengthen the improvement of the public procurement supervision mechanism, credit supervision, promote the construction of the electronic supervision system, strengthen the interconnection of system data, simplify the approval process and materials, and strengthen the information. In addition, the current indicators mentioned more about monopoly (and mergers and acquisitions), and the scope is relatively narrow. We should consider the construction of institutions that have not formed a monopoly but still violate the principle of fair competition.</p> <p><b>【J—Business insolvency】</b>  "The indicator will measure whether aspects related to liquidation and re-organisation procedures tailored for SMEs are available under the insolvency regulation." mentioned in the Insolvency indicator. In addition, there will also be major changes in the business process of enterprises other than insolvency, the cross-regional relocation of enterprises and the normal cancellation of non-bankruptcy properties also need to be evaluated.</p>
<p><b>Do you have any other general feedback?</b></p>	<p>The major difference between BEE and DB, is the update of the indicator system, which has expanded the evaluation perspective and dimensions, and the improved method of data collection.</p> <p>(1) The weights of quantitative indicators and qualitative indicators in the BEE system, and how to avoid data fraud is not clear.</p> <p>(2) In “Data collection approach” desk research (i.e., the reading of laws/regulations, checking of features on public websites) and official data (i.e., administrative statistics from registries, courts, and other agencies). The official data has potential problems such as inconsistent</p>

statistical methods and differences in data definitions.

(3) In terms of procedure, time, and cost, it is recommended to be evaluated based on assumption case study.

(4) In the BEE system that "the indicators will be limited to business environment conditions and not cover the final outcomes of such conditions. Firm and market outcomes are the complex result of different variables, including demand and supply forces. " It is logical to measure among global economies, excluding the factors of the countries' developing status. However, topics and indicators reflecting the differences in the level of implementation across regions may need to be included as well.

<b>First Name</b>	Parfait Bihkongnyuy
<b>Last Name</b>	Beri
<b>Title</b>	Dr
<b>Organization Name</b>	SERAP
<b>Country</b>	South Africa
<b>Email Address</b>	parfaitberi@gmail.com
<b>Organization Type</b>	Think Tank
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	Yes, these issues covered provide sufficient granularity of private sector development indicators. I look forward to the final instrument on how the constructs will be categorised.
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	Yes, the BEE seems to focus more on the role of domestic institutions in private sector development. I believe that international institutions (international trade, investment and other agreements such as the WTO) are critical for private sector development and require due consideration.

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

I feel that there is more emphasis on the quality of regulations.

**Does the BEE project get the balance right between de jure and de facto indicators?**

I feel that there is a lot of emphasis on de jure indicators on the BEE rather than firm-specific experiences (private sector reports).

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

Indicators in the area of financial services (page 27): It may be essential to account for the role of policies on the repatriation of profits in the case of foreign enterprises, which significantly affects the choice of location of multinational firms. In futuristic terms, it may also be insightful to account for the expanding role of blockchain technologies, such as cryptocurrencies (Bitcoin, Ethereum, Tether). Besides the advantage of financial inclusion, these can be an excellent way of financing corporations from abroad and a good indicator of a flexible and inclusive business environment. They also make transactions cheap, which is good for business.

H. Dispute resolution (Page 42).

It seems that this section focuses more on the role of domestic institutions. Since the primary target of the World Bank Group is low and middle-income countries that often have weak institutions, it may be insightful to account for the proliferation of international institutions (bilateral and multilateral investment and trade agreements) in dispute resolution. One of such institutions is the International Centre for Settlement of Investment Disputes (ICSID). Many bilateral trade and investment treaties also make references to investment laws in the home country of the multinational enterprise in settling disputes as these guarantee commitment against reneging on promises. I must also mention that some firms may be aware of these channels of dispute resolutions, while others are never aware at the time of the investment until a dispute breaks out. Overall, the presence of such institutions reflects favourably on the business environment and private sector development.

**Do you have any other general feedback?**

Bureaucracy in business registration processes may also provide further granularity to understanding the business environment. Is the business registration process decentralised? Is it a one-stop do all?

An index of private sector development using macroeconomic conditions might also provide an excellent check for robustness. My experience with indices based on non-economic factors, as in this project, suggests that they rarely vary over time or only do so trivially. Combining such datasets with macroeconomic statistics in forecasting models seldom provide excellent results.

Overall, the BEE project is an excellent initiative, and I look forward to using it in my future research.

<b>First Name</b>	Frederic
<b>Last Name</b>	Mousseau
<b>Title</b>	Policy Director
<b>Organization Name</b>	The Oakland Institute
<b>Country</b>	United States
<b>Email Address</b>	fmousseau@oaklandinstitute.org
<b>Organization Type</b>	Think Tank
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?**

Scoring and ranking: Just like the Doing Business report, which was a country-by-country economic ranking on the “ease of doing business,” with the BEE, the Bank will continue scoring and ranking countries on the basis of “economic reforms” they implement. This is deeply problematic as it will perpetuate a race to the bottom between countries competing to carry out more reforms. 280+ organizations of the Our Land Our Business campaign have rejected this ill-conceived approach in this statement <http://ourlandourbusiness.org/wp-content/uploads/2018/01/Joint-Statement-Our-Land-Our-Business.pdf>

Regulations: Though the concept note uses some language that tends to recognize the importance of certain regulations, it aims to curb “excessive” or “cumbersome” regulations, which are highly subjective terms, depending on the stakeholders concerned. An environmental regulation preventing pollution from a mine or a palm oil plantation may be well seen “excessive” or “cumbersome” by the corporation running the project but will be deemed essential by the local communities living in the vicinity. As an instrument intended to collect perceptions from private firms and surveys of business experts, a pro-business bias will be unavoidable at the expense of local communities and the environment.

International trade: Given the concept note considers that “international trade is a key driver of economic growth and plays a decisive role in the promotion of private sector development,” the BEE is intended to ensure that countries don’t place restrictions to it. The only restrictions that might be acceptable to the authors are “public safety, health, and the environment” related, provided they are not “counterproductive” or “excessive.” Again, qualifying trade restrictions as “excessive” is a highly subjective matter, subject to different interpretations depending on stakeholders. A trading firm will be likely to oppose any trade restrictions, though they might be on the contrary supported by a local producer of agricultural goods having to compete with cheap imported products. Furthermore, it is a blatantly very narrow vision to consider “international trade” as a whole being good for economies, whereas trade restrictions can be the only way for certain countries to allow their farmers to survive or for certain industries to exist. For instance, African countries such as Rwanda or Kenya that have tried to develop their textile industry have come under intense pressure not to restrict imports of second-hand clothes though they see it as the only way to expand their own industry. Not allowing poorer countries to impose trade restrictions that they need to develop goes against the stated goals of the World Bank to promote private sector and development.

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

**Does the BEE project get the balance right between de jure and de facto indicators?**

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

**Do you have any other general feedback?**



<b>First Name</b>	Diego
<b>Last Name</b>	Macera
<b>Title</b>	CEO
<b>Organization Name</b>	Instituto Peruano de Economía
<b>Country</b>	Peru
<b>Email Address</b>	
<b>Organization Type</b>	Think Tank
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	Sí. Los 10 temas elegidos y sus indicadores son relevantes para el sector privado y proveerían un adecuado análisis del ambiente de negocios de un país. El diseño del proyecto —basado en el ciclo de un negocio (apertura, operación y cierre)— es adecuado.
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	Un aspecto clave no considerado es el sistema de innovación en un país. Según diversos estudios del Banco Mundial, esta es la red de organizaciones, empresas e individuos que se centran en traer nuevos productos, generar nuevos procesos y diseñar nuevas formas de organización, y darles un uso económico. Así, los sistemas de innovación son fundamentales para crear un entorno que favorezca el desarrollo de los negocios, por lo que deberían formar parte del proyecto BEE. En específico, se considera que debería ser un tema adicional, separado de los 10 ya elegidos. Algunos indicadores asociados con el sistema de innovación podrían ser buenas prácticas en la regulación de patentes, existencia de programas de apoyo para la innovación, gasto de las empresas o del Estado en investigación, desarrollo e innovación (I+D+i), entre otros.

<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	Según el diseño del proyecto BEE, sí existiría un adecuado balance entre los indicadores de calidad de la regulación y de provisión de servicios públicos. Sin embargo, se debe tener en cuenta que los dos tipos de indicadores se estiman mediante consultas a expertos, lo que podría reducir las diferencias que se esperan entre ambos. Por ello, en la medida de lo posible, se recomienda complementar la información de los expertos con encuestas a empresas para la estimación de indicadores de provisión de servicios públicos. Por ejemplo, en el tema de apertura de negocios, los datos sobre disponibilidad de servicios en línea para nuevas operaciones podrían ser provistos también por las mismas empresas.
<b>Does the BEE project get the balance right between de jure and de facto indicators?</b>	Sí. El hecho de dividir los indicadores en tres categorías —calidad de la regulación (de jure), provisión de servicios públicos (de facto) y eficiencia (de facto)— permite un adecuado balance entre ambos tipos de variables
<b>Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?</b>	En el caso del empleo, se debería considerar a la informalidad laboral como una variable vinculada al nivel de protección social de los trabajadores.
<b>Do you have any other general feedback?</b>	Para las empresas, obtener información sobre el actual ambiente para los negocios en un país es muy relevante. No obstante, también lo es conocer acerca de qué tendencias se esperan en cada país: ¿se simplificarán los trámites para un nuevo local?, ¿se mejorará la protección social de los trabajadores?, ¿subirán los impuestos?, entre otros. Por ello, se considera que se debería recoger también información sobre cómo se espera que sea la situación en los siguientes años en ciertos indicadores clave. Idealmente, este análisis debería ser transversal a los temas elegidos, similar a lo diseñado en el caso de adopción de tecnologías digitales y sostenibilidad ambiental.

<b>First Name</b>	LiHong (Holly)
<b>Last Name</b>	Chen
<b>Title</b>	Managing Partner
<b>Organization Name</b>	KuangZheng Certified Public Accountants (JPA China)
<b>Country</b>	China
<b>Email Address</b>	hollychen@kzcpas.com.cn
<b>Organization Type</b>	Think Tank
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	我们建议在一级指标中增加“突发事件应急管理”，鉴于近年来 Covid-19疫情常态化，以及气候变化、自然灾害等情况频发，各经济体的应急管理越来越精细化、政策更新越来越及时化，应急管理与经济（尤其是私营经济）的发展越来越紧密不可分，也因此成为许多企业评估地区发展环境的重要因素，故建议将这一指标纳入新的体系进行设计考虑。
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	我们建议增加知识产权相关指标。目前，在评估指标里有10个一级指标，包括开立企业，注册地址，物业配套，劳动力雇佣，金融服务，国际贸易，纳税，纠纷调解，市场竞争，企业破产，但没有提到企业知识产权的申请与保护相关内容，知识产权对企业的发展也是极其重要的。

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

我们认为BEE在法律监管质量和为private sector发展提供公共服务之间取得了恰当的平衡，但在有些考核维度欠缺一一对应性。比如，在公共事业章节，BEE强调了电力、水的供给和硬件设施建设相关的公共服务，但忽略了与其对应的“节约、高效利用电力和水”监管体系，导致在一定程度上会忽略各国在创建良好营商环境过程中对减少温室气体和污染物的排放，我们建议引入碳排放年增长率、绿色可再生能源占比等指标，综合考虑环境对营商环境的影响。

**Does the BEE project get the balance right between de jure and de facto indicators?**

我们认为BEE评价体系法律指标与事实信息基本达成了平衡。

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

无

**Do you have any other general feedback?**

我们认为对于专家库的专家选择应有一定的资格要求，避免答题的主观性和随意性。

<b>First Name</b>	Yi (Jenny)
<b>Last Name</b>	Zhang
<b>Title</b>	Partner
<b>Organization Name</b>	KuangZheng Certified Public Accountants (JPA China)
<b>Country</b>	China
<b>Email Address</b>	jennyzhang@kzcpas.com.cn
<b>Organization Type</b>	Think Tank
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	我们建议在一级指标中增加“突发事件应急管理”，鉴于近年来 Covid-19疫情常态化，以及气候变化、自然灾害等情况频发，各经济体的应急管理越来越精细化、政策更新越来越及时化，应急管理与经济（尤其是私营经济）的发展越来越紧密不可分，也因此成为许多企业评估地区发展环境的重要因素，故建议将这一指标纳入新的体系进行设计考虑。
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**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

我们认为BEE在法律监管质量和为private sector发展提供公共服务之间取得了恰当的平衡，但在有些考核维度欠缺一一对应性。比如，在公共事业章节，BEE强调了电力、水的供给和硬件设施建设相关的公共服务，但忽略了与其对应的“节约、高效利用电力和水”监管体系，导致在一定程度上会忽略各国在创建良好营商环境过程中对减少温室气体和污染物的排放，我们建议引入碳排放年增长率、绿色可再生能源占比等指标，综合考虑环境对营商环境的影响。

**Does the BEE project get the balance right between de jure and de facto indicators?**

我们认为BEE评价体系法律指标与事实信息基本达成了平衡。

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

无

**Do you have any other general feedback?**

我们认为对于专家库的专家选择应有一定的资格要求，避免答题的主观性和随意性。

<b>First Name</b>	MingJing (David)
<b>Last Name</b>	Li
<b>Title</b>	Partner
<b>Organization Name</b>	KuangZheng Certified Public Accountants (JPA China)
<b>Country</b>	China
<b>Email Address</b>	davidli@kzcpas.com.cn
<b>Organization Type</b>	Think Tank
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	我们建议在一级指标中增加“突发事件应急管理”，鉴于近年来 Covid-19疫情常态化，以及气候变化、自然灾害等情况频发，各经济体的应急管理越来越精细化、政策更新越来越及时化，应急管理与经济（尤其是私营经济）的发展越来越紧密不可分，也因此成为许多企业评估地区发展环境的重要因素，故建议将这一指标纳入新的体系进行设计考虑。
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	我们建议增加知识产权相关指标。目前，在评估指标里有10个一级指标，包括开立企业，注册地址，物业配套，劳动力雇佣，金融服务，国际贸易，纳税，纠纷调解，市场竞争，企业破产，但没有提到企业知识产权的申请与保护相关内容，知识产权对企业的发展也是极其重要的。

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

我们认为BEE在法律监管质量和为private sector发展提供公共服务之间取得了恰当的平衡，但在有些考核维度欠缺一一对应性。比如，在公共事业章节，BEE强调了电力、水的供给和硬件设施建设相关的公共服务，但忽略了与其对应的“节约、高效利用电力和水”监管体系，导致在一定程度上会忽略各国在创建良好营商环境过程中对减少温室气体和污染物的排放，我们建议引入碳排放年增长率、绿色可再生能源占比等指标，综合考虑环境对营商环境的影响。

**Does the BEE project get the balance right between de jure and de facto indicators?**

我们认为BEE评价体系法律指标与事实信息基本达成了平衡。

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

无

**Do you have any other general feedback?**

我们认为对于专家库的专家选择应有一定的资格要求，避免答题的主观性和随意性。



#### iv. Government Agencies

<b>First Name</b>	Maksym
<b>Last Name</b>	Libanov
<b>Title</b>	Commissioner
<b>Organization Name</b>	National securities and stock market commission
<b>Country</b>	Ukraine
<b>Email Address</b>	maksym.libanov@nssmc.gov.ua
<b>Organization Type</b>	Government
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	Yes
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	Yes. At least one topic is missing. Corporate governance in general and minority shareholders rights in particular is not covered under BEE project. Meanwhile DB methodology contained separate index that measured level of protection of minority shareholders. Corporate governance regulation is crucial part business environment. ESG principles should be included among other major issues related to good corporate governance.

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

**Does the BEE project get the balance right between de jure and de facto indicators?**

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

Topic - financial services

Pre-concept note mainly covers banking sector and access to finances through banking instruments like banking loan and do not cover alternative ways such as bonds issuance. The level of development of capital market thus is not measured. At the same time raising finance at capital markets via shares or bonds instruments is very common practice and is widely used by business.

**Do you have any other general feedback?**

<b>Organization Name</b>	Department of Trade and Industry & Competition
<b>Country</b>	South Africa
<b>Organization Type</b>	Government
<b>Identity Disclosure Authorization</b>	I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	Yes and no, it covers the lifecycle of a business and unlike the previous DB report it covers both foreign and domestic companies. An additional element that can be looked at is incentives and Special economic zones and tax rebates for companies both foreign and domestic.
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	<p>I think the regulation and process around access to finance in particular for domestic companies should be looked at. This is an area of that SME's struggle with.</p> <p>I think the study should look at the end to end process for an SME to start a business, as well as maintain a business, because too many fail. Measures or at least recommend measures used, in other economies where SME's thrive would be useful.</p>
<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	It depends on the weighting allocated to each aspect. Developing economies may not fare as well as their developed counterparts against these measures.
<b>Does the BEE project get the balance right between de jure and de facto indicators?</b>	Yes I think this is an important element- information found in the difference between policy and implementation is where a lot of work needs to be done to align policy and implementation.

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

A lot of emphasis is placed on business entry, I am of the view that looking at aspects beyond business entry where a business matures is as important and the measures in place to support such as business.

The failure rate for entry level is high in the South African economy and it's important to understand why and assist in developing a framework to provide support to entrepreneurs. Developed countries may have measures in place lacking in developing economies.

In the area of international trade, it is well known that certain developed countries apply subsidies and technical measures to protect their domestic markets, making it difficult for companies from developing countries to export to them especially in the area of agricultural products. Yes this is overlooked by the DB report or the new BEE report.

**Do you have any other general feedback?**

It appears there is a very strong, active agenda to bring in environmental sustainability issues into the new "DB report" which is a concern considering this is an agenda in the WTO to design trade rules to address climate goals. I am of the view that this is not a coincidence. I would like to point out again, developing countries would fare poorly should this element be included in the DB report. The standard is different for developed and developing countries taking into account that industry is largely located in the developed economies and developing economies contribution to carbon emissions is significantly less than that of a developed country. Notwithstanding that climate change is a global issue, developing countries should not have to be held accountable to the same standard as a developed country, to be clear the standard should be reduced.

This agenda is premised on the interests of the Global North, with a strong market liberalisation agenda (to open up environmental goods and services, fossil fuel subsidy reform, carbon border tax adjustment measures, etc).

The use of surveys to determine ranking- private sector surveys were used to assess an economies performance and there was a significant amount of misrepresentation from the private sector about the status of various procedures. One the list of respondents were outdated and those respondents accessed government services 20 years ago which did not take into account new services offered by government. It would not support the use of a survey to determine an country's performance. We were also of the view that certain countries curated their private sector to ensure the surveys were completed "correctly" to guarantee a high ranking. Measures need to be put in place to ensure that this not happen again.

Secondly, the ranking were relative to what another country implemented making it a "moving scale", this in my opinion grotesquely, obscured results and did not present an accurate measure of a countries efforts to implement reforms.

The DB score out of 100 was a more accurate measure of processes and systems in place in a country.

Case studies and assumptions- the use of case studies to create a uniform standard had relevant in some area in others not. For example the case study for SME's with regard to paying taxes a pot plant company with a 100 million threshold was not relevant to SA because between our revenue services and company registration agencies, government could not locate such companies meaning the threshold of R100 million was too high.

Again for trading across borders- one product was used as a basis for assessment perhaps the World Bank ought to look at a basket of products and 5 or more trading partners.

**Organization Name** Presidency of the Republic

**Country** TOGO

**Organization Type** Government

**Identity Disclosure Authorization** I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question

**Do not disclose my information**

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?**

The issues included in the BEE project are relevant for private sector development. In addition, in keeping with the times, it builds upon its predecessor by taking into consideration environmental sustainability and adoption of digital technologies

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

The BEE project does not account for specialized initiatives such as Special Economic Zones and clusters, to promote private sector development. For example, the presence of special economic zones and the types of incentives offered to investors in these zones could be assessed

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

It is difficult to comment on this without having more information on the structure and scoring pattern of the index  
In order to give country authorities a better understanding of the index the World Bank should eventually publish details of the structure and methodology of this new index

**Does the BEE project get the balance right between de jure and de facto indicators?**

At the moment, the emphasis seems to be more on the de facto rather than de jure indicators.

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

Data collection around the following indicators was relatively opaque in the predecessor of the BEE, this should be rectified in the case of the new index, to enhance its usefulness for policymakers

International trade - Time and cost to comply with import and export

Dispute resolution - Time and cost to resolve a commercial dispute

Business insolvency - Time and cost to resolve an in-court liquidation or reorganization proceeding

Business insolvency - The predecessor to the BEE only considered an in-court liquidation or reorganization, and did not take into account pre-insolvency procedures that are common in many Civil law jurisdictions – this is a significant oversight

Le prédécesseur de BEE a également mis l'accent sur des concepts de droit commun tels que la norme de preuve qui n'a pas d'équivalent direct en droit civil, ce qui a conduit les pays de droit civil à être pénalisés.

**Do you have any other general feedback?**

The emphasis placed upon Common law practices, and the lack of understanding of Civil law practices seen in the predecessor to BEE should be avoided

The data collection approach, through multiple channels seems quite complex, and the final product may be difficult to interpret for policymakers

The World Bank should publish a detailed methodology of the new index to help countries understand the World Bank's expectations of best practices and plan reforms accordingly. The conditions for the recognition of a reform by the World Bank should also be explicitly specified.

There is a need to enhance communication between the World Bank and regional organizations such as OHADA, on regulatory best practices. Many countries such as Togo are constrained by regional law despite being motivated to reform



<b>Organization Name</b>	Business climate unit
<b>Country</b>	TOGO
<b>Organization Type</b>	Government
<b>Identity Disclosure Authorization</b>	I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	Les problématiques incluses dans le projet BEE sont pertinentes pour le développement du secteur privé. En outre, pour rester dans l'air du temps, il s'appuie sur son prédécesseur en prenant en compte la durabilité environnementale et l'adoption des technologies numériques
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	Le projet BEE ne tient pas compte des initiatives spécialisées telles que les zones économiques spéciales, pour promouvoir le développement du secteur privé.
<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	Il est difficile de faire des commentaires sur ce point sans disposer de plus d'informations sur la structure et le modèle de notation de l'indice. Afin de permettre aux autorités nationales de mieux comprendre l'indice, la Banque mondiale devrait publier les détails de la structure et de la méthodologie de ce nouvel indice
<b>Does the BEE project get the balance right between de jure and de facto indicators?</b>	Pour l'instant, l'accent semble être mis sur les indicateurs de facto plutôt que de jure

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

La collecte des données relatives aux indicateurs suivants était relativement opaque dans le prédécesseur de BEE, ce qui devrait être rectifié dans le nouvel indice, afin d'améliorer son utilité pour les décideurs politiques

- Commerce international - Temps et coût pour se conformer à l'import/export
- Résolution des litiges - Délai et coût de résolution d'un litige commercial
- Insolvabilité des entreprises - Délai et coût de résolution d'une procédure de liquidation ou de redressement judiciaire

Insolvabilité des entreprises - Le prédécesseur du BEE ne prenait en compte que la liquidation ou la réorganisation judiciaire, et ne tenait pas compte des procédures préventives qui sont courantes dans de nombreuses juridictions de droit civil - il s'agit d'une omission importante

Le prédécesseur de BEE a également mis l'accent sur des concepts de droit commun tels que la norme de preuve qui n'a pas d'équivalent direct en droit civil, ce qui a conduit les pays de droit civil à être pénalisés.

**Do you have any other general feedback?**

L'accent mis sur les pratiques de droit commun et le manque de compréhension des pratiques de droit civil observés dans le prédécesseur de BEE doivent être évités

L'approche de la collecte de données, par le biais de canaux multiples, semble assez complexe, et le rendu final peut être difficile à interpréter pour les décideurs politiques.

La Banque mondiale devrait publier une méthodologie détaillée du nouvel indice pour aider les pays à comprendre les attentes de la Banque mondiale en matière de meilleures pratiques et à planifier les réformes en conséquence. Les conditions de la prise en compte d'une réforme par la Banque mondiale devraient également être explicitement spécifiées.

Il est nécessaire de fluidifier la communication entre la Banque mondiale et les organisations régionales telles que l'OHADA, sur les meilleures pratiques réglementaires. De nombreux pays, de certain regroupement régional sont limités par le droit régional, malgré leur motivation à réformer.

<b>Organization Name</b>	Egyptian Tax authority
<b>Country</b>	Egypt
<b>Organization Type</b>	Government
<b>Identity Disclosure Authorization</b>	I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	I think it's relevant and adequate.
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	must take into consideration the culture and the habits of each area. How the community will deal with the new business ideas. I think that's very important issue.
<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	Yes the regulations and the provision of public services for private sector development are so important issues to be considered at any new upcoming business, and its the most issue considered by private sector or investors to can provide investments opportunities at any country.
<b>Does the BEE project get the balance right between de jure and de facto indicators?</b>	
<b>Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?</b>	As I work at Egyptian Tax Authority , I want to confirm as long as the tax system have conspiracy and updated the regulations to fit the international economy , will do success in the business.

**Do you have any other general feedback?**

Egyptian Tax Authority had Issued the E . invoice system ,that reduced the corruptions and increased the loyalty of taxpayers and private sector businesses.

**First Name** Kirill

**Last Name** Sergashov

**Title** Deputy Director, Department for Investment Policy and  
SME Development

**Organization Name** Ministry of Economic Development of the Russian  
Federation

**Country** Russian Federation

**Email Address** SergashovKG@economy.gov.ru

**Organization Type** Government

**Identity Disclosure  
Authorization** I authorize the World Bank team to disclose my name on  
the web (Optional) ('YES')

**Do not disclose my  
information**

**Are the issues included in the  
BEE project relevant for  
private sector development  
and is the overall design  
adequate?**

**Are there any important  
issues that the BEE project is  
not considering which should  
be included within the context  
of private sector  
development?**

**Does the BEE project strike  
the right balance between the  
quality of regulations and the  
provision of public services  
for private sector  
development?**

**Does the BEE project get the balance right between de jure and de facto indicators?**

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

**Do you have any other general feedback?**

It is assumed that the BEE will be based on the same indicators as the Doing Business. However, at the same time the study does not suggest a single model for comparing the achievements of countries. How will the comparability of countries be ensured?

**First Name** Renzo

**Last Name** Remotti

**Title** Dr

**Organization Name** Prefecture

**Country** Italy

**Email Address** renzoremotti@gmail.com

**Organization Type** Government

**Identity Disclosure Authorization** I authorize the World Bank team to disclose my name on the web (Optional) ('YES')

**Do not disclose my information**

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?** Yes. The issues included in the BEE project are relevant. As my opinion it is very important the set of indicators that measures the time and cost to resolve an in-court liquidation and reorganization proceeding.

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?** As my opinion It would be very important to introduce a stage about the immigration.  
The immigration flow plays an important role in the development of the private sector. In Italy 10.5% of companies are led by foreigners.  
Since the 90s this component has recorded constant growth in the face of a parallel decrease in indigenous entrepreneurship (-12.2% between 2010 and 2018).  
The indicators can be: number of foreign workers, number of companies led by foreigners, foreign production, the value of the work of foreigners (in Italy it is worth 137 billion euros) and so on.

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?** As my opinion it is would right better understand the public sector. For example, how much does the bureaucracy cost on the private sector? Or consider the timing of obtaining a permit to build or something else.

**Does the BEE project get the balance right between de jure and de facto indicators?**

Yes

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

No

**Do you have any other general feedback?**

No



<b>Organization Name</b>	Ministry of Economic Development and Poverty Reduction
<b>Country</b>	Republic of Uzbekistan
<b>Organization Type</b>	Government
<b>Identity Disclosure Authorization</b>	I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	Yes, we think the project questions are adequate and will help in the future for the development of the private sector.
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	<p>1. In order to provide feedback based on the results of studying the country's business environment, continue the practice of entering information from interested governments through special portals (like "DATA UPDATE – DOING BUSINESS 2021") and provide the opportunity to organize a video conference on demand on individual indicators to clarify and / or clarification of the circumstances of the assessment.</p> <p>2. Designing BEE project methodology, based on the specifics characteristics of various indicators, interaction in certain areas with government agencies that own a complete database of business processes, for example, the return of the surplus of VAT to entrepreneurs, the average time for customs clearance at border posts and the processing time for permits (their cost), etc.</p>

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

In order to provide objectivity in the evaluation of data by a group of experts of the BEE project, provide for their interaction with interested ministries and agencies that have summary data of the country under study to provide them with access or upload (export) of data through the Information system for a full analysis and evaluation of business processes.

For example, in Uzbekistan, the Unified Information System "Single Portal of Interactive Public Services" is used, that give overview of public services that are available in the republic for citizens and the business community, "Transparent Construction" - a specialized interactive system for interaction and monitoring issues of obtaining permitting procedures in construction, "ELEKTR" - a specialized interactive system for connecting to power grids, "Single window" - a specialized customs clearance system, etc.

**Does the BEE project get the balance right between de jure and de facto indicators?**

According to our study, the project strikes the right balance between de jure and de facto indicators.

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

We don't have any reviews for indicators.

**Do you have any other general feedback?**

Does the pilot study of the BEE project this year provide for a more complete explanation of the methodology ("Deep dive") for this project in the videoconferencing mode or offline, as promised earlier.

**Organization Name**

General Authority for Investment and freezones

**Country**

Egypt

**Organization Type**

Government

**Identity Disclosure Authorization**

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**Do not disclose my information**

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?**

It is useful to adopt a ranking approach on three levels; a) overall level (Global ranking), b) sub-indicator level, c) category level (ranking countries within categories classified according to GDP per capita). This will encourage competition among countries, identifying reform gaps and signifying good practices.

Most issues included in the BEE Project are relevant for private sector development. However regarding the overall design we noted the followings:

- It seems that the overall design is complicated specially for unspecialized investors and business communities, as indicators includes a lot of information and details (every indicators include 3 sub indicators each of which include more specific sub indicators), as a result of that the indicator may not give a clear overview of counties' business climate.
- Consuming a lot of time to understand the overall situation of the country.

It's recommended to reorder sub indicator components to begin with overall efficiency then public services and finally regulatory framework, as this will make the indicators presentation clear and informative to business community, as well as shaping the first impression of the investors towards the country's business environment.

It is highly advised to consider using a case study for all de facto indicator in each topic if applicable.

For benchmarking purposes, it is advised to unify the scale measure of time to be by hours aggregated in days. Moreover unifying cost measure to be fixed number in USD according to the case study for each indicator.

Regarding to coverage approach, it is preferred to capture topic related data form the main business city within the economy for the accuracy and credibility of the report.

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

Some important aspects are missing including:  
It is necessary to list the procedures/number of payments for indicators (if applicable), because this will be helpful to policy makers in identifying the proper reform to apply in the way that streamline business cycle for the private sector. Noting that digital solutions reduce timing but do not guarantee the simplification of procedures.  
In this context, it is highly advice to link the time and cost to each procedure.  
Regarding to business insolvency topic, it is recommend to consider the DB's recovery rate sub indicator, since it represent the efficiency of insolvency framework better than calculating related cost.  
It is advised to consider adding a new topic concerning protecting minority investors including company governance, disclosure and directors' liability related issues.

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

Yes the BEE project get the balance right between de jure and de facto indicators, though it is recommended to focus on the de facto indicators, because it express effectively how regulations and government services are implemented properly in practice as experienced by the private sector.

**Does the BEE project get the balance right between de jure and de facto indicators?**

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

Regarding labor indicator and in view of previous experience of objections and observations expressed from majority of countries, it is recommended to follow the previous DB approach in tackling this indicator, this mean not to include this indictor in the report /ranking, while capturing related data and rankings in BEE's web site separately.

Concerning market competition topic, it is preferred to change the title to express its component properly (for example, government procurement competition).

Because market competition terminology that could cover a wide range of aspects that is not captured in the topic.

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General Authority for Investment and freezones

**Country**

Egypt

**Organization Type**

Government

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**Organization Name** General Authority for Investment and freezones

**Country** Egypt

**Organization Type** Government

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**Does the BEE project get the balance right between de jure and de facto indicators?**

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

Regarding labor indicator and in view of previous experience of objections and observations expressed from majority of countries, it is recommended to follow

the previous DB approach in tackling this indicator, this mean not to include this indicator in the report /ranking, while capturing related data and rankings in BEE's

web site separately.

Concerning market competition topic, it is preferred to change the title to express its component properly (for example, government procurement competition).

Because market competition terminology that could cover a wide range of aspects that is not captured in the topic.

**Organization Name** Georgian National Competition Agency

**Country** Georgia

**Organization Type** Government

**Identity Disclosure Authorization** I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question

**Do not disclose my information**

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?**

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

**Does the BEE project get the balance right between de jure and de facto indicators?**

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

**Do you have any other general feedback?**

Georgian National Competition Agency (GNCA) has not essential remarks on “Business Enabling Environment (BEE)” project. Although, we would like to focus your attention on the “Market Competition” section (page 48-52 and 72). In particular, BEE uses three sets of indicators in the area of market competition - a) the quality of regulations that promote market competition; b) the adequacy of public services promoting competition and c) the efficiency in the implementation of key services promoting market competition. Also, the BEE foresees data collection approaches – expert consultations and firm level surveys. Nevertheless, the participation of the GNCA is clearly envisaged in the second indicator (the adequacy of public services promoting competition).

As you know, GNCA is the body which ensures the fulfilment of the provisions of the Law of Georgia “On Competition” – which means that GNCA is the entity with the significant amount of the data and relevant information related to the market competition. Therefore, it will be important to be guaranteed consideration of the GNCA as one of the data collection approach in all sets of indicators – with experts and firms. Which, by its hand, will be beneficial in the process of effective measurement of the indicators.



**First Name** Zakir

**Last Name** Caunhye

**Title** Director

**Organization Name** Economic Development Board

**Country** Mauritius

**Email Address** zakir@edbmauritius.org

**Organization Type** Government

**Identity Disclosure  
Authorization**

**Do not disclose my  
information**

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?**

The Economic Development Board (EDB) of Mauritius thanks the World Bank for the opportunity to comment on the pre-concept note of the Business Enabling Environment project (BEE). The Government of Mauritius has been working in close collaboration with the World Bank to improve on its business environment and facilitate private sector development. The RAS on Doing Business between Mauritius and the World Bank is a testimony of the country's commitment to pursue on the strategy to create an enabling environment for private sector development. The write up herewith provides some of the observations of the EDB and we would be available for further discussion on this subject.

According to the pre-concept note, the methodology that would be adopted by the BEE would be an improvement from its predecessor the Doing Business report and the objective of the BEE would be (1) to advocate for policy reform and (2) to inform economic research and specific policy advice. It is also understood that the BEE will cover topics following the life cycle of a firm from its setting up to its closure. Observations on the specific topics are covered in question 5.

The BEE has tried to take into consideration the methodology issues which were not taken into consideration by the Doing Business Report. However, the following points need further clarification.

1. Presentation of overall performance of economies  
One of the main criticisms of the former DB report was its strong emphasis on aggregate rankings and scores and improving the ranking became a political agenda. Economies instead of focusing on the most important constraints for private sector development would be rewriting laws and policies with an eye on improving the Doing Business ranking.

The objective of the BEE is to avoid this hype around aggregate ranking. While the BEE still projects to quantify business environment conditions into corresponding measurable indicators, different ways are being explored to present summary information; distance to frontier scoring, grouping by quintiles and scoring per topic are being considered.

However, in our opinion, a scoring system would be similar to the aggregate ranking of the DB report where countries with higher score would be top performers and the game of tweaking policies and laws to comply with the BEE requirements/ methodology would continue.

The proposal is to consider a rating system such as Moody's where countries with similar aggregate scores are grouped. Under a rating

system, countries would be categorised in different groups (AAA, AA+ ...) based on its easiest place to do business to least easy. This will lead countries to target the best rating without necessarily and individually competing with other jurisdictions. A detailed assessment can also be communicated to each country so that it is made aware of its strengths and weaknesses and hence implement reforms accordingly.

That way Governments will focus more on improving the business environment for private sector development as a whole rather than adjust policies to gain points and go up the latter of top ranked economies.

## 2. Measuring specific topic

The weightage of specific topic in the aggregate measurement system is not clear.

## 3. Data gathering

The Doing Business Report was based on a case study for comparability across countries. Whilst standardised case study had its drawbacks in terms of its applicability in an economy, its main advantage is that data gathered is precise for each economy and not subjective.

It is understood that the BEE is based on a hybrid approach with a case study/ series of assumptions and expert consultation. Our submission is that subjectivity and opinion-based consultations should be avoided at all costs. This affect the integrity of data and informed policy advocacy will not be possible.

## 4. Gender component

A gender component was introduced in the Doing Business Report in 2016/2017. In pre-concept note provides that the BEE will not cover macroeconomic conditions, government corruption and accountability, gender, human capital etc. Does this mean that the BEE will not measure the gender component as was being considered by the DB report?

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

BEE will cover topics following the life cycle of a firm from its setting up to its closure. However, the life cycle of a business cannot be completed, particularly in the context of cross border investments, if the investor cannot get a business visa to enter a country. In some countries the process to obtain a business visa can be cumbersome, lengthy and costly.

Movement of business people is a critical component to operate a business and is being integrated as part of a number of international and regional agreements on investment facilitation. It would be appropriate if the BEE have a look at the systems put in place in countries to allow investors to enter.

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

The BEE while assessing legislations should go by the proclamation date. Often stakeholders contacted/surveyed are not aware of the legislations but same are already in force. Official sources such as the Supreme Court should be the reference point for legislations.

It is fundamental that private sector operators who have been surveyed are those who are conversant with the subject matter and are active operators.

**Does the BEE project get the balance right between de jure and de facto indicators?**

It is understood that BEE will not only collect de jure but also de facto measurements based on data collected from the private sector. This is similar to the methodology that was adopted by the DB report. One of the weaknesses was that more weight was given to de jure information received from the private sector than de jure data. This creates an imbalance in the collection of data.

The concern is that government makes policies and review the laws. However, there may be a lag between the time the private sector takes cognizance of the new practice and reports outdated information during the data gathering process. The data therefore published under the BEE will therefore not be accurate and incorrect data on the country will spread.

The de facto part is measured through expert consultations and firm-level surveys which may lead to biasedness. The Doing Business Report was a factual survey and it was easy for Government to relate to the reform to engage into reforms. On the other hand, it is more difficult to act on the report if same is an opinion-based survey.

The choice of the local experts is also crucial as the case study respondents remained the same for years and were no more practising. As a result, they were not aware of reforms and reported wrong information.

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

1. Biasedness should be avoided

One of the issues with the Doing Business Report was its biasedness in some indicators for example:

- In the Trading across borders indicator countries in customs union, or countries which has formed a trade bloc or those that have a trade relationship at an advantage and is unfair towards other economies
- In the Registering Property Indicator which considered transfer taxes but not capital gains tax as a cost to be borne by the buyer/ seller. There was a bias towards title based system rather than deed based system.

While no specific information was provided on the methodology, it is important that the BEE ensures fairness among countries.

2. Starting a business

One of the components that would be measured is the general restriction for entrepreneurs which could be around obtaining a specific operating licence/ municipal licence/ environmental licence or limitation of foreign participation in specific sector.

An operating licence is vast and is different across sectors. Depending on the health, environmental and security considerations, an entrepreneur would be liable to apply for specific licences to start its activity. For example, an entrepreneur opening a small manufacturing business would not require any such licences while an entrepreneur opening a hotel business would require a number of licences including operating licences for a hotel, environment licences for construction the hotel.

It is not clear what is being measured in this indicator. It seems over ambitious to measure country's performance across all sectors. The wording used "operating licence/ municipal licence/ environmental licence" leads to confusion as to what will be considered in the business entry topic and what would be measured.

3. Environment sustainability in business location topic

The time and cost to obtain environmental-related permit will be considered.

Climate change and environmental sustainability are critical factors for Mauritius and government is developing policies in view to protect the environment. Such policies may not be in favour of business. Given the threat of climate change impact on the Island, much time and efforts are being deployed to ensure that public and private sector project do not cause harm to the environment. For example, businesses which will create an impact on the environment will be required to apply for an Environment Impact Assessment licence and this could be considered as being more

burdensome on some businesses.

If the time and cost to obtain an environment-related permit were to be measured, it would definitely cause inadequacies in the determination process as pressure would be upon the public sector agency to reduce assessment time. The BEE should also consider a balance between environmental sustainability and the efficiency to get environmental licence. The quality in assessing an application for an environmental licence is much more important than the efficiency in which an environmental licence is issued.

It is unfair to impose on countries to choose between environmental sustainability and private sector development.

#### 4. Labor indicator

Labor was one of the indicators in the Doing business Report but was not counted as a scoring factor. The BEE has now included labour as one of the indicators. Each country has its own specificities and decision about Labour depends on Government and should not be considered as part of this project.

Particular, in the aftermath of Covid, policy makers are more tilted towards ensuring job security. Any indicator on labor should not be biased towards easy hire and fire rule, but more towards the responsibilities of businesses to act fairly towards their employees.

#### 5. Ease of obtaining a loan assessed in the financial services topic

The time and cost required for a firm to obtain a loan will be measured. The time to obtain a loan is highly dependent on the financing institution and not a policy matter. This should not be considered as part of the BEE.

While the regulatory body can define a set of principles that the financing institution should follow, it cannot control the risk appetite of the financing institution and its due diligence process. Moreover, such international financing institutions may have its own protocols set by overseas headquarters and a specific country should not be assessed on same.

**Do you have any other  
general feedback?**

1. Best practices

Previously there was some practices which were considered as 'best practices' by the Doing Business team but not by sector specific experts of the World Bank. For example there were some divergence on best practices between the DEC team and sector specialist as regards Insolvency or access to credit - legal rights index requirements. Such type of confusion should be avoided and there should be alignment within the World Bank on best practices. Moreover, as long as a Government provides the facilities expected by private sector, the country should be rated accordingly.

2. Implementation timeframe

According to the timeline provided, the BEE concept note will be finalised in May 2022 and a BEE pilot exercise will be launched in June 2022.

The timeline provided is very strict with no time for countries to get acquainted with the new project before it is being assessed through pilot questionnaires/ surveys.

Moreover, while the BEE project comprise many similarities with its predecessor, there are new elements which will be assessed under this project. Governments should be given sufficient time before the final concept note, methodology, approach, best practices, scoring is published and the pilot phase starts.

A revised timeframe should be considered and before adopting the BEE, a detailed methodology and grading system should be published.

<b>First Name</b>	Gulisa
<b>Last Name</b>	Kakhniashvili
<b>Title</b>	Ms
<b>Organization Name</b>	Ministry of Justice of Georgia
<b>Country</b>	Georgia
<b>Email Address</b>	gkakhniashvili@justice.gov.ge
<b>Organization Type</b>	Government
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	The issues discussed in the BEE project are relevant and important in the direction of business development, because the ease of business registration (as it is done in the reality of Georgia and detailed described in the BEE Pre-Concept Note) is the basis for private sector representatives not to suffer and not to give up business due to some barriers, which in turn can lead to private sector development and improve economic conditions.
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	



**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

**Does the BEE project get the balance right between de jure and de facto indicators?**

First of all, it should be noted that the document describes de jure and de facto indicators in detail, although much more attention is paid to de facto indicators, which is the way to verify the results. Without de jure indicators it loses the meaning of de facto activity and the probability of achieving the desired result will be less. De jure indicators can get better results if it has more detailed issues discussed in the BEE project. Therefore, it would be better to pay more attention to de jure indicators in order to maintain the balance between them.

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

**Do you have any other general feedback?**

Several general points:

1. One of the data collection approach is collecting data via expert consultations. As indicated in the Pre-Concept Note, qualified respondents will be sort out by screening questions. It is recommended to bring more clarity to these terms and have more clear and detailed procedure on how the experts will be identified, their competences checked and that they are qualified respondents;
2. It would be recommended to clearly define role of the experts as one of the sources of collecting data and the role of public entities.
3. We agree to the statement of the Pre-Concept Note that the measurable indicators is critical for this benchmarking exercise and it is indeed vital to have detailed methodology on how these indicators will be grouped to produce aggregate scores. We would recommend involvement of countries in these parts of the methodology refinement.

**Organization Name** Ministry of Economy and Sustainable Development of Georgia

**Country** Georgia

**Organization Type** Government

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**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?**

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

**Does the BEE project get the balance right between de jure and de facto indicators?**

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

**Do you have any other general feedback?**

In the BEE pre-concept note, particularly, in the Business location topic, it is mentioned that building-related permits are essential for public safety, strengthening property rights and contributing to the process of capital formation. One of the components of the “Efficiency of key services in getting a business location” indicator is time and cost to obtain building-related permits. For better analyzing the pre-concept note and the Business location topic, it would be very helpful to have more detailed information about “building-related permits”.

On page 14 while discussing the “Quality of regulations for immovable property lease, property ownership and urban planning” indicator” it is said that data for this de jure indicators can be collected through expert consultations. Additionally, consultations can be conducted with public officials familiar with regulatory framework of the building permitting process. In our opinion as public officials are very well aware with regulatory framework and also have frequent communications with experts in construction field, they will contribute a lot to this project and that is why we offer you to certainly conduct the consultations with public officials.

<b>First Name</b>	Giorgi
<b>Last Name</b>	Bejashvili
<b>Title</b>	Chief Specialist at Regulation Improvement and Methodological Support Department
<b>Organization Name</b>	Georgian National Energy and Water Supply Regulatory Commission
<b>Country</b>	GEORGIA
<b>Email Address</b>	g.bejashvili@gnerc.org
<b>Organization Type</b>	Government
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	The overall design is acceptable, but it should be taken into account that the energy sector differs from the Internet sector, since the specifics of the network arrangement for the provision of Internet connection differ significantly from the specifics of the arrangement of the electricity and water distribution network.
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	<p>As one of the important issues of the project to be considered would be the data report on the per capita accessibility rate on utilities (water supply, electricity, natural gas) across the country.</p> <p>Also, the coefficient of ability to independently develop water, wind, solar and other alternative sources, more specifically: 1. Energy potential/resources from renewable sources (for instance how many sunny days and/or hours are annually present, wind intensity, number of potentially exploitable rivers Where the HPP can be deployed): 2. Are there any incentives to promote and encourage the development of renewable energy from renewable sources?</p>

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

Perspectives regarding this question are written under the indicators' section (please go to Question 5).

**Does the BEE project get the balance right between de jure and de facto indicators?**

Perspectives regarding this question are written under the indicators' section (please go to Question 5).

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

Topic: Utility Connections (electricity and water supply sectors)

N1 - BEE Indicator:

measures good regulatory practices for the effective and sustainable provision of high-quality utility services. Passive utilities infrastructure, such as poles, ducts, or pipes tends to be expensive and requires a long time to deploy. In this regard, regulations fostering infrastructure sharing, including adherence to a common excavation plan, and obligations for operators owning passive infrastructure to share access at regulated prices can foster efficient deployment of utility services.

Feedback On Indicator:

We emphasize the significance of this indicator, however, it would be convenient if certain details were clarified. The issues of joint implementation of joint works should be separate, as such works can be carried out through the Unified Electronic Platform between various utility companies and between utilities and the municipality where the work is planned.

In addition to this, it is important to evaluate:

1. Is there a Unified Electronic Platform for Stakeholders' Consents?
2. Is there any obligation for utility companies and construction permit issuing authorities to consider the matter of issuing a permit or to publish information on the issued permits publicly?
3. Is there any regulation on the terms (timeframes) of consideration of the consent or permission.

N2 - BEE Indicator:

Regulatory agencies are also important for the provision of utility services since one of their functions is to protect public interests from

the exercise of monopoly power, whether through high prices or poor quality, or both. Existence of regulatory agencies overlooking the provision of electricity, water and internet, their functions (for example, role in setting tariffs, service quality targets, monitoring reliability of service supply).

#### Feedback On Indicator:

We emphasize the significance of this indicator, however, it would be convenient if certain details were clarified. During the evaluation process of electricity and water regulators it is also important to determine:

##### 1. In terms of setting tariffs:

- 1.1. Whether the tariff setting is based on a pre-established methodology;
- 1.2. Whether the established tariff is justified (reasoned), transparent and based on objective criteria;
- 1.3. To what extent are consumers and other stakeholders involved in the tariff setting process and to what extent they are able to express their opinion during the process?
- 1.4. To what extent is the public informed about the launch of public proceedings in terms of tariff setting?
- 1.5. To what extent are tariffs accessible, more particularly, whether the tariffs are publicly available online and whether there is a public accessible online platform for placing a relevant information.

##### 2. In terms of establishing a service target standard:

- 2.1. Are terms and conditions for delivering services to customer requirements established by the utility company?
- 2.2. Do the established terms and standards include all type of services related to the activities of the utility company?
- 2.3. Are there any established standards for timely performance of services based on a customers' requirements?
- 2.4. Whether the utility company has an obligation to improve the target of the standard according to the customers' requirements.
- 2.5. In case of improving the target rate of response to a customers' requirements, are there any established financial incentives available for the utility companies?
- 2.6. In case of deteriorating the target rate of response to a customers' requirements, are there any established sanctions available against the utility company?
- 2.7. In case of a poor quality or delay in a customer service, are there available any individual compensations.

##### 3. In terms of monitoring the reliability of service supply:

- 3.1. How the utility service reliability indicator is calculated, is it calculated by means of the supply interruption real-time monitoring mechanism or is it calculated based on the data evaluated by the utility company itself?
- 3.2. By what means is the quality of supply performance in controlled by the utility company?

- 3.3. Does the customer have the ability to remotely notify a supply problem to the utility company in real-time and are these notifications recorded?
- 3.4. Do utility companies have an obligation to reflect the data in real-time monitoring software related to utility services, including supply interruptions?
- 3.5. Do utility companies have an obligation to immediately inform customers about the supply disruption and do utility companies reflect this data in real-time monitoring software.
- 3.6. Are utility companies obliged to inform customers individually about planned and unplanned outages?
- 3.7. How accurately do utility companies inform customers, for instance, regarding dates for eliminating interruptions.
- 3.8. Whether there are any standards available for informing customers about planned and unplanned interruptions.
- 3.9. Is the utility company obliged to continuously maintain or improve annual indicators of supply reliability for planned and unplanned outages caused due to internal reasons (SAIDI, SAIFI, ENS)?
- 3.10. Is there any penalty for deteriorating the supply reliability indicators of the utility company (SAIDI, SAIFI, ENS) and does the deterioration of the supply reliability breach the terms of the license?

#### N3 - BEE Indicator:

The component will also evaluate environmental regulations promoting a sustainable provision of electricity, water, and internet services. These may include smart metering options, wastewater discharge controls, water quality management systems, e-waste management, incentives by utilities for installation and use of energy efficient appliances, renewable energy sources, and water use efficiency.

#### Feedback On Indicator:

We emphasize the significance of this indicator, however, it would be convenient if certain details were clarified. Whilst assessing the electricity and water supply sector, it is important to determine whether customers are able to see a share or renewable energy percentage in their energy consumption.

Moreover, in terms of smart meters:

1. Is customer able to install a smart meter.
2. In the case of a smart meter, whether the customer has a real-time access to the smart meter data.
3. Are there any available mechanisms to encourage the use of renewable energy sources, in particular, whether it is possible to consumer the electricity from your own generation source to balance the consumption and whether the receipt of this electricity will be considered a commercial activity and/or whether the activity is exempt from taxation.

4. Is it possible for the customer to deduct the excessively generated energy from his own generation source for the following billing period?
5. Are there any unified databases available in utility companies, where information on water quality is reflected?
6. Does the customer have the ability to remotely notify a water quality problem and are these notifications are documented?
7. Are utility companies obliged to reflect the service-related data in real-time software?

#### N4 - BEE Indicator:

Availability of independent complaint mechanisms in law or regulation regarding the issues faced by customers related to the provision of electricity and water; existence of financial deterrence mechanisms in law or regulation to promote a reliable supply, and discourage electricity or water supply disruptions, or inadequate or environmentally irresponsible service provision (for example, compensations or penalties).

#### Feedback On Indicator:

We emphasize the significance of this indicator, however, it would be convenient if certain details were clarified. In the part of the assessment of the availability of complaint mechanisms in the electricity and water supply sector, it is important to identify:

1. Are disputed issues discussed in utility companies and in the regulatory agency in accordance to established rules.
2. Is there a public defender independent from regulatory agency who constantly protects the interests of consumers?
3. Are utility companies obliged to set up complaints' commissions and whether it is the commission that supervises these processes.
4. in terms of availability, whether the customer has the ability to notify the problem related to the supply and/or receipt in real-time, using the software.
5. Whether the utility company through the employment of the software, is available to monitor the response over user complaints in real-time.
6. In case of breach of the deadline for responding to customer complaints, whether the utility company is obliged to pay compensation to the customer.
7. In case of breach of the supply standard, is the utility company fined by the regulator?

#### N5 - BEE Indicator:

Good practices, such as professional licensing and certification, may help reduce information asymmetry and set minimum quality standards. In the same vein, inspections ensure installations are compliant with safety and quality regulations. These measures could



serve as proxies for the strength of safety and quality control of new utility connections. Specifically, this component will cover legally mandated inspections for internal and external water and electricity connections, or requirements for installation works to be carried out by certified contractors; and qualification requirements of professionals assessing plans and feasibility for water and electricity installations and performing or supervising installations, as well as the liability of parties responsible for the installations.

Feedback On Indicator:

We think that this indicator requires further clarification - it is necessary to clarify what is meant by the term of connection safety, is it connection safety of the network that is built for the energy supply or is it the internal network? It should also be clarified whether this is related to the conditions to launch a supply.

N6 - BEE Indicator:

measures performance indicators governing quality, reliability, and sustainability standards for electricity, water, and internet services. Specifically, this component will cover data on the existence of key performance indicators (KPI) to assess the quality, reliability, and sustainability of utility supply, as well as on the public availability of such indicators. Examples of indicators used by utilities and regulators to monitor quality and reliability in each sector include: SAIDI and SAIFI, electricity losses, stability of voltage for electricity services; continuity of water service, water losses, and percentage of water receiving chemical treatment for water services; and download/upload speed of internet connection and latency in the case of internet services.

Feedback On Indicator:

We emphasize the significance of this indicator, however, it would be convenient if certain details were clarified. Whilst assessing the quality indicators of electricity and water supply services, it is important to determine:

1. How the utility service reliability indicator is calculated, is it calculated by means of the supply interruption real-time monitoring mechanism or is it calculated based on the data evaluated by the utility company itself?
2. By what means is the quality of supply performance is controlled by the utility company?
3. Does the customer have the ability to remotely notify a supply problem to the utility company in real-time and are these notifications recorded?
4. Do utility companies have an obligation to reflect the data in real-time monitoring software related to utility services, including supply interruptions?

5. Do utility companies have an obligation to immediately inform customers about the supply disruption and do utility companies reflect this data in real-time monitoring software.
6. Are utility companies obliged to inform customers individually about planned and unplanned outages?
7. How accurately do utility companies inform customers, for instance, regarding dates for eliminating interruptions.
8. Whether there are any standards available for informing customers about planned and unplanned interruptions.
9. Is the utility company obliged to continuously maintain or improve annual indicators of supply reliability for planned and unplanned outages caused due to internal reasons (SAIDI, SAIFI, ENS)?
10. Is there any penalty for deteriorating the supply reliability indicators of the utility company (SAIDI, SAIFI, ENS) and does the deterioration of the supply reliability breach the terms of the license?

#### N7 - BEE Indicator:

This component will cover data on transparency and online availability of water, electricity, and internet tariffs.

#### Feedback On Indicator:

We emphasize the significance of this indicator, however, it would be convenient if certain details were clarified. In terms of tariffs for the electricity and water supply sector, it is important to assess:

1. Whether the tariff setting is based on a pre-established methodology;
2. Whether the tariff is determined through the public proceeding?
3. Whether the established tariff is justified (reasoned), transparent and based on objective criteria;
4. To what extent are consumers and other stakeholders involved in the tariff setting process and to what extent they are able to express their opinion during the process?
5. To what extent is the public informed about the launch of public proceedings in terms of tariff setting?
6. To what extent are tariffs accessible, more particularly, whether the tariffs are publicly available online and whether there is a public accessible online platform for placing a relevant information.

#### N8 - BEE Indicator:

Advance notification of tariff changes.

#### Feedback On Indicator:

We emphasize the significance of this indicator, however, it would be convenient if certain details were clarified. In terms of changing the tariff for the electricity and water supply sector, it is important to assess:

1. To what extent are consumers and other stakeholders involved in the tariff setting process and to what extent they are able to express their opinion during the process?
2. To what extent is the public informed about the launch of public proceedings in terms of tariff setting?
3. Whether there are minimum and maximum terms (time limits) for setting the tariff;
4. Whether the tariff setting is based on a pre-established methodology.

N9 - BEE Indicator:

Transparency and online availability of required documents, steps, duration, and cost to obtain a new water, electricity, and internet connection.

Feedback On Indicator:

We emphasize the significance of this indicator, however, it would be convenient if certain details were clarified. In the electricity and water supply sector it is important to assess:

1. Whether the availability of information related to connections in the public area is ensured by the regulator?
2. Whether the utility companies are obliged to announce information related to utility connections on their official websites and whether this obligation is fulfilled.

N10 - BEE Indicator:

Measures the level of coordination between the agencies involved in the approval processes and integration of utility services.

Feedback On Indicator:

We emphasize the significance of this indicator, however, it would be convenient if certain details were clarified. It is important to clarify two circumstances:

The construction of a network structure consists of 2 parts:

One is the consent on the construction of linear structures obtained from the owners on whose territory the network structure is to be located or on whose territory the network structure is to be traversed or even placed nearby.

Second is the stage when construction permit is obtained from the construction permit issuing authority.

At both stages it is important to evaluate:

1. Is there a Unified Electronic Platform for Stakeholders' Consents?
2. Is there any obligation for utility companies and construction permit issuing authorities to consider the matter of issuing a permit or to publish information on the issued permits publicly?
3. Is there any regulation on the terms (timeframes) of consideration

of the consent or permission.

4. How many procedures does the construction approval process involve from the perspective of construction permit issuing authority?

5. How efficiently does the single interaction standard work?

N11 - BEE Indicator:

The existence of a national infrastructure database is an internationally recognized good practice that can allow for the identification of existing infrastructure before any new project commences.

Feedback On Indicator:

We emphasize the significance of this indicator, however, it would be convenient if certain details were clarified. In the electricity and water supply sector, it is important to specify the target area of the study and the characteristics of the target site, as it is impossible to draw the overall country figure in terms of the network description.

It is also important to evaluate:

1. Is there a unified electronic platform created by the municipality where information about the planned works is posted;
2. Is there any exchange of information between private individuals?

N12 - BEE Indicator:

The availability of online applications for utility connections.

Feedback On Indicator:

We emphasize the significance of this indicator, however, it would be convenient if certain details were clarified. In the electricity and water supply sector it is also important to evaluate:

The quality of prior (unilateral) customer notification system about the performance of the requested connection and the availability and transparency of information on the progress of the connection development.

N13 - BEE Indicator:

the availability of online payment for bills and connection fees.

Feedback On Indicator:

We emphasize the significance of this indicator, however, it would be convenient if certain details were clarified. It is important to evaluate:

1. Whether the utility company is obliged to offer to their customers different ways of payment for the service fee, including through a commercial bank, pay box cash machines or other means;
2. Whether the utility company is obliged to provide any of the abovementioned means of the payment to its customers. At least one

of the means of the payment must be exempt from additional charges;  
3. Whether the customer is informed about the possibility of choosing the means of payment.

N14 - BEE Indicator:

Measures on interoperability of utility services could foster inter- and intra-agency information exchange and could serve as an indicator of the level of coordination among agencies and of the efficiency of public services for customers.

Feedback On Indicator:

We emphasize the significance of this indicator, however, it would be convenient if certain details were clarified. It is also necessary to assess whether there is a unified electronic platform created by the country where information about the planned works are provided by public as well as private bodies, as a result utility companies can plan the development of their networks in advance. This will reduce related commencement time and costs, as the planned work is not carried out at the same location several times.

N15 - BEE Indicator:

This component will cover the existence of single windows for new water and electricity connections; and single information portals and one-stop shops interconnecting utilities and streamlining approval processes.

Feedback On Indicator:

We think that this is a crucial indicator, thus we have no additional feedback regarding this indicator.

N16 - BEE Indicator:

Measure time and cost to receive commercial utility connections, which indicate efficiency of the connection processes, and the ease of accessing utility services by businesses (data for the set of indicators is planned to be collected through firm-level surveys, allowing to obtain representative data on the actual time and cost to obtain the connection, and on service interruption. A representative sample of companies for firm-level surveys could help capture the variation of experience, based on firms' characteristics, such as size or sector, as well as key parameters of connections, such as voltage capacity for the case of electricity. If firm-level surveys are not feasible, an alternative approach to collect the data for time and cost is through consultations with public and private sector experts, such as contractors, engineers, electricians, utility providers, regulators, and telecommunication operators).

#### Feedback On Indicator:

We emphasize the significance of this indicator, however, it would be convenient if certain details were clarified. It is necessary to specify:

1. The enterprise to be connected with the technical features required for the connection, in line with connection location and its characteristics (e.g., city, village, town and etc.), since it is impossible to draw enterprise with average parameters, since each type of enterprise has its parameters that set according to technical requirements;
2. The calculation of the required connection period should take into account the existing procedures/stages before the energy supply; without the procedures it will be impossible to calculate the term, which is the time from application submission to energy supply.
3. Whether the service is performed within the timeframe is monitored;
4. Are there any compensation mechanisms established for non-performance of the service within the required timeframe?

#### N17 - BEE Indicator:

Measures duration and frequency of power, water, and internet outages (data for the set of indicators is planned to be collected through firm-level surveys, allowing to obtain representative data on the actual time and cost to obtain the connection, and on service interruption. A representative sample of companies for firm-level surveys could help capture the variation of experience, based on firms' characteristics, such as size or sector, as well as key parameters of connections, such as voltage capacity for the case of electricity. If firm-level surveys are not feasible, an alternative approach to collect the data for time and cost is through consultations with public and private sector experts, such as contractors, engineers, electricians, utility providers, regulators, and telecommunication operators).

#### Feedback On Indicator:

We emphasize the significance of this indicator, however, it would be convenient if certain details were clarified. For the objectivity of the research, it is necessary to specify the enterprise to be connected with the technical features required for the connection, in line with connection location and its characteristics (e.g., city, village, town and etc.), since it is impossible to draw enterprise with average parameters, since each type of enterprise has its parameters that are set according to technical requirements;

In addition to this, universal access to electricity and water supply is not possible, especially outside the populated areas. Accordingly, certain criteria of populated areas have to be clarified.

**Do you have any other general feedback?**

We have two general remarks:

1. Research data must be measurable and examinable (quantitatively)
  - The results of each research should be transparent, which means that each research result should display how a particular result has derived, how it was calculated, what data was used during the calculation and what the data consists of, thus ensuring the objectivity of the research, which will allow participants to challenge the results of the study.
2. Target areas of the research should be clarified (Not only the characteristics of the enterprise but also the location), this is critical for the specifics of energy sector, since the availability of utility services are not universally accessible, even in populated areas there are boundaries in terms of energy supply.

<b>First Name</b>	Lela
<b>Last Name</b>	Khutchua
<b>Title</b>	Acting Head of Accounting and Reporting department of SARAS
<b>Organization Name</b>	Service of Accounting, Reporting and Audit Supervision
<b>Country</b>	Georgia
<b>Email Address</b>	L.Khutchua@saras.gov.ge
<b>Organization Type</b>	Government
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	BEE project should also include the online availability of financial information. The transparency of financial statements helps in the decision-making process for the business and increases access to finance, which in turn simplifies doing business in the country.



**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

**Does the BEE project get the balance right between de jure and de facto indicators?**

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

According to Concept Note of BEE, the quality of regulations for business entry envisages as one of the critical areas to ensure adequate transparency and help prevent the misuse of companies for money laundering or other illegal activities, the registration of information on beneficial owners when entrepreneurs start a new business – submitting the necessary information and including verifications inherent to beneficial owners. When changes arise (e.g., changes in a company name, shareholders information, beneficial ownership information), it is also imperative that the regulatory framework defines rules and deadlines to make necessary updates in the business registry.

The issue of disclosure of beneficial owner is really important and it should be disclosed. However, no matter whether it will be published in the registry or in another document. Namely, information on beneficial owners is disclosed in the financial statements as well. While the central registry of beneficial owners may not be accessible, this information is accessible in publicly available financial statements of the entities. Consequently, in case, if in the country financial statements and respectively information of beneficial owners are publicly available, this should be taken into account and the requirement of this indicator should be considered satisfied.

**Do you have any other general feedback?**

**First Name** Nino

**Last Name** Berianidze

**Title** Senior Specialist of the First Category (Consultant) of the Economic Policy Department

**Organization Name** Ministry of Economy and Sustainable Development of Georgia

**Country** Georgia

**Email Address** nberianidze@moesd.gov.ge

**Organization Type** Government

**Identity Disclosure  
Authorization**

**Do not disclose my  
information**

**Are the issues  
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development and is  
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public services for  
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**Does the BEE project  
get the balance right  
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de facto indicators?**

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

First Comment: The sources of data for the estimations of Indicators within the Labor pillar are as follows: In the first indicator - (a) the quality of labor regulations (regulatory pillar) - expert consultations with labor lawyers, Within the second indicator - (b) Adequacy of public services for the labor market - through expert consultations with labor lawyers, labor bureaus, and labor ministries and In the third indicator – (c) Ease of employing labor - source of data in some cases (working hours, non-wage costs, and labor inspections) are firms and also, in the event of flexibility of hiring and dismissals, as well as the efficiency of public employment services expert consultations with labor lawyers are defined as evidence.

In order to provide impartial, complete and precise information on the issues, it is reasonable and essential, that the relevant state bodies, incl. Labor Ministry (Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia), which is the leading agency on the path of labor reform development will be defined in all three indicators as one of the source of data along with other sources. This will ensure the efficiency and accuracy of the process.

Second Comment: In the Section III (Features of Implementation, A. Data collection approach), in the part “Comparability” (pg. 57) it is indicated that “Expert consultations ask experts questions about groups of firms of similar characteristics and allow for the comparison of the experience of such firms across economies”.

Business adaptation process with the implemented reforms and new regulations, including costs of compliance, impacts of new standards and norms on business processes and results obtained, vary by firms of different features, incl. by size of enterprises (Small, Medium, Large).

Accordingly, it is important and advisable to provide the surveying of not only firms having similar characteristics, but the estimations and experiences of firms having different features (incl. size) need to be considered and analyzed across the economy to ensure the objectivity, certainty and reliability of the process.

**Do you have any other general feedback?**

**Organization Name** Ministry of Labour

**Country** Georgia

**Organization Type** Government

**Identity Disclosure Authorization** I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question

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**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?** Yes

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

**Does the BEE project get the balance right between de jure and de facto indicators?**

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

Indicators in the area of Labor will be assessed in various ways but not all of them include assessment through relevant state institutions, for instance, quality of labour regulations and ease of employing labour. We would suggest changes in this regard and assess the indicators through consultations with state institutions as well in order for the data to be more reliable.

**Do you have any other general feedback?**

The Ministry of IDPs, Labour, Health and Social Affairs of Georgia stands ready to be a part of the development of the methodology.

<b>First Name</b>	Lord: Thomas-Edward:
<b>Last Name</b>	Mcgrone- El
<b>Title</b>	Chief
<b>Organization Name</b>	Kebulun Alliance in America
<b>Country</b>	United States America
<b>Email Address</b>	kebulunallianceinamerica@gmail.com
<b>Organization Type</b>	Government
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?**

The Business Enabling Environment [BEE] Project lacks sustainability and fails to appropriately consider resilience or inclusion when addressing biodiversity:

Sustainable infrastructure refers to infrastructure projects that are planned, designed, constructed, operated, and decommissioned in a manner to ensure economic and financial, social, environmental, including climate resilience, and institutional sustainability the entire life cycle of the project.

Economic and Financial Sustainability Infrastructure is economically sustainable if it generates a positive net economic return, considering all benefits and costs over the project life cycle, including positive and negative externalities and spillovers. In addition, the infrastructure must generate an adequate risk - adjusted rate of return for project investors. Risks must be fairly and transparently distributed to the entities most able to control the risk or to absorb its impact on the investment outcomes over the life cycle of the project. Environmental Sustainability, including Climate Resilience Sustainable infrastructure preserves, restores, and integrates the natural environment, including biodiversity and ecosystems. It supports the sustainable and efficient use of natural resources, including energy, water, and materials.

Resilience of projects to a changing climate- sustainable infrastructure needs to be adapted to better cope with natural phenomena caused by climate change. This means considering that the design parameters identified at a project's inception may no longer be valid at the end of its potentially long lifespan.

Climate change adaptation and mitigation are closely interrelated. While they are often considered as separate topics or policy fields, it is critical to consider the links between them. Certain adaptation responses have clear mitigation benefits, but some actions can result in 'maladaptation' — i.e. instead of reducing vulnerability to climate change, they actually increase it or reduce the adaptive capacity. Some actions can also distribute the benefits of adaptation unequally across society.

Biodiversity — or biological diversity — is one of the key terms in conservation, encompassing the richness of life and the diverse patterns it forms. The Convention on Biological Diversity (CBD) defines biological diversity as 'the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems.

Climate change and biodiversity loss are among the most important environmental challenges we face today. Both are complex and cross-cutting issues, which affect nearly all human activity.



**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

The BEE project in its framework does not consider the natural people in development. The natural People in the areas of development, have entrusted free will rights, freedoms of religion distinct from another and are disadvantaged by traditional models of development. In many instances, they are among the most economically marginalized and vulnerable segments of the population. Their livelihoods, wellbeing depend on access to land and other resources that affect their infrastructure development. economic, social, and legal status a private or natural person as distinguished from a partnership, corporation, or association this limits capacity to defend rights to, and interests in, land, territories, and natural and cultural resources.

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

The BEE project lacks balance regarding regulations with public service by not considering the consent of the natural people in the area of development. In many cases, Natural People do not receive equitable access to project benefits. Benefits are not devised or delivered in a form that is culturally appropriate. American Nationals are not adequately consulted about the design or implementation of projects that would profoundly affect American Nationals lives, communities, cultural heritage biodiversity, ecology, climate.

**Does the BEE project get the balance right between de jure and de facto indicators?**

The BEE Project lacks balance between de jure and de facto in the lack of naturals peoples the trust relationship between Public and private in the protection of their habitat, and culture. This includes land rights, . resources to build and maintain sustainable habitats, healing centers, schools, research centers, production, manufacturing, distribution plants, regarding all products founded on Agriculture. This is critical for the protecting biodiversity and climate.

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

To enhance the positive impacts and mitigating the negative impacts, the BEE Project should support investment in Green Bonds [Diaspora Bonds] founded on the beneficial interest of indigenous peoples and the land and resources of their ancestors. Infrastructural projects funded by "THIS BOND" This is imperative based on the following: When community decisions are made outside community interest, the health and warfare of community members is often overlooked. This is monumental regarding the four major components of sustainable development: Economics- a community must govern the production, distribution and consumption of their resources and services in an exchange economy to insure the community benefits from all exchanges. Ecology- a community must govern their natural resources to protect their environment. Politics- a community must govern their laws to govern their law makers. Culture- a community must govern their way of life to maintain ancestral connection.

**Do you have any other general feedback?**

Many countries have large infrastructure needs in most sectors but are constrained by high levels of government debt and low personal incomes. This puts significant pressure on affordability for both the government and users, a problem further exacerbated by the difficulty many low-income countries have in linking the medium-term budget framework to their medium- and long-term strategic development objectives and national infrastructure plan. This causes a disconnect between the planning and budgeting mechanisms.

Capacity constraints in these countries limit their ability to implement robust governance systems. These constraints can be partly offset by outsourcing or using consultants, but this must be balanced with sustained investments in capacity building and the development of practical know-how.

Governments in these countries often do not have access to data on which to assess the costs, benefits, and risks of infrastructure investments. Data from other countries can be useful, but care is needed as it may not reflect the local conditions.

Advanced economies and emerging market economies generally have more efficient decision-making processes and decision-making capacity than low-income countries. Utilizing diaspora bonds for the benefit of natural people in the area of development will help governments focus on the most efficient infrastructure investments to deliver the best outcomes within these governance constraints. These innovative instruments and projects through improve efficiency in the use of natural resources, will reduce impacts on the environment, channel finance towards investments that support the transition to a low-carbon economy, provide, free energy, and clean water.

Green Bonds governed by the GRID and QII principles [Within the world banks course IQIO1x: Investing in Quality Infrastructure for Green, Inclusive and Resilient Recovery] will reduce, if not eliminate dependency on fossil fuels allowing smooth transition into a fiscal environmentally sustainable future.

<b>Organization Name</b>	National Competitiveness Center - NCC
<b>Country</b>	Saudi Arabia
<b>Organization Type</b>	Government
<b>Identity Disclosure Authorization</b>	I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	In terms of scoring, since the current methodology is steering off collective rankings and exploring different ways of aggregating scores (as examples mentioned in the pre-concept note, distance-to-frontier scoring, grouping by quintiles, or scoring per topic), it's important to be cautious not to replace the previous method with a method that will end up used, in an indirect way, as a ranking tool – which will lead back to square one (the issues faced in the previous iteration). There should also be a certain level of customization per country and type of economy, as some areas of the business environment could differ accordingly.
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	<p>The report might consider adding some further dimensions to be measured as:</p> <ul style="list-style-type: none"> <li>- Government incentives/subsidies (which might show advantages to some countries).</li> <li>- Future outlook regarding business opportunities and improvements in regulations (Example: KSA has several giga projects that will involve private sector participation, in addition to several initiatives that enhances the predictability of the private sector).</li> </ul> <p>Such dimensions can present a better view of a country's business environment and give credit to some countries that have more reforms directed to the business environment.</p>

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

Yes, with the following comments:

- 1- It may require highlighting the importance of the proper implementation considering the essentiality of quality in the real business.
- 2- It may need a visual matching guideline for the stakeholders to realize the perfect reflection and check the balance from that angle for private sector development.

**Does the BEE project get the balance right between de jure and de facto indicators?**

As the current methodology stands, there could be more coverage from firm-level collection approaches on the business entry (time to incorporate and start operating the new firm) and location (time and cost to purchase a property...) sets. As these sets revolve greatly around businesses experiences compared to expert opinions. Also, it may need to make a sort of simulation and revision at each country and keep improving based on what is suitable for the Market and the country's relevant conditions at stage.

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

- 1- Since some indicators depend on administrative data from certain governmental entities (or the country statistical authority), the report should take into consideration and highlight the data sets that are not available or has any reliability issue, so that countries can work to enhance data infrastructure.
2. In "Taxation – Indicators – b. Services provided by the tax administration": The data could be supported with firm-level data to additionally corroborate with expert consultations and admin data.
- 3- In "B. Business location: P (22 – 25) D. Labor": We recommend - in a way or another - to include a critical business success factor for the private sector development related to the availability of the labor and their readiness for doing tasks/duties.
- 4- In "B. Business location: P (26 – 30) E. Financial services": We recommend the facilitation of having a bank account number smoothly at the stage of "Opening a business" (de facto elements).

**Do you have any other general feedback?**

- 1- The Kingdom of Saudi Arabia welcomes WBG's proposed new approach for assessing the business and investment climate and commends WBG for engaging member countries in its formulation.
- 2- Widening the scope of WBG's assessment to include issues that affect efficiency and sustainability, such as market competition and sustainability, is a welcome orientation and is in line with Saudi Arabia's reforms efforts to incentivize its private sector to increase its efficiency/productivity and decarbonizing and greening of its operations.
- 3- The WBG proposed expansion of the assessment to include both the De Jure and De Facto data to gauge the business climate will go a long way to « triangulate » the data sources and offer a more comprehensive and objective perspective on the business environment. The challenge for the WBG will be how to translate such a principle into an actionable practice that does not add complexity and/or cost on data collection and analysis.
- 4- The proposed topics under consideration in the new WBG assessment of the business environment include: registering a business, getting a location, obtaining utility connections, employing labor, using financial services, trading internationally, paying taxes, resolving disputes, promoting competitive behaviors, addressing environmental concerns, and dealing with insolvency. Many of these topics build directly on DB topics, while others such as promoting competitive behaviors and addressing environmental concerns are new. Question: if WBG allows for environmental concerns to be included in the new assessment, why not also incorporate social concerns, such as youth economic empowerment? Is it because such topics maybe assessed by separate WBG gauges?
- 5- The WBG note rightly points out that « firm and market outcomes are the complex result of different variables, including demand and supply forces. As such, they are beyond the scope of BEE. » (p.3). However, not all firm behavior or market outcomes are born the same. Many past DB reports made references to correlations between specific features of the business environment and real outcomes to justify the importance of DB. While most of those references, including academic research, pointed to correlation not causality between the business climate and market outcomes, the evidence was strong to justify the connection. Could there be indicators (albeit, proxy ones) that could be collected as part of the new proposed assessment to link reforms of the regulatory environment to specific firm behaviors (example: growth in Capex)? Such an exercise, if possible, at all, could add a lot of value to the proposed assessment and strengthen its policy relevance, averting the criticism leveled to its predecessor, DB.
- 6- It was mentioned that the enterprise survey will be conducted every 3 years (in some countries), while the BEE report will be issued every year, this may cause some difficulties in comparing the business environment between some countries, especially countries that didn't conduct the enterprise survey or it was conducted in different time. For

the tax section, and in relation to the comment on the customization in question 1, there should be a similar coverage to Zakat as it is designed for taxes in the pre-concept note. Not necessarily covering the Islamic jurisprudence, but on the principles of quality of regulations, administration, and efficiency of the system. It could also be compared on that note with other countries who levy Zakat, or in a certain degree with traditional tax systems.

7- Referring to page (4) G. "Thematic Areas or Topics": Since it is under development (as mentioned in the report), it may be appropriate to split the "Operating a business" stage into two sequential paths.

a. "Local Path" including the related required topics at this stage toward providing the services and products locally.

b. "International path" including the related required topics at this stage toward exporting services and products to the world.

8- Referring To; F. "International trade" Topic, page (31):

8.1- It may need to consider applying international standards to the part "Indicators in the area of international trade" namely at "a. Quality of regulations for international trade in goods and e-commerce" pages (31 – 33).

8.2- Also, it is important to consider, quality infrastructure as the 7th indicator as part of "b. Quality of public services for the facilitation of international trade in goods" pages (33 – 35).

9- Referring To; I. "Market competition" topic, page (48): It may need to consider adopting quality standards as part of "Indicators in the area of Market Competition".





**Organization Name** Ministry of Economy and Sustainable development of Georgia

**Country** Georgia

**Organization Type** Government

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**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?**

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

**Does the BEE project get the balance right between de jure and de facto indicators?**

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

Indicator Business entry: According to Concept Note of BEE, the quality of regulations for business entry envisages as one of the critical areas to ensure adequate transparency and help prevent the misuse of companies for money laundering or other illegal activities, the registration of information on beneficial owners when entrepreneurs start a new business – submitting the necessary information and including verifications inherent to beneficial owners. When changes arise (e.g., changes in a company name, shareholders information, beneficial ownership information), it is also imperative that the regulatory framework defines rules and deadlines to make necessary updates in the business registry. The issue of disclosure of beneficial owner is really important and it should be disclosed. However, no matter whether it will be published in the registry or in another document. Namely, information on beneficial owners is disclosed in the financial statements as well. While the central registry of beneficial owners may not be accessible, this information is accessible in publicly available financial statements of the entities. Consequently, in case, if in the country financial statements and respectively information of beneficial owners are publicly available, this should be taken into account and the requirement of this indicator should be considered satisfied.

**Do you have any other general feedback?**

- Country authority should be ensured to respond officially to BEE results before publishing the report. This is crucial in order to submit to BEE's team argumentation with relevant evidence and sources, in case if there is some misinterpretation in the report. On the one hand, a misinterpretation will be avoided in the report, and on the other hand, it will increase transparency and enhance trust to it from the stakeholder. In addition to that, it will support avoiding every year correction of previous year data as it was done by Doing Business.
- According to the concept note the BEE project uses two main data collection approaches: expert consultations and firm-level surveys. In addition, BEE can use two corroborating mechanisms for the data collected through expert consultations on regulations and public services: 1. desk research (i.e., the reading of laws/regulations, checking of features on public websites) and 2. official data (i.e., administrative statistics from registries, courts, and other agencies).  
However it is not clear if public institutions will be used as sources. In this regard, in order to observe balance, it is important that the participation of the relevant public institution is clearly envisaged as well. For instance, in terms of indicators like "Business Entry", "Utility connections", "Competition", Labour, Taxation and etc. should be envisaged as a source the experienced public officials on these issues from relevant ministries and agencies. This approach will be beneficial in the process of effective and impartial measurement of the indicators.
- As for the questionnaires, sending blank questionnaires (instead of pre-filled questionnaires with information from the previous year) to experts in every subsequent years, may reduce transparency of BEE. As BEE will collect data and information from various experts, which can be differ from each other and Experts' opinions always are more or less subjective, it is more important for transparency of the rating to show in the questionnaire which one was accepted and envisaged by BEE.
- During the process the rebranding of Doing Business the issue that needs more attention is ensure better transparency in general and especially in terms of calculation of tariffs. Research data must be measurable and examinable (quantitatively). The results of each research should be transparent, which means that each research result should display how a particular result has derived, how it was calculated, what data was used during the calculation and what the data consists of. The objectivity and reliability of the research mostly depends on this as this will allow participants to objectively challenge the results of the study that would be corroborated with relevant evidences;
- According to the statement of the Pre-Concept Note "the measurable indicators is critical for this benchmarking exercise". We agree on it and it is indeed vital to have detailed methodology on

how these indicators will be calculated or will be grouped to produce aggregate scores. We would recommend involvement of countries in these parts of the methodology refinement.



**First Name** Cristian

**Last Name** Romero

**Title** Legal Director

**Organization Name** Comisión Nacional de Evaluación y Productividad

**Country** Chile

**Email Address** cromero@cnepep.gov.cl

**Organization Type** Government

**Identity Disclosure Authorization** I authorize the World Bank team to disclose my name on the web (Optional) ('YES')

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**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?** Si

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

En relación al Regulatory Framework, una dimensión que es importante incorporar es la Estabilidad, la que se manifiesta principalmente en relación a los permisos, licencias, derechos o autorización que son necesarios para el desarrollo de proyectos por parte del sector privado.

Este atributo se encuentra presente en un ordenamiento jurídico cuando la autorización que ha sido entregada a las empresas privadas como condición para el desarrollo de ciertas actividades solo puede ser dejada sin efecto, sea por vía administrativa o judicial, si las causales, oportunidad y efectos se encuentran clara y previamente determinadas. Ello en el entendido que dicha autorización ha sido otorgada conforme a derecho por la autoridad dotada de potestades para ello.

De otra manera, se generan espacios tanto para la arbitrariedad por parte de la autoridad, como incentivos para que otros actores interpongan acciones con el fin de entorpecer la libre competencia o definitivamente para bloquear el desarrollo de ciertas actividades o proyectos en desarrollo.

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

Si

**Does the BEE project get the balance right between de jure and de facto indicators?**

Si, pero en el indicador de facto es recomendable no solo basarse en las opiniones y experiencias del sector privado, sino incentivar el acceso a información obtenida directamente desde los servicios públicos que entregan las autorizaciones requeridas para el desarrollo de las actividades empresariales. Ello permite un análisis mas objetivo y en profundidad de la prestación de este tipo de servicios, siendo las variables más relevantes:

- Tiempo invertido en la obtención de los respectivos permisos.
- Porcentaje de rechazo, lo que permite obtener un proxy relevante acerca de la claridad con que los usuarios perciben los requisitos necesarios para su obtención.

En caso que la evidencia no se encuentre disponible, ello debería ser valorado como un indicador, pues la posibilidad de acceder a este tipo de información es clave para la toma de decisiones para el desarrollo de proyectos de todo tipo.

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

No

**Do you have any other general feedback?**

No



<b>First Name</b>	Matutina
<b>Last Name</b>	AYECABA BBINDANG
<b>Title</b>	Miss
<b>Organization Name</b>	INEGE
<b>Country</b>	Guinea Ecuatorial
<b>Email Address</b>	mayecababindang@yahoo.com
<b>Organization Type</b>	Government
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	Yes, like the efficiency of business entry ,quality of regulations for business entry,quality of regulations for immovable property lease, property ownership,ease of receiving financial services, efficiency of importing goods, exporting goods, and engaging ine-commerce quality of tax regulations, ease of employing labor etc.
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	Yes, the availability of quality and strong financials institutions. The BEE project focuses in quality of regulations for secured transactions, e payments, and green financing of credit reporting framework ease of receiving financial services, without taking into account the availability and qualityt of the per say institutions.
<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	YES

**Does the BEE project get the balance right between de jure and de facto indicators?**

Yes

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

Yes,time I think BEE project should evaluate the time and the cost to obtain the loan not only the time in financial service.

**Do you have any other general feedback?**

No

<b>Organization Name</b>	Consejo Nacional de Competitividad (CNC)
<b>Country</b>	Dominican Republic
<b>Organization Type</b>	Government
<b>Identity Disclosure Authorization</b>	I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question
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<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	We believe it covers every area related to the life cycle of the firm.
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	
<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	It's an important step that now it will not only consider private sector experience, but that it will also measure if we have the legal framework according to best practices, and the right public service infrastructure.

**Does the BEE project get the balance right between de jure and de facto indicators?**

We understand that each topic has more de facto than de jure indicators. Considering that in all cases the data will be collected through consultations with experts and firm level surveys, we consider important to fairly balance the weight and percentage that will be given to these de facto indicators compared to the de jure ones. In the past, we have noticed experts who answer basing their overall response in one negative experience, their opinion is affected by a particular case that is not necessarily the common practice, nor does it correspond to what really happens in the given area.

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

International Trade:

- In good environmental regulatory practices, we suggest it measure the facilities in general provided in environmental matters, not exclusively tariffs.
- On the quality of public services, the transparency and availability of information should be measured by the public information available in general, not only what is available on the internet.
- We also suggest that in the trade infrastructure indicator, air transportation is taken into account to. We consider important to compare the economies considering their main transportation system, and therefore recommended not to compare an economy whose main mode of import and export is by land with another that is by sea.
- It is also important to measure time and cost to import and export, taking into account the entire process until the goods leave the port or airport, or when the ship sets sail. This is so because the efficiency indicator is only based on time and cost of the requirements.

Business Location:

- It is important to clarify the assumptions for purchase property and obtain building permits. Will the WBG keep the assumption of a warehouse from Doing Business?
- How will you standardize the monetary cost and times of property lawyers, notaries or registry officials? Will a process be outlined for this purpose?

Business insolvency:

- Will the proceedings or laws be scanned for clauses or keywords for environmental sustainability to assess the indicators listed below?

\* Scope of liquidation and reorganization proceedings

\* Creditor participation

**Do you have any other general feedback?**

1. We suggest establishing a minimum and as equal as possible number of expert consultations and firm level surveys for all indicators and in every economy, in order to obtain a truly representative data and greater certainty. This is because in the past we had indicators with up to 14 local collaborators and other indicators could have only 5 collaborators.

2. We suggest to publish the requirements taken into consideration by the World Bank Group to choose the experts.

3. In relation to "public services", where the WBG will be evaluating in every topic, online services, availability of technologies, digital platforms, and interoperability between institutions, such as a "one stop shop"; or special programs like "Authorized Economic Operators", among others of the International Trade Indicator, we recommend that the measurement focus on the government's efforts to make these tools available and functional to the private sector, regardless of the percentage of use, (Example: More than 50% of the companies incorporated are made through the one stop shop, or the largest number of exporters are under AEO programs). We suggest taking into consideration that there are economies where, due to a cultural issue, among other aspects, the private sector is still resistant to carry out procedures and processes through these tools and programs.

4. We suggest an institutional local allied to contribute with the evaluation team in updating their database of "expert consultants" and "private firms". Sometimes private or public collaborators are not reached due to changes in their employment, work positions, or contact information, and in other cases the surveys do not reach the correct person, or those who complete them do not have the experience or knowledge of the process itself. We propose this ally is an entity that has the trust and respect of both private and public sectors, with good access to representatives in both on them, and preferably with general knowledge of the World Bank's methodology and its business climate evaluations.

<b>Organization Name</b>	Poder Judicial dominicano
<b>Country</b>	República Dominicana
<b>Organization Type</b>	Government
<b>Identity Disclosure Authorization</b>	I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question
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<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	Los temas son relevantes. Una vez se realice el primer estudio con esta metodología podríamos realizar una valoración más objetiva.
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	A priori, dentro de la propuesta, no tenemos observación.
<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	El balance, teóricamente hablando, se ve factible. Es de interés que se respete el esquema de comprobación de los indicadores, donde las evidencias documentales que presenten las instituciones sean realmente consideradas al momento de la evaluación.
<b>Does the BEE project get the balance right between de jure and de facto indicators?</b>	Nos parece adecuado el equilibrio entre estos dos renglones. Esto podrá ser reafirmado al momento en que se defina la metodología de puntuación para ambos.

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

En virtud de la visión general presentada, se requeriría tener a disposición información más acabada de la implementación de esta metodología para poder identificar u observar algún aspecto de mejora.

**Do you have any other general feedback?**

Recomendamos realizar una segunda fase de observaciones, luego de que se tenga estructurado de forma definitiva la metodología para el estudio y el mecanismo de puntuación para determinar la posición de los países en el ranking mundial/regional. Esta recomendación se realiza ya que la nota conceptual plantea el abordaje sin dar detalle, pero al momento de que se implemente surgirán aspectos que no son tan evidentes en este momento y que deben ser de conocimiento previo a que se efectúe un primer ensayo de este instrumento.

**First Name** Marija

**Last Name** Boskovska Jankovski

**Title** General Manager

**Organization Name** Central Registry of the Republic of North Macedonia

**Country** Republic of North Macedonia

**Email Address** marija.b.jankovski@crm.org.mk

**Organization Type** Government

**Identity Disclosure Authorization** I authorize the World Bank team to disclose my name on the web (Optional) ('YES')

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**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?**

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**



**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

The application will show if such balance has been achieved

**Does the BEE project get the balance right between de jure and de facto indicators?**

They claim several sources. 1. Official regulatory framework ( laws bylaws). 2. Survey of practitioners ( lawyers accountants, agents..)3. Company level survey

On paper it seems that BEE strives for a balanced de jure - de facto approach. The application will show if such balance has been achieved

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

Commendable is the computing of development of digital public services and transparency of information for start-ups. Strong emphasis on digital ID and trust services in the incorporation process.

**Do you have any other  
general feedback?**

**Business entry**

1. One of the stated goals of BEE is to present data which is comparable. Though regulatory framework is often quoted as the principal indicator, the methodology does not account for differences in the legal traditions while comparing economies (should comparison of economies become part of the report).

2. Avoid fragmentation of steps that was present in the DB report. For instance opening a bank account and activation of a bank account was measured as to separate steps, while in practice is the same process.

3. Interoperability – was not measured properly in the previous methodology. Interoperable service assumes that through single filing the company can finalize incorporation, fiscal registration and social security registration, thus becoming operational. This should be measured in a demonstrable manner.

4. Avoid fragmentation of steps that was present in the DB report. For instance opening a bank account and activation of a bank account was measured as to separate steps, while in practice is the same process.

**Financial Services**

As to the financial services indicator, only one comment and it relates to the same comment over the legal tradition as with business entry above. Namely promoting notice-based registries, in economies that have well developed on-line collateral registers, with robust legal framework rooted in the legal tradition, can only be harmful and counter-productive, with no obvious benefits as to the efficiency or the transparency of the procedure.

**Organization Name**                      USAID Anti-Corruption Task Force

**Country**                                      USA

**Organization Type**                      Government

**Identity Disclosure Authorization**                      I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question

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**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?**

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

Given the significant impact that corruption often plays on private sector development/the business environment, we would have liked to see corruption explicitly covered in the BEE. We do, however, understand the rationale for not including corruption and other important macroeconomic conditions. We appreciate that corruption indicators will be included on the BEE website's complementary resources.

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

**Does the BEE project get the balance right between de jure and de facto indicators?**

**Do you have any feedback  
regarding the indicators  
included in each specific  
topic (please indicate the  
topic)?**

**Do you have any other  
general feedback?**

## v. Development Institutions

<b>First Name</b>	Jacqueline
<b>Last Name</b>	Coolidge
<b>Title</b>	Lead Investment Policy Officer (retired)
<b>Organization Name</b>	World Bank Group
<b>Country</b>	USA
<b>Email Address</b>	jgcoolidge@outlook.com
<b>Organization Type</b>	Development Institution
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	Coverage of topics is mostly OK; but the overall design appears complex and cumbersome (although I can appreciate why the drafters also consider them to be "rich" and "nuanced"). One of the biggest problems with DB was that they were one-sided and only considered the "costs" of business regulation, ignoring the benefit side. The new proposals seek to rectify that, but I envision continuing strife over the tension. The world business community will continue to fixate on the costs while those arguing for holistic "general welfare" will focus on the benefit side. We can point to some countries (e.g., Denmark or New Zealand) who seem to do a pretty good job of serving "general welfare" at relatively low cost to the business community but even there, debate continues and businesses lobby to cut their own costs further.

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

Regarding "business location": one difficult issue is in countries where they are trying to preserve areas of traditional, communal land tenure. The Investment Climate Department did a study in the 00s which included a chapter on that topic, but I recall it was never published because it was too "controversial." Since then, the NYT, Smithsonian and Scientific American have published articles about the strength of many indigenous communities in sustainable land-use, which unfortunately has been encroached upon by current "western" business interests with demands for their "property rights" in "land ownership" that often lead to environmental degradation and loss of species-diversity in pursuit of short term profit.

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

OK

**Does the BEE project get the balance right between de jure and de facto indicators?**

People and businesses experience "de facto"; in too many countries, "de jure" equates to "on paper [only]."

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

New BEE Taxation indicator

“Time to comply with tax regulations”

It is instructive to look at both the Enterprise Surveys and the Tax Compliance Cost Surveys carried out over a number of years by the World Bank. The ES coverage of tax is quite general. Time for tax compliance is combined with regulations as a percent of senior manager’s time. There are questions about whether a business had been required to meet with tax officials (and a related indicator about the percent of firms that had that experience over the past year) and if so, how many such visits. That’s it.

Why couldn’t there be more detail about a topic as important and quantifiable as tax compliance?

Because the variety of “business tax regimes” around the world is so vast.

When we started to design the Tax Compliance Cost Surveys, we started in South Africa. One of the first things we learned was that most SMEs would not be able to answer a question about the time required for tax compliance work because most of them outsource the work to external accountants. The majority of them couldn’t even give you a monetary figure specifically for tax compliance because they outsource their general bookkeeping/accounting along with tax preparation and don’t know the appropriate split between the two services. We therefore had to create a survey specifically for professional tax preparers to obtain the details we needed.

In many other regions around the world, most small businesses do the work in-house. In Armenia and Ukraine, even quite small businesses have a professional bookkeeper or accountant on the payroll (often one person will work part time in several businesses). In those cases, we could survey businesses directly and obtain the information we needed.

In all cases, we were at pains to separate the time and cost of tax preparation (the relevant metric for the tax compliance cost burden) from the time and cost of general bookkeeping/accounting for the business. Most small business owners in developing countries (at least 10 years ago) would say that they “only do bookkeeping because it’s required for tax obligations” (while their own bookkeepers would shake their heads and try to remind them that keeping books is critical for sound business planning).

Some countries have a simplified SME tax; some don’t. Among those who do, some offer it as an option and some require small businesses to use it. Some require medium and large businesses to withhold tax on behalf of their small business clients, imposing an administrative burden on the former. Some still rely on taxes (“patents”) based on physical indicators such as business sector and floor-space, or the numbers of tables in a restaurant, which in turn requires frequent on-site visits by tax officials.

In many Latin American countries, the tax code is extremely complex, with multiple taxes applicable to some businesses and not others, and



our questionnaires had to be quite complex, inquiring first which taxes a business paid and then for each tax, the relevant time requirements, using a table with a list of taxes in the rows and a list of tax tasks (e.g., preparation, filing, paying, etc.) in the columns, with instructions to start with the overall time requirement for all tax preparation, and the a percentage breakdown between the cells of the table.

The tax compliance cost surveys were design and tailored for each country because the focus was on data that could be used to help design specific reforms and then (at least in theory) measure the impact of reforms on tax compliance costs in that country.

Understandably, but unfortunately, they were considered to slow and expensive to be worthwhile except in special circumstances (e.g., piloting a new kind of tax reform).

Notably, the comparisons between our overall “average tax compliance costs” in the dozen or so countries where we had done surveys varied tremendously from the Doing Business figures – sometimes much higher and sometimes much lower. We learned early on that the respondents for DB (especially when PwC was the sole respondent) had little to no practical experience with businesses as small as the one described in the DB case. Expanding the number and range of respondents for the Paying Taxes indicator was an improvement, but still failed to reflect the experiences of the vast majority (in many countries) of small businesses who undertook their own tax preparation in-house, struggling with interpreting the tax forms and slogging through arcane formulas.

So how should the new BEE surveys go about developing a questionnaire and methodology that focuses primarily on cross-country comparisons when it won’t be just a matter of comparing apples and oranges but comparing “fruit salad” in more than one hundred countries?

The most critical questions for cross country comparisons would be the following:

First, from tax officials and private tax preparers, a rough estimate of the proportion of SMEs who outsource their tax compliance work and those who do it in house. Unfortunately, there’s often a mixture – e.g., entrepreneurs who hope to save money by doing as much of the work as possible by themselves and only outsourcing what they feel they absolutely have to. Then the tax preparer usually feels she has to go back and re-do (or at least double-check) the work done in-house and usually spend extra time correcting mistakes before doing the actual work required for tax filing. Needless to say, this adds to the overall burden felt by the entrepreneur, even though the measured time for “tax preparation” after all the mistakes have been found and corrected may be relatively small.

Second, the activities of “tax preparation” have to be separated from those of “general bookkeeping.” The terms have to be defined clearly, and the survey administrators have to be trained in the relevant terminology and normal practices within each country.

Attached\* please see two useful historical documents (in addition to the TPCCS manual):

- 1) Methodology of TCC (powerpoint for Ethiopia 2016)
- 2) Findings of Tax Compliance Cost Surveys in Developing Countries (Coolidge, 2012)

[https://www.business.unsw.edu.au/research-site/publications-site/ejournaloftaxresearch-site/Documents/paper3\\_v10n2\\_Coolidge.pdf](https://www.business.unsw.edu.au/research-site/publications-site/ejournaloftaxresearch-site/Documents/paper3_v10n2_Coolidge.pdf)

\*Sent to Parvina Rakhimova

**Do you have any  
other general  
feedback?**

While I applaud and support the idea to collect and make available data relevant to BEE for as many jurisdictions as possible, and keep it up to date, please do NOT try to weight or aggregate indicators or rank countries. At all. Some of the new indicators are qualitative in nature; others are based on objective, quantifiable data. Do NOT try to combine them. Please just let everyone see the information and draw their own conclusions, based on their own preferences and priorities.

<b>Organization Name</b>	广东省省情调查研究中心
<b>Country</b>	中国
<b>Organization Type</b>	Development Institution
<b>Identity Disclosure Authorization</b>	I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	无
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	无
<b>Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?</b>	无
<b>Does the BEE project get the balance right between de jure and de facto indicators?</b>	无
<b>Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?</b>	针对“市政基础设施接入（Utility connections）”指标市政基础设施的完备程度影响了私营企业接入电力、水和互联网等服务的难易程度。建议增加各经济体市政基础设施覆盖率方面的考察内容。
<b>Do you have any other general feedback?</b>	无

**Organization Name**

Chemonics

**Country**

Tunisia

**Organization Type**

Development Institution

**Identity Disclosure Authorization**

I authorize the World bank team to post my comments on the web without my name (Optional). Your name will only be posted with your comments if you click 'YES' at next question

**Do not disclose my information**

**Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?**

Yes, especially the new indicator "Business insolvency"

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

May be the number of administrative and economic authorization in each economy.

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

Yes.

**Does the BEE project get the balance right between de jure and de facto indicators?**

I think that the facto indicator should be taken in consideration more then the de jure indicators.

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

No.

**Do you have any other general feedback?**

No.

<b>First Name</b>	Sebastien
<b>Last Name</b>	Vauzelle
<b>Title</b>	Economist
<b>Organization Name</b>	United Nations
<b>Country</b>	Cabo Verde
<b>Email Address</b>	sebastien.vauzelle@un.org
<b>Organization Type</b>	UN Agency
<b>Identity Disclosure Authorization</b>	I authorize the World Bank team to disclose my name on the web (Optional) ('YES')
<b>Do not disclose my information</b>	
<b>Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?</b>	Yes, and the overall design is adequate
<b>Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?</b>	I believe one key aspect of the business environment, defined as "the set of conditions outside a firm's control that have a significant influence on how businesses behave throughout their life cycle" is not taken into account: the ecosystems of actors in which it operates, including other businesses, Universities, local authorities... The de facto aspects based on firms surveys could include elements on this. The existence or not of local ecosystems of innovation and entrepreneurship, as well as vocational training and lifelong learning (producing skilled workers) could also be included in the surveys.

**Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?**

Yes

**Does the BEE project get the balance right between de jure and de facto indicators?**

Yes

**Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?**

In line with my comment above, I would add a topic on business partners or partnerships to account for the ecosystem of actors a business needs to be connected with to thrive. This would allow for coherence with the three characteristics mentioned at the end of page 1 of the note, and for the approach of private sector development as a whole

**Do you have any other general feedback?**

I believe the BEE project should be linked, between the other Indexes mentioned such as the human capital index or the worldwide governance indicators, to indicators on the health of local natural ecosystems an.

Comments received by email



i. Governments through the WBG Board of  
Executive Directors

Comments from the office of the WBG Executive  
Director representing the United States of America

*We appreciate Management's and staff's effort in putting forward the Pre-Concept Note. The United States submits comments and questions on the Pre-Concept Note for consideration that reflect the views of multiple U.S. agencies. We continue to request that you build into the BEE process timeline further opportunities for governments and other stakeholders to provide additional feedback, including after the Concept Note is drafted and circulated in May. In the interest of transparency, we would also like to hear back from Management how they will use all the feedback they are receiving in this stage to feed into the Concept Note they will circulate in May.*

## Section I. Objective and Principles of the Business Enabling Environment (BEE) Project

### **Section D (Scope)**

- Page 3: Recommend the Open Knowledge Foundation's Global Open Data Index as a "complementary resource" to BEE.

### **Section E (Approach)**

- **We strongly support moving beyond the Doing Business Report's investor focus to include a focus on works and the role of good public policy—all three are important, including retaining an interest on the investor so we don't swing the pendulum too far.**
- Page 3: The idea of "de facto" indicators is commendable. We appreciate the difficulties of producing such indicators through survey responses.
- Page 3: We encourage assessing more than just one type of business on things like the cost and time to register a business.
- Page 3: Strongly recommend incorporating gender into the Scope.
- Page 4: **We strongly support the greater focus on data transparency, protocols, and making raw data available and fully manipulable by third-party.** We encourage steps to make the underlying data as public as possible.

### **Section H (Cross-cutting Themes)**

- Page 5: Given the relevance of the issues across the 12 BEE themes, the WBG Team might consider whether to include **Information Integrity & Transparency** as a cross-cutting theme applied adequately and consistently across the themes.
- Page 5 (and throughout): **Environmental sustainability** is currently addressed too narrowly in the proposed framework; the indicators could assess broader environmental factors of doing business. For example, on the operational side of construction permitting, there are relevant areas of regulatory compliance beyond obtaining an initial environmental impact assessment that could be assessed—such as environmental inspections during business

## US Comments and Responses

operations. Another way to draw from existing standards could be to look at “good regulatory practices for environmental and social safeguards.”

- Page 5: Propose adding **Internet freedom** as one of the evaluation points in the cross-cutting theme of *adoption of digital technology*. Internet freedom affects multiple BEE topics and indicators including, inter alia, financial services, international trade, market competition, and business entry. Internet freedom could be measured through several metrics, including the number of times a government has participated in or initiated an Internet shutdown. Further consultation with Internet freedom experts would help to define the most salient metrics and data sources.
- Page 5: Propose incorporating reference to human rights due diligence (HRDD) in line with the UN Guiding Principles on Business and Human Rights (UNGPs) and the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, in the regulatory framework component.

### Sub-section J (Scoring)

- Page 6: The **BEE should not include aggregate rankings** comparing one country to another; it could group countries using a tiered evaluation system or group countries by region, income level, and/or economic model.
- Page 6: The indicator scoring needs to be clear and independent. What mechanisms would be put in place to make sure the indicator is not subject to manipulation stemming from political pressure, etc.?

## Section II Topics, Motivation, and Corresponding Indicators

### Sub-section A (Business Entry)

- Page 9: Recommend incorporating the HRDD and UNGPs as well as the reprisals and contextual risk points in the business entry section. According to the UNGPs, businesses should conduct HRDD to help inform their operations and risks of reprisals and contextual risk would be key components of the HRDD

### Sub-section B (Business Location)

- The BEE addresses dispute resolution well; however, attention to this issue is missing in the section related to land/property location where mention of dispute resolution is notably absent.
- Page 13: add a reference to social as well as environment commitments. This addition would signal the importance of sound ESIA regulations for property location questions, as these can help mitigate some risks for firms beyond risk of environmental harm.

## US Comments and Responses

- Page 13: The proposed BEE indicator replacing “Registering Property” is an improvement over the previous Doing Business indicator, because it is proposed to cover the quality of land administration. It does not, however, include broader inclusion considerations that could further strengthen the insights provided by the indicator, particularly in poorer country contexts, such as coverage of gendered inheritance and ownership laws, laws that forbid certain ethnic groups or religious minorities from owning land, etc.
- Page 14: Instead of labeling the indicators as “good regulatory practices in land management” and good regulatory practices in building regulation,” consider editing to simply “good practices” to align with the indicator for business entry on page 10 in Section A, “Good practices in the regulatory framework for business incorporation.”

### Sub-section C (Utility connections)

- Page 17: It is unclear how market-based utility provision vs. SOE provision will factor into this section.

### Sub-section D (Labor)

- **No rationale is provided to explain or justify the three broad categories of labor indicators in Section 2 of the note, and there is no detail on the specific indicators that will be chosen under each category and the methodology for measurement.** For example, how exactly will the workers’ protection indicator “measure” regulations? How will the ILO standards referenced in this section be aggregated? Will they be weighted? Further, it is very problematic that this is solely a *de jure* indicator with no *de facto* component. Many countries have laws that comply with international rights and standards “on the books,” but these laws are not enforced in practice. The ILO and other sources, including consultations with workers, can provide quantitative and qualitative information on enforcement of labor rights and standards in practice.
- **The sources for data collection ignore existing published data and statistics in these areas, notably from the ILO, and the sources identified for collecting data are biased and highly problematic. Further, both *de jure* and *de facto* data would be needed in the categories selected; the decision to look at one or the other in the different categories appears arbitrary.** The BEE proposes to collect data on *de jure* indicators of workers’ protection and “restrictions on hiring, working hours and redundancy” through expert consultations with labor lawyers. Labor lawyers are not necessarily a reliable, and definitely not a comprehensive or unbiased source of information on a country’s labor laws and regulations, nor on interpretation or enforcement. The ILO produces and publishes a comprehensive set of data and statistics that should be considered among the primary sources of information here: NORMLEX for *de jure* data, ILOSTAT for *de facto* statistics, including on social protection coverage, and ILO-EPLex, the ILO’s database on employment protection legislation. [IRLex](#) provides information on the legal and regulatory framework governing industrial relations across ILO member States. The Pre-Concept Note says that it will “rely on the experience of firms and expertise of local practitioners” to measure the enforcement of labor and social protection laws as well as the efficiency and coverage of

public employment services for job seekers. However, local practitioners aren't defined. Data on enforcement of labor and social protection laws should be obtained from enforcement agencies, such as labor ministries, labor inspectorates, and the courts, as well as ILO sources. Data on compliance should be obtained from labor ministries, labor inspectorates, and other enforcement agencies, and through labor force data. Finally, workers and employee surveys are nowhere mentioned as sources of information. The views of both employers and workers, and workers' representatives, need to be incorporated in any analysis of the *de facto* effects of labor regulations and policies.

- **The focus on “employment restrictions” in the indicators re-introduces the same bias that was heavily criticized in the Doing Business Report (DBR)--namely, that insufficient flexibility in employment regulation is significant and is the main constraint on economic growth and development.** The Note refers to the relationship between “rigid” regulation and labor market outcomes such as unemployment, but does not reflect the more balanced and nuanced view of the evidence presented in the 2013 World Development Report (WDR) on Jobs, or the joint 2015 World Bank-ILO publication, [Balancing Regulations to Promote Jobs](#). The 2013 WDR acknowledged that “the overall impact of employment protection legislation (EPL) and minimum wages is smaller than the intensity of the debate would suggest,” and that impacts on employment and productivity are typically modest. Labor market policies usually address issues of distribution, as they are meant to do. As the WDR noted, the constraints to creating transformational jobs do not, in most instances, derive from labor laws, and minimal regulation is not the answer. The 2015 joint Bank-ILO publication lays out principles that can guide the design of labor regulations in areas such as employment contracts, minimum wages, dismissal procedures and severance pay. The proposed indicator for “employment restrictions” fails to capture the more complex, nuanced, and balanced views of regulation found in these World Bank publications.
- **The labor indicators and discussion do not adequately capture the drivers of formality and informality in labor markets, and the note incorrectly assumes that businesses always seek to promote formality.** The BEE authors fail to incorporate reference to the extensive literature on the rise and proliferation of non-standard employment (NSE) in developed and developing countries over the last several decades. As the ILO notes in [Non-Standard Employment around the World](#) (ILO, 2016) over the past few decades, in both industrialized and developing countries, there has been a marked shift away from standard employment to non-standard employment.<sup>1</sup> The BEE's one-sided focus on rigid labor regulations ignores the risks to workers and societies from an increase in certain types of flexible employment arrangements that can and have contributed to employment precariousness and insecurity, greater inequality, and greater informality. The OECD has done extensive research showing that the rise of precariousness in the labor market widened wage inequality. In addition, the discussion in the BEE assumes that private sector firms are the main drivers and promoters of formality. This ignores consideration of how some

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<sup>1</sup> A “standard employment relationship” is understood as work that is full time, indefinite, and part of a subordinate and bilateral employment relationship. Non-standard forms of employment (NSE) are a grouping of employment arrangements that deviate from standard employment, and include: (1) temporary employment, (2) part-time work, (3) temporary agency work, and other multi-party employment relationships, and (4) disguised employment relationships, and dependent self-employment. For further detail, see *Non-Standard Employment around the World*, Chapter 1 (ILO, 2016).

## US Comments and Responses

employers seek to avoid the social protection costs associated with formality through increased use of NSE arrangements. The assumption that private firms are the main drivers of formality also ignores the role of labor market and social protection policies in promoting formality, including for self-employed individuals, and micro- and small-enterprises. There is passing mention of job training programs under “public employment services,” but no discussion or indicator capturing other drivers of business success, efficiency, and growth, such as investment in workforce training, including on-the-job.

- Page 23-24: Recommend incorporating UNGPs and HRDD references to “D. Labor” in “a. Quality of labor regulations, (1) Workers' protection”.
- Page 24: Recommend incorporating UNGPs and HRDD references to “b. Adequacy of public services for the labor market (1) Workers’ social protections or (3) Individual labor dispute resolution” (page 24).

### Sub-section E (Financial Services)

- The “Financial Services” topic addresses access to payment systems and debt instruments but **does not cover equity investment**.
- The proposed data on financial access appear to be an improvement over Doing Business by including questions on digital regulations and the ability to access a loan, but the proposal appears to still not align with the academic and expert consensus on credit access and financial inclusion and the needs of developing countries (particularly given issues like survivorship bias, which they do not cover in the document, for questions like the ability to get a loan).
- Page 27: This section should also address different treatment in the provision of financial services (e.g., state-owned banks providing subsidized loans, SOEs receiving subsidized loans or equity).

### Section F (International Trade)

- Page 32: Reference to “trade in” services appears to be scoped out. This is a missed opportunity, as trade in services is of growing importance. While understanding the data limitations associated with **trade in services** and the resource constraints of the project, we note that trade in services now accounts for about half of all international trade on a value-added basis. The ability to access innovative and world-leading services through trade would appear to be a key variable in evaluating the business environment of a country, and we would urge the BEE to reconsider if there is a reasonable and better alternative to simply ignoring half the story.
- Page 33: We also recommend the BEE consider **e-commerce regulatory measures** reflect a broader scope of related policies, including the **facilitation of digital trade**. While the current draft recognizes data flows and international best practices that facilitate digital

## US Comments and Responses

transactions, it is too narrowly focused on traditional e-commerce issues which may result in a less complete assessment of the business environment.

- Page 33: The section indicates that “fair and predictable international trade processes” will be considered. We would suggest that “fair” be replaced with “non-discriminatory” to be more precise.
- Page 33: Related to paragraph 33 on *Good regulatory practices enabling environmentally sustainable trade*, we believe that it is premature to use BCAs as an indicator of “good regulatory practice that enables environmentally sustainable trade” as countries are still determining their domestic policies with respect to emissions reductions and there is not an international consensus on the best policies to address carbon leakage.
- **How does the project expect to use the WTO RTAs’ database to measure participation in FTAs?** One suggestion would be to look at the “factual presentations” prepared by the Secretariat of the WTO Committee on Regional Trade Agreements (CRTA). Specifically, review and analyze the indicators of trade liberalization presented in the Annex of “factual presentations” of bilateral, regional, or multilateral trade agreements notified to the WTO. The liberalization tables show how the countries’ top 25 products are being traded. These tables covering (i) MFN tariff rates and preferential rates for imports, and (ii) market access opportunities under the agreement are key to understand the level of liberalization the agreement offers to the Parties.
- The WBG may also want to look for **indicators of how many RTAs have not been notified by WTO Members**. RTA Committee meeting agendas feature this topic under the agenda item entitled “Non-notified RTAs.” The lack of notification may correlate with a general lack of transparency in a country’s trading system.
- Page 33: **The indicators for international trade appear to be much less precise than the indicators in the other sections.** The titles of the first three indicators use the same descriptor, “good regulatory practices enabling,” and then generally cite treaties, trade agreements and conventions without clarifying which of the elements within these constitute good practices. This is likely to lead to unclear survey responses. It would be preferable to define a narrow set of indicators that can be understood and measurable.
- Page 33: Another concern with the international trade section is the references to good regulatory practices, which is a term of art in regulatory policy. When the focus is on a specific sector or area of regulation, the term best practices in the regulation of X is more commonly used and easier to understand. Simply referring to GRPs for trade, e-commerce and sustainable trade without elaborating what are the actual best practices is not helpful.
- Page 33: In the case of indicator 4, “regulatory restriction on international trade,” here examples are provided but **there is no clear listing of which restrictions may have the most impact on restricting trade**. The World Bank might consider duplicative and burdensome product testing requirements, divergence from international standards, and



## US Comments and Responses

regulatory requirements inconsistent with international guidelines and best practices in the regulation of specific sectors as restrictive practices to be assessed within this indicator.

### Sub-section G (Taxation)

- The BEE should consider **adding in a component on dispute resolution under the public services component of the property location section** particularly as property disputes are so common in many court systems and effective dispute resolution could help free resources for other uses.

### Section I (Market Competition)

- Page 48: This section should **address SOEs and non-market actors** as barriers to market competition.
- Page 48, under the “*Indicators in the area of Market Competition, Quality of regulations that promote market competition*”: This section should also measure the **scale of SOE activity and quality of SOE regulation**.
- Page 50-51, under the “*Indicators in the area of Market Competition, Efficiency of implementation of key services promoting market competition*”: On market dynamism and competitive behaviors, **SOE concentration should factor into measures of market competition and dynamism**.

## Section III. Features of Implementation

### Sub-section C (Data collection approach)

- Page 58: The Doing Business (DB) indicators are beloved by academics and often used as a control variable in cross-country regressions. The introduction of the new BEE indicator will disrupt the DB indicator, so there will be a period with no available indicator. Furthermore, the switch from one indicator to another would be problematic for users of these data. Could the BEE indicator be constructed going back a decade or two so users would have a **consistent data series**?
- Page 58: The proposal to update data on a staggered basis, similar to the Bank’s Enterprise Surveys, could be a problem *if* the updates are infrequent. Recommend regularly updated data (all countries updated every two years or so).

### Appendix II (Detailed Preliminary BEE Topics and Indicators)

- Corporate governance sub-topics covered under the “Protecting Minority Investors” indicator under the predecessor mechanism provided some useful information on certain issues related to the risk of minority equity positions, particularly before 2019 when the indicator eliminated questions related to privately-held companies and closely-held corporations. Rules governing protections of minority shareholders in publicly-held companies are more

## US Comments and Responses

accessible, but issues of closely-held companies and private companies are of much greater concern considering their prevalence in the private sector. **We would encourage the World Bank to look at corporate governance and regulations around minority equity stakes, and in particular encourage the World Bank to look at the treatment of closely-held and privately-held companies.**

Comments from the office of the WBG Executive  
Director representing Japan

## **Business Enabling Environment – Consultation: written comments from Japan**

**March 2022**

1. We thank the staff and management of the World Bank ('Bank') for their work in developing the Pre-Concept Note for the Business Enabling Environment (BEE). We also recognize the consideration of previous comments at the Board and welcome this opportunity to share further thoughts on the note.

### **General Statement**

#### **Objective and Principles**

2. We welcome the balanced approach between de jure and de facto indicators in the BEE, adopting the recommendation in the Final Report of the External Review Panel. The introduction of de facto indicators, however, exacerbates the issue with quantification. With each country having a different legal framework and business practices, there are many indicators, especially those for de facto, that are inherently subjective and thus unfit for quantification and cross-country comparison. For such indicators, we highly recommend that a 3-4 scale (A-D rating or traffic light) should be used, instead of quantification with a granular scale, such as a 0-100 scale, which could draw attention to meaningless differences. As some indicators are not suitable for quantification with a granular scale, ranking for each indicator is not the best presentation and it could potentially incentivize data irregularities, and thus, we strongly suggest the introduction of a heatmap to keep authorities motivated for necessary reforms.
3. We believe that aggregating indicators and creating a single score for each topic (Business entry, Labor, etc.) is not appropriate because, as mentioned above, some indicators are not suitable for quantification and aggregating them with the indicators that are based on the quantitative data (the time, the number of days, and etc.) lacks a scientific basis. We believe that each topic should also be rated on a 3-4 scale (A-D or traffic light) and presented in a heatmap with a rating, instead of using a 0-100 scale or introducing a ranking.
4. Aggregating all indicators into one single score and presenting it in a country-ranking must be avoided. For the similar reason mentioned above, it is inappropriate to aggregate indicators across different topics. Furthermore, as

pointed out by the External Review Panel, aggregate scores and rankings themselves could inherently invite hype and cause external pressure and conflicts of interest. Given that we started this new project due to the data irregularity in the Doing Business Report, the priority should be put on preventing data irregularities. While we recognize the arguments that the aggregate scores and rankings provided an incentive to authorities to do reforms, an alternative way, including a heatmap, will surely provide similar incentives and by doing so, the advantages of removing the aggregate scores and rankings outweigh the disadvantages. We strongly urge the management to discontinue the use of aggregate scores and rankings as recommended by the External Review Panel. We are concerned that if the management continues to use them, it could lead to a reputational risk for the Bank.

5. While we welcome the efforts to avoid hype around the aggregate scores and rankings, the proposal at the technical briefing on February 28, 2022 to aggregate into the two scores, "social standards" (regulations and services for social benefits beyond the firm) and "firm flexibility" (ease of conducting business from the firm perspective) should not be adopted for the following reasons.
  - Problems with aggregating scores across different topics remain.
  - Aggregating into two scores will not fully mitigate the disadvantages of aggregate scores and rankings, such as external pressures and conflicts of interest.
  - The topics currently listed in the Pre-Concept Note cannot be divided into two clear cuts.

### **Data Collection Process**

6. We are pleased to see measures to ensure the quality of contributors participating in expert consultations. As any high-quality contributor could make mistakes, further measures could be introduced not to include data based on incorrect information in the final report, such as providing an opportunity with authorities of the evaluated countries to officially express their opinions in a transparent manner.

### **Timeline to Develop a New Methodology**

7. We request the management to reconsider the timeline and offer a second consultation once the forthcoming Concept Note has been prepared, for the following reasons.
- In the Pre-Concept Note, many things still remained under consideration including the handling of aggregate scores or were too abstract to understand the specific methodologies.
  - It is necessary to check how the comments of each country will be reflected in the forthcoming Concept Note.

## **Topics, Motivation, and Corresponding Indicators**

### **A: Business entry**

8. In Recommendation 24 and its Interpretive Notes (Transparency and beneficial ownership of legal persons) of the Financial Action Task Force (FATF)<sup>1</sup>, the name of companies and the name of directors are required information for company registration, but the name of shareholders are not. The BEE should be brought to the same level. It is premature and improper to measure if the business registry provides public access to information of the name of shareholders, and thus, the words “the name of shareholders” from line 4 in (3) on page 12 should be deleted.

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<sup>1</sup> The details of the differentiated treatments can be found in para 5 and 13 in the following excerpt of Interpretive Notes of FATF.

4. All companies created in a country should be registered in a company registry. Whichever combination of mechanisms is used to obtain and record beneficial ownership information (see section B), there is a set of basic information on a company that needs to be obtained and recorded by the company as a necessary prerequisite. The minimum basic information to be obtained and recorded by a company should be:
- a) company name, proof of incorporation, legal form and status, the address of the registered office, basic regulating powers (e.g. memorandum & articles of association), a list of directors; and
  - b) a register of its shareholders or members, containing the names of the shareholders and members and number of shares held by each shareholder and categories of shares (including the nature of the associated voting rights).
5. The company registry should record all the basic information set out in paragraph 4(a) above.
13. Countries should require their company registry to provide and/or facilitate timely access by financial institutions, DNFBPs and other countries' competent authorities to the public information they hold, and, at a minimum, to the basic information referred to in paragraph 4 (a) above. Countries should also consider facilitating timely access by financial institutions and DNFBPs to information referred to in paragraph 4(b) above and to beneficial ownership information held pursuant to paragraph 7 above.

## **D: Labor**

9. In the indicators of quality of labor regulations (D-2-a), both worker's protection and employment restrictions (labor flexibility) will be measured in parallel. However, it is difficult to determine and evaluate the optimum balance between labor protection and labor flexibility in a uniform measure across countries with a variety of work cultures and labor markets. We are concerned about how to set questions for expert consultations with labor lawyers. It is also worth noting that labor lawyers are usually either on businesses' or workers' side and not for both.
10. As stated in the Pre-Concept Note on page 2, the BEE will not cover gender to differentiate from other well-established international measures like "Women, Business and the Law report." However, the BEE includes gender perspective in the Labor section. For example, on page 23, "Restrictions in the regulation of employment can leave some categories of workers vulnerable (young, female or less experienced workers, in particular)." This overlaps with an indicator in the Women, Business and the Law report, which "examines whether laws are in place to ensure equal remuneration between men and women for work of equal value as well as to allow women to work in the same way as men at night, in industrial jobs, and in jobs deemed dangerous." To avoid such duplication in accordance with the guideline of the BEE, the description about gender in the Labor section should be deleted.

## **E: Financial services**

**【E-2-a-(1), E-2-b-(2)】**

11. Regarding secured transactions and collateral registries, the Pre-Concept Note suggests covering only "movable assets," which seems loosely defined (E-2-a-(1), E-2-b-(2)). Nowadays, intangible assets, some of which are sometimes hard to specify (e.g., Coca-Cola has not put a patent on its recipe), play a crucial role in modern economic activity and it should also be reflected in the indicator. To do so, the BEE should evaluate whether the legal system allows creating security rights over all type of assets including intangible assets when measuring the quality of regulations for secured transactions and collateral registries.
12. The Pre-Concept Note refers to the UNCITRAL Legislative Guide on Secured Transactions (the "Guide"). We understand that the Guide provides examples of

good practices; however, it should be noted that they are merely examples and are not the sole criterion that each country should follow. For example:

- Regarding “whether collaterals can be created in both current and future assets,” secured creditors’ legal rights should be highly evaluated not only where the security right is extended to the proceeds and replacements of the original assets on certain conditions in addition to the proceeds that the security right of the original assets is automatically extended to.
- Regarding “whether the collateral registry is notice-based,” a non-noticed-based registry should not be uniformly treated as pre-modern because a non-noticed-based registry can notify more details of security rights as the public notice.

13. Moreover, it is reasonable to have a legal framework for a certain movable asset that is as elaborate as that for real estate. Therefore, the BEE should also highly evaluate the legal framework and the collateral registry when the collaterals can be created properly based on the type of movable assets, without putting too much emphasis on the unity of the legal framework and collateral registry.

**【E-2-b-(3)】**

14. Given that the UNEP Inquiry and the Green Finance Platform are initiatives that have received financial and strategic support from specific countries and that the UNEP Inquiry is a framework finalized in 2018, other international frameworks than these two should be included to capture recent developments on sustainable finance. Furthermore, the Green Bond Principles (GBP) by ICMA is a major reference for the issuance of green bonds, and thus we have added GBP in the text.

15. In some countries including Japan, not only laws and regulations, but also guidelines associated with the laws and regulations or based on international frameworks are important measures in the sustainable finance ecosystem. We would appreciate it if the Pre-Concept Note could take these facts into account.

16. To this end, we propose to modify the Pre-Concept Note as follows: This component will measure: (i) sustainable finance regulation and relevant guidelines following the international framework such as developed by the UNEP Inquiry and the Green Finance Platform; (ii) good practices related to green bonds issuance,



such as those defined by the Green Bond Principles and Sustainability Bond Guidelines published by the International Capital Markets Association; (iii) the significance of green bonds issuance in the bond market; and (iv) the requirements of transparency, professional qualifications, and instruments in place for avoiding conflicts of interest applying to companies acting as external reviewers for green bonds. Data for this de jure component will be collected via expert consultations with finance lawyers and corroborated by desk research through the reading of laws and regulations as well as relevant guidelines.

**【E-2-c-(2)】**

17. The Pre-Concept Note mentions that “the time for the application to be evaluated and approved by the lender” will be captured. However, the time to evaluate the borrower varies and is affected by the circumstances of the borrowers, and it is difficult to properly capture the effect of these circumstances. Thus, it would be an inappropriate measure of the business circumstances. In addition, the utilization of such misleading data would encourage the governments to incentivize both private and public financial institutions to reduce the number of credit approval days, and this would result in insufficient loan examination.
18. Considering the above, it would be inadequate to use the time for the application to be evaluated and approved by the lender as an indicator to measure “the Ease of receiving financial services.”
19. In addition, the practice of the loan examination differs among countries and even among financial institutions in a country, making it difficult to compare the business circumstances simply by the number of days until loan approval. Therefore, it would be impossible for authorities of countries to provide objective data that is reliable enough for comparing with other countries.

**F: International trade**

**【Animal and plant quarantine】**

20. Japan believes that international trade policy should not be excessively restrictive when considering the importance of the protection of human, animal and plant health and that international policy measures should be based on scientific evidence. While we do not have a specific comment on the Pre-Concept Note

regarding environmental sustainability at this moment, we will continuously pay close attention to how the concrete methodologies will be developed given the contentiousness of the issue.

**【Good regulatory practices enabling environmentally sustainable trade】**

21. Regarding “Good regulatory practices enabling environmentally sustainable trade,” it is not appropriate to reference the establishment of Border Carbon Adjustments (BCAs) as a “good regulatory practice.” In order to enable environmentally sustainable trade, each country/economy needs to take action towards carbon neutrality, but the specific measures that should be taken are diverse, reflecting their different national/regional circumstances. Regarding BCAs, there are many challenges such as consistency with existing multilateral trade rules under the WTO and the prevention of arbitrary discrimination, and the issue is controversial internationally. Even if a measure is “well-designed” from an academic viewpoint, there is an abundant possibility that such a measure would be considered a unilateral protectionist measure by other countries/economies, leading to protracted trade disputes that harm, rather than facilitate, the dissemination of low-carbon goods. From this viewpoint, there is a clear distinction between BCAs and lowering tariffs on environmental goods, since the latter carries no risk of such retaliatory action. Therefore, it is not appropriate to “assesses whether the regulatory framework promotes carbon footprint reduction” by referring to the existence or absence of BCAs.

**【E-commerce】**

22. WCO’s Cross-Border E-Commerce Framework of Standards can be useful as guidelines.<sup>2</sup>

**【Methodology】**

23. We would highly appreciate it if the management would consider the followings, which Japan had asked the management to consider improving the methodology of Doing Business Report.

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<sup>2</sup> URL: World Customs Organization ([wcoomd.org](http://wcoomd.org))

- Surveys should be conducted separately as for sea, land and air transportation and evaluation also should be done separately.
  - A survey about air transportation is necessary because the amount of air cargo has increased due to the expansion of E-commerce. Adding an air transportation survey contributes to reflecting the situation of international trade accurately.
  - Sea transportation and land transportation should be evaluated as well-balanced since the cost and time of land borders tend to be evaluated less than sea borders. The management should compare the groups of sea transportation and land transportation.
  - When considering the transportation in sea borders, the management needs to evaluate without bias. Checking the data of Doing Business 2020, countries such as the United States and the Netherlands were evaluated by land transportation, although their most important transportation is sea shipping. A very limited number of countries, including Japan, were evaluated by sea transportation. The management should evaluate not only land transportation but also sea transportation in the countries where sea transportation is important.
- Subject of the surveys should be standardized.
  - The larger the vessels are, the longer the time of cargo handling is. The management should evaluate in the same size of the vessels.
  - Products that require quarantine or temperature control need more cost and time than other goods, so the management should survey only industrial products, or compare the same items.
  - Intra-EU trade is the movement of goods within the customs union and should be treated as domestic transportation rather than international trade.
- Subject of the surveys and methodology should be clarified, and they should be checked by other specialized agencies.
  - We would like to know the information such as "who answered the questionnaire," "how many companies were surveyed," and "how to calculate the score" so that we can follow accurately at a later date. The

management should pay attention to the transparency and fairness of this survey.

-It is desirable to build a fair methodology to consult with other specialized agencies such as the WCO about the subject and method of the survey.

## **G: Taxation**

24. Regarding (3) 'Complexity of record keeping and filing,' especially '(1) the number of documents that are required by law to be filed with CIT returns, other than the financial accounts that normally maintain (balance sheets, profit, and loss account ),' on page 38, when the BEE assesses the number of documents that are required by law, the practicability of the electric filing of documents should be taken into consideration.

25. Regarding '(1) Total tax and contribution rate' on page 40, the assessment should be made not only from the aspect of total tax and social insurance premium burdens but also from aspects of benefits and financial support for businesses. In the Doing Business Report, the lower the tax rate the country has, the higher its "ease of doing business rank" is. The External Review Panel recommended that the management should improve the indicator related to tax rate. In order to assess the business environment more appropriately, the BEE should take into account other factors such as the amount of subsidies for enterprises to take a balanced approach.

Comments from the office of the WBG Executive  
Director representing the United Kingdom

## **Business enabling environment – EDS03**

We thank management and staff for the pre-concept note and the opportunity to provide comments. The expanded focus from individual companies to the broader private sector landscape and the inclusion of supportive public services is welcomed and consistent with the recommendations of the External Panel Review. So too is the use of de-jure and de-facto measures which will help reduce discrepancies between what the law says and what businesses experience and will encourage constructive dialogue with governments. We also welcome the new indicators that measure advances in technology and sustainability initiatives, and the establishment of a 'one-stop shop' to sign post other relevant and complementary analysis to contribute to a comprehensive picture for interested stakeholders.

### **1. DB External Panel Review**

It would be helpful to set out what the design of the new BEE tool against the recommendations from the DB External Panel Review. Although this information is weaved throughout the concept note, it could be clearer if it was aggregated in an annex.

### **2. BEE sections**

We have provided a few comments and questions on each of the sections below.

#### **a. Business entry**

The inclusion of foreign and domestic companies is welcomed as is the efficiency of technology available. It opens up other relevant and contemporary business issues that were under-reported in the old DB, including the issue of FDI screening on the grounds of national security, and the risk of expropriation of assets.

#### **b. Business location**

We welcome the additions of leasing, measures of sustainability and the provision of government services. Whilst anti-corruption will not be covered, and the pre-concept note recommends signposting users to the WB governance indicators, there are useful indicators of corporate transparency proposed, with links to the Financial Action Taskforce FATF standards, and company registers.

#### **c. Utilities**

The expansion of the definition of utilities beyond electricity is welcomed. The inclusion of access to the internet and data transparency are important additions to better understand whether businesses have the tools needed to succeed. *Please could staff confirm that the efficiency of implementation of utility regulations and services will include an assessment of internet outages, both due to power failures and deliberate decisions?*

#### **d. Labour**

The increased emphasis on employees better reflects the current global trends for increases in collective bargaining, and labour disputes. This indicator will increase the utility and relevance of the tool for companies that seek to comply or report on their ESG<sup>1</sup>. We also agree with the methodology to interview Employment Lawyers, who have practical day to day experience of the issues. *Please can management set out how this section aligns with the recommendations from the expert external panel?*

e. Financial services

We welcome the additional indicators that capture electronic payment regulations, regulations for green financing, and the ease of obtaining a loan and making e-payments. We look forward to understanding how the measurement across these new and old indicators will be aggregated.

f. International trade

We agree with the importance placed on access to the global economy and assessing progress by surveying stakeholders closest to it, including agents, shippers, and freight forwarders. *How will the surveys ensure inclusiveness, including the interests of SMEs?*

We note the reference to the guidelines on sanitary and phytosanitary measures. The SPS agreement also reserves the right for members to go beyond the agreement and international standards – for example, members may be justified in requiring stricter standards where they can provide evidence to support this. Such measures may be trade restrictive, which may impact the scoring of this indicator. However, this may be overly simplistic as these measures may be justified and in accordance with international obligations to provide an appropriate level of protection. *How will these nuances be taken into consideration?*

The inclusion of an assessment of environmental sustainability is a welcome addition. *Please could staff reflect on the border carbon adjustment versus an emissions trading scheme for inclusion in the BEE?*

We note similarities, and this is also referred to in the pre-concept note, between this section and the data collected by OECD. *Please could staff outline how data collected under BEE will be complementary to that collected by OECD?*

More granular data on items such as the Single Window functionality and interoperability might be helpful.

We welcome the de facto measurement of the efficiency of importing and exporting. *Will this rely on more diverse case studies and data or will a single scenario for each import and export be assessed?*

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<sup>1</sup> The UK BEIS Labour market team has done a useful survey on labor relations found at <https://www.gov.uk/government/collections/workplace-employment-relations-study-wers>

#### g. Taxation

We note the wider set of indicators under taxation, which now includes the quality of tax regulations, services provided by the tax authority and the burden and efficiency of tax systems. This does still include the total tax and contribution rate. *Please can management set out how the wider scope of indicators, including those in other sections, that will ensure that authorities are not encouraged to 'race to the bottom' in terms of tax rates, but rather balance efficiency and service provision.*

#### h. Dispute resolution

We welcome the new indicators and wider set of data sources set out in the pre-concept note, including the international aspects of resolving disputes for both domestic and foreign businesses.

#### i. Market competition

The differences between approaches to mergers will require careful consideration. For example, the UK has a voluntary notification regime, which means that many mergers that would face notification or review requirements elsewhere, are not required in the UK. However, the mergers which are reviewed under voluntary notification regimes are then more likely to be the challenging cases which require careful assessment by competition authorities. This can increase the average length of time needed for a merger review and increase the average burden on businesses from the information requests needed. *How will BEE account for differences between voluntary and mandatory notification regimes with suspension clauses?*

Competition law and enforcement approaches change and develop over time, this will be an important factor to consider in both the timing of data gathering and how results are presented. For instance, competition regimes globally are considering updates to their competition law and enforcement in relation to digital markets. Any changes may create a period of adjustment in the short term as competition authorities, businesses and competition law firms become familiar with new requirements or approaches.

We welcome the approach to corroborate consultations with competition law practitioners with additional desk research. *Will the presentation of findings include quantitative data alongside a narrative explanation? This may be particularly helpful to ensure the findings are understood in the context of differences between regimes or updates to competition law. Will an assessment be presented for each indicator of market competition?*

### 3. Scoring

While we understand the concerns raised regarding the negative impact of incentives created by scoring and ranking countries, including as set out in the external review, we believe on balance the competition it stimulates outweighs the negative impacts. The proposal to have



two scores to resolve the tension between private and social interests is promising. We therefore support aggregate scoring and look forward to hearing more from staff on this topic.

*Please could staff provide further information on how it will ease the hype around aggregate rankings?*

*How will aggregation of scores be impacted by rolling data collection for some indicators?*

#### 4. Data collection and management

There are actual or perceived reputational risks created when the DEC Global Indicators Group Unit engage in policy dialogue with governments to promote reforms or to offer advisory services to member countries. This may be better done by regional and global practices. We also encourage management to fully assess the reputational risks related to BEE advisory work in general, particularly where advisory services focus on improving the BEE score of a given country. We request that the concept note clearly specifies the roles and responsibilities of the DEC Global Indicators Group Unit, Global Practices and Regions in relation to BEE advisory services.

#### 5. Further cross-cutting questions

*Please could staff set out how expert consultations and firm level surveys will be made consistent across different legal and regulatory frameworks?*

*Please could staff provide an update on the comments the WBG has received from interested stakeholders, including CSOs, academia, and the private sector? Would more time be helpful to ensure stakeholders can fully engage with this important process?*

Comments from the office of the WBG Executive  
Director representing France



MINISTRY FOR THE ECONOMY, FINANCE AND RECOVERY

## Contribution to the concept note on Business Enabling Environment

### Comments by the Republic of France

March 15<sup>th</sup>, 2022

We thank the WBG management for its pre-concept note on Business Enabling Environment/BEE of February 4<sup>th</sup>.

You will find hereafter the views of the French Government on this proposal, in the form of comments, requests and recommendations, opening on some of the main horizontal characteristics of the projected benchmarking instrument, and then focusing on a few of the 10 specific topics and 2 cross-cutting themes.

\* \* \* \* \*

Regarding some horizontal characteristics, we first fully agree with President Malpass when he said recently that **the main objective of the Business Enabling Environment instrument (BEE) is to help private business do better, and not accumulate data**. This is the very reason why we would like to see a better link between the objectives of BEE and the operations of the World Bank Group in client countries. To this end, we would like to hear as a priority, during an iterative discussion with the Board, the views and needs of the global practices which are providing advisory services to our clients.

We are not questioning the rationale of BEE, based on various additions and sophistications of the former Doing Business (DB) benchmarking instrument, such as (i) the systematic inclusion of three components (regulatory framework, public service, efficiency of the former two components) for each topic, (ii) the enlargement of the focus from SMEs to companies of all sizes and from SMEs to the private sector as a whole, or (iii) the inclusion of cross cutting themes. However, we are concerned about the added complexity of the design of this ambitious benchmarking instrument, and of the added judgment calls in the evaluation during its implementation phase. We hope that, at the end of this design process, World Bank operational teams will have at their disposal an instrument to inform and to advise client countries according to their jointly agreed policy priorities, mindful

though of the observation that “when a measure becomes a target, it ceases to be a good measure”.

**Secondly, regarding scoring: France reiterates its long-standing position against the inclusion of any aggregated scoring and ranking across sectoral topics in such a benchmarking instrument. Whether there would be one or two such aggregate scoring(s) across the proposed 10 sectoral topics is immaterial.** In saying so, we are in line with both the 2021 External Panel Review and the 2013 Independent Review. They both recommended to “remove the aggregate index and country ranking” of the DB instrument.

Indeed, we believe that:

- i. An aggregated ranking **arbitrarily mixes dimensions of different nature and importance** to the detriment of the significance and robustness of the instrument, all the more when it is across different sectoral topics as was the case with Doing Business<sup>12</sup>;
- ii. Aggregated rankings **oversimplify the complexities** inherent to development and to the improvement of the business environment of each particular country, at the risk of losing sight of the real outcomes that each client and the Bank want to achieve in their particular context and according to their joint priorities;
- iii. Furthermore, aggregate rankings **can mislead government action**, as the best reforms to improve in the ranking are not necessarily the same as those most impactful and desirable from a development’s perspective;
- iv. Finally, aggregated country rankings **can lead to undue competition and pressure within a country**, and even in the Bank, to increase the ranking of specific countries, as illustrated by the 2020 DB irregularities.

In the past, management has decided to ignore the 2013 Independent Review recommendation to remove the aggregate ranking under the argument that “*the aggregate ranking generates interest and provides an opening for more nuanced policy dialogue*” (2021 External Panel Review). **We are of the opinion that (i) it is ineffective and simply wrong** to motivate a client based on a dubious, or at the very least questionable, tool<sup>3</sup> and (ii) **that alternatively management would find a more adequate and precise source of motivation to incentivize reforms**

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<sup>1</sup> “*Doing Business covers a diverse array of indicators that often have little meaning when aggregated with arbitrary weights*” - 2021 External Panel Review/EPR

<sup>2</sup> “*Rankings are challenging because they involve aggregating across indicators (topics) – a process that explicitly or implicitly involves a value judgment of what is “better” for doing business and how much better it is*” – 2013 Report of the Independent Review

<sup>3</sup> “*from a technical perspective, there remains little analytical justification for the aggregation and ranking methodology used by Doing Business*” 2021 EPR

in, for example, each sectoral topic, which would generate a more targeted policy dialogue with its clients, as recommended by both the 2021 External Panel Review<sup>4</sup>, and the 2013 Independent Review<sup>5</sup>.

**Thirdly**, France has been advocating on numerous occasions that the DB benchmarking instrument should include **the measure of the business regulations as they are actually experienced by businesses. So, in this respect, we support the systematic inclusion of de facto indicators** in all the 10 domains to be covered by BEE, as proposed in the pre-concept note.

For some of those de facto indicators, the management proposes to resort to firm-level surveys. Please note that SMEs may not be as responsive to surveys as larger companies. We recommend that management ensures that SMEs effectively respond to surveys, to prevent a bias against SMEs is introduced through the firm-level survey methodology, all the more since SMEs development remain our BEE main target.

**Fourthly, BEE indicators should be free from ideological and cultural bias.** Future BEE Reports are meant to be knowledge products, not the prescribing product DB Reports have had the tendency to become. While designing BEE, we request that **no bias be introduced in the BEE methodology and in the way BEE teams will evaluate the legal and regulatory frameworks.** For example, in favor of deregulation, or **in favor of common law to the detriment of countries with civil law.** What matters are results. BEE methodology and evaluation should not be prescriptive regarding the way to achieve these results. Judgment calls by DEC teams, which can vary between people and are, by essence, subjective must be avoided in the process of collecting, analyzing and presenting the data. This was a weakness of the Doing Business data processing, which led to major inconsistencies and inequities in the report.

**Fifthly**, we would like to avoid creating situations of conflict of interest within the Bank. With this in mind, we are of the opinion that the DEC Global Indicators Group, which is designing and will be implementing BEE, should not be involved in the policy dialogue with governments to promote reforms. Also, it should not be allowed to offer any RAS and other advisory services to member countries.

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<sup>4</sup> “Publishing the indicators to enable further analysis elevates the level of **global policy dialog; aggregating them and ranking countries lowers it**, and invites the type of external interference and conflicts of interest witnessed in recent years.” 2021 EPR

<sup>5</sup> “The Panel recommends that the Bank continue to publish the report but **without the overall aggregate rankings** (the Ease of Doing Business index). Rather, the scores (cardinal values) for each of the indicators should be emphasized”. 2013 Report of the Independent Review

**Lastly** on the frequency of the reports, we are suggesting that reports may be issued every two years instead of yearly: considering (i) that business regulatory environment and associated public service delivery do not evolve radically from year to year and (ii) given the relative uncertainty of the measurements and (iii) given the projected increased scope of the reports with its budgetary implications. Most analytical works by the World Bank (SCD, CPF, CPSD, DeMPA, PIMA) are not conducted on a yearly basis and there is no rationale for increasing the frequency for a report assessing the business climate. This two-year frequency would be a way to offset the cost increase triggered by the more ambitious data collection processes proposed with BEE.

\* \* \* \* \*

**As for specific topics, France would like to focus on the following matters:**

## **1. Business entry**

In order to improve the measure of the overall efficiency of the business entry's regulatory framework, we suggest **including a new sub-indicator based on the number of businesses created for each million inhabitants, excluding self-employed individuals.**

## **2. Financial services**

**Secured transactions.** France shares the goals of this financial services' component. In order to better assess legal frameworks and their implementation, it would be helpful to have more explanation about the definitions and main categories of security interests in movable assets eligible for this sub-indicator.

**Quality of credit reporting framework.** BEE proposes to assess the operationalization of collateral registries according to different criteria such as dematerialization, simplicity and automaticity of the registration system (notice-based registry model). France shares the goals of dematerialization as long as the use of an electronic communication system remains optional.

**Nevertheless, simplicity and timeliness are not the only criteria necessary to assess properly the operationalization of collateral registries.** Investors need reliable and sufficient information, which implies that the registrar has to check if applications are complete, if the information delivered is consistent enough with the contractual documents and if the applicant was entitled to require a registration (for example: powers of representation). Moreover, information published or

collected through registration also aims at creating legal effects, including vis-à-vis third parties.

**It is therefore crucial that registries be safe, reliable and efficient tools. Therefore, a notice-based registry should not set the pattern for the evaluation method.** For the same reason, **the information gathered in the registries** should not be limited to the existence of a security interest: **it has to be precise enough to identify the movable asset and to provide information as to the amount of the secured debt.**

Finally, the data collected to measure the use of collateral registries should include the volume of searches and not only the volume of registration records.

### 3. Taxation

On taxation, it is proposed, in the pre-concept note, to include in the taxation topic the total tax and contribution rate as a sub-indicator<sup>6</sup>.

First, effective tax rates actually paid by companies may differ, at times significantly, from nominal tax rates due to available tax credits. That is the case in France with respect to corporate tax. **Therefore, an international comparison on the basis of nominal rate would be much less relevant than effective rate.** The consideration of these tax credits, which amounts to the application of an effective tax rate significantly lower than the nominal tax rate, would reflect more accurately the tax burden carried effectively by companies.

**But most of all, the inclusion of total tax and contribution rate as a sub-indicator is problematic in terms of balance:** on the one hand it is proposed to measure the **total tax** and contribution rate, on the other hand, it is not proposed to measure **all the benefits of taxation** through expanded measures of public services, contrary to what was recommended by the 2021 EPR <sup>7</sup>. Further, many of these public services financed through fiscal expenditures are actually very much valued by businesses such as and not limited to: public infrastructure, education and training, public health coverage, security and safety, etc. **If management is not prepared to assess all public services benefiting**

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<sup>6</sup> The proposed inclusion of the total tax and contribution rate departs from the methodology followed in all other topics. Indeed, (i) “total tax rate” does not measure the overall efficiency of the regulatory framework of tax regulation, (ii) nor does it measure the efficiency of the tax public services. Even if only for reason of methodological coherence, total tax and contribution rate should be excluded from the indicator measuring the overall efficiency of the regulatory and public services pillars.

<sup>7</sup> *““Total Tax Contribution Rate” has come under heavy criticism....To improve this indicator, a comprehensive set of taxes should be considered,....however it is equally important to capture better the benefits of taxation through expanded measures of public services that enable an efficient business environment.”* 2021 External Panel Review

**businesses and financed through total taxes and contributions then, as a matter of balance and fairness, BEE should not assess and include total tax and contribution rate.**

**Taxation is the result of political judgments and decisions which are assessed by citizens and companies against the services provided.** Including total tax and contribution rate, without an equivalent measure of the benefits, would then implicitly infer that a high level of taxation is by essence detrimental to the business environment, and this would be an ideological approach to taxation.

**For all those reasons, we request to exclude “total tax rate” from the taxation topic.**

#### **4. Dispute resolution**

First, this is a diverse and complex theme pertaining to the sovereign power, which would be very difficult to measure through only few indicators.

The evaluation of the quality of regulations for commercial dispute resolution (regulatory pillar) distinguishes between "in-court litigation processes" and "alternative dispute resolution mechanisms", in order to submit them to indicators, among others, of time limits, conditions for the enforcement of decisions and arbitration sentences, conditions for the initiation of mediation or conciliation, or the monitoring of good regulatory practices recognized at the international level.

**The absence of bias or methodological prejudice in favor of common law and to the detriment of countries with civil law will be crucial for the reliability of this assessment.**

In particular with respect to time limits, French law does not provide a general timeframe for different stages of litigation for which the judge or the court could be held responsible in case of non-compliance. The steps to be taken by the parties are sometimes regulated by law (delivery of the summons to the court clerk's office in order to bring the case before the court, time limit for appeal, etc.) or prescribed by the judge (injunction for the exchange of pleadings, communication of documents, etc.).

The evaluation of the adequacy of public services in commercial litigation (public services pillar) is based upon two indicators:

- i. “Institutional framework”: institutional arrangements such as specialization of judges, degree of formality and independence of the judiciary, existence of specialized courts/chambers, etc. These items are relevant, but their



assessment seems to be based only on consultations with experts, which may appear to be limited, and the credibility of the exercise will depend on the choice of these experts;

- ii. “Court automation and e-services”: **France shares the objectives of dematerialization and providing litigants with electronic communication channels. However, France remains committed to the principle of technological neutrality**, according to which the use of an electronic communication system should remain optional. Finally, it seems that the expressions “Court automation” and “acknowledging the increasing importance of artificial intelligence (AI) and machine learning (ML) for better judicial decision-making” should be clarified.

Finally, the evaluation of the ease of resolving a commercial dispute (combination of the two pillars) will gather experience of experts and firms regarding (i) obstacles to justice, (ii) time and (iii) cost to resolve a commercial dispute. **Here again, the objectivity and representativeness of the respondents will be key.**

## **5. Market competition**

Under the Market Competition topic, **we support the inclusion of government procurement sub-indicators:**

- i. “bidding for public contracts” in the “Quality of regulations that promotes market competition”;
- ii. and “time to award a public contract” and “time to pay government contractors” in the indicator on “Efficiency in the implementation of key services promoting market competition”.

In our view, those sub-indicators should be supplemented by measures (i) of transparency of procurement processes (principle of public announcement), (ii) of the application of principles (competition, equal treatment), (iii) of the opening of the bidding process to foreign bidders, and (iv) of the existence of independent review bodies in the indicators of the quality of the regulations, quality of the public service and efficiency.

Government Procurement is a critical area for business. Massive government rescue plans, currently underway throughout major jurisdictions, only reinforce the relevance of including this component in the benchmarking instrument.

## **6. Insolvency**

**The comparison of national insolvency regimes is a hard task and requires correcting many biases in relation with the economic situation of**

**each country.** In addition, measuring recovery rates does not rely only on the legal insolvency regime but also on the economic health of companies and the possible choices made by creditors, which are not all equal.

In line with our preliminary comments, France considers that **one of the main objectives of insolvency law is to help private businesses do better and for viable companies to continue their business.** The efficiency of public policies and legal frameworks in the field of insolvency **also** lies within the **ability to identify financial difficulties at an early stage in order to save the company and avoid liquidation.**

Therefore, France considers that it is crucial **to take into account** not only liquidation procedures but **also mechanisms for detecting difficulties, pre-insolvency procedures, specialized procedures for MSMEs, the necessary expertise and status of insolvency practitioners (with regulation in order to avoid conflicts of interest) and specialized judges.** Any measure that does not consider the detection and prevention of difficulties would miss a key economic aspect for this matter. In addition, the particular situation of the single member companies should be addressed with a specific treatment, considering the importance of micro-entrepreneurs for the economy of many countries.

France notes that some of its former suggestions for improving the insolvency indicator seem to have been taken into consideration, such as having specialized insolvency professionals and judges. However, it would be necessary to be able to carry out more precise work on the draft indicators and sub-indicators, in order to correct or at least identify and minimize the potential methodological bias.

## **7. Intellectual Property Rights**

Fostering innovation and economic attractiveness implies an efficient legal and institutional set up to protect intellectual property rights, from registration to the fight against counterfeiting. Consequently, **we propose to include the protection of intellectual property rights as a new topic into the BEE indicator.**

## **8. Environmental Sustainability**

**We welcome the inclusion of the cross-cutting theme of Environmental Sustainability in BEE,** which is reflected (i) either as sub indicators on their own or (ii) as components of sub indicators across most of the sectoral measures. Now we would request that management explores further possible options which could be included in the benchmarking instrument as to ensure that the extra

Environmental, Social/Societal and Governance requirements in some jurisdictions do not affect negatively any sectoral indicator performance evaluation.

Indeed, CSR is gaining momentum worldwide. It requires companies (i) to implement measures in the Environmental, Social/Societal and Governance (ESG) areas, and (ii) to exert due diligence to address significant risks in terms of the environment or human rights. These trends inevitably add requirements on companies, such as more stringent E&S requirements.

By way of example, **the integration of a green finance component is a major advancement** which we very much welcome. It is of high importance that we collectively encourage the whole economic ecosystem to shift investments towards sustainable projects. This would be illustrated by qualitative and quantitative indicators that would focus on two main issues: (i) the sustainable finance regulatory framework that has been adopted and (ii) the development of green finance instruments, and especially green bonds. Whether they are market-led or at the initiative of governments, efforts that participate in the alignment of financial flows on internationally agreed standards on climate should be reflected. The example of green bonds which gather private and public issuance as well as regulatory initiatives is particularly relevant.

\* \* \* \* \*

Finally, we are willing to provide further inputs once we know more about the list and contents of new indicators and sub-indicators proposed by the World Bank in order to be able to study the economic and legal items and questions raised thereof.

Comments from the office of the WBG Executive  
Director representing Germany

## Pre-Concept Note „Business Enabling Environment“ Project

### Statement Germany

We welcome the Pre-Concept Note on the Business Enabling Environment (BEE) Project shared with the Board, including its commitment to the highest standards of data collection and reporting processes, higher ambition as to the stated regulatory standards taken into account, and the notion of „decent jobs“. We would like to share the following recommendations that we think should be taken into account in the further discussion and conception of the BEE Project.

#### 1. Making BEE fit for the future

Only a private sector that is fit to react to the global challenges of the future will foster a sustainable economic development in the long run. We therefore welcome the concept of the BEE Project of considering the perspective and wellbeing of the whole private sector, rather than just individual firms, including criteria like environmental standards. The inclusion of environmental sustainability considerations in some of the indicators is a good start, but it is less evident that such sustainability considerations will form a strong part of the final BEE product. In fact, the concept of sustainability must in our view be reflected in individual sustainability indicators of the BEE Project but also as a cross-cutting issue mainstreamed throughout the whole BEE Project and all its indicators. The concept of sustainability should further be far more comprehensive than only covering environmental issues of the production process and labor market issues but also include social issues like the provision of public services beyond the mere dimension of labor market public services, inclusion and gender issues, and overarching climate issues like a country's share in renewable energies.

#### 2. Avoiding mistakes from the past

**Rankings:** We note that the Pre-Concept Note intends to maintain aggregate scoring, while aiming to avoid „any hype around aggregate rankings“. While aggregation of quantitative data does appear almost inevitable by interested entities, not just the Bank, as soon as data is put into the public domain, we strongly believe that scoring by the Bank should not endorse rankings, in light of the findings, especially by IEG, of the risk of erroneous reform prioritization, among others. We would like to emphasize that any “hype around aggregate rankings” is best avoided by the exclusive use of tested hypotheses in the use of indicators, including their composition as well as data processing, weighing and collection methodology. We reiterate our recommendation that the economic and legal presumptions underlying the BEE methodology be put to scientific challenge of the highest standard, so that indicators can be used only after peer-reviewed and reputable publication of their content and finality. The hype around aggregate rankings and the notion of competition such rankings most often provoke must be avoided at any cost and should in particular not be fuelled by the Bank itself. While a grouping and ranking on an indicators level might be meaningful, we continue to advise strongly against any overall aggregate ranking of countries.

**Data collection and responsibilities:** As DEC will remain responsible for the report, we expect that GIA recommendations regarding data collection and processing methods and responsibilities will be fully heeded.

#### 3. Restoring faith in the new BEE report

**Avoiding conflict of interest:** Given the importance of stakeholder confidence in the report and the underlying data, the unit designing, piloting and implementing the BEE Project should not be involved in policy dialogue with governments to promote reforms and also not in the project design and

implementation. The unit should further not be allowed to offer RAS and advisory services to member countries. This needs to be reflected in the institutional set-up including the highest leadership level and governance of the Bank. The BEE Report and advisory services need to be sufficiently independent from each other.

**Peer reviews:** Indicators should always build upon a tested rationale for their selection as well as composition, allowing (academic and other interested communities) examination of any underlying hypothesis. Some such hypotheses underlying BEE indicators appear well documented, while others less so.

**Pilot phase:** Do you expect methodology adjustments to the new indicator on market competition after the first collection of data? If so, would not a pilot phase be preferable before publication of data? The same is true wherever new methodologies are being introduced through BEE.

**Data integrity:** We welcome the additional data collection methods, including de facto information using firm-level surveys. This will be a helpful addition and will make the data more robust and potentially also highlight some important gaps between signing off on reforms and implementing them. However, we note that the description of the indicators only foresees the use of such firm-level surveys in a limited number of instances. The use of firm-level surveys will have a considerable additional price tag attached. However, we are of the opinion that this is a worthwhile investment and that from a global perspective such a centralised collection by an entity like the World Bank is considerably more efficient than scattered attempts through other agencies. While adding firm-level surveys is an important step towards more data integrity, ideally, the desirable pursuit of data authenticity would rather suggest using statistical data wherever available and up-to-date and which for all public authority data (court and registration records, filing times, fees, etc.) should be accessible for most all economies. Where statistical data is not available or of sufficient quality, data from firm-level surveys can be added.

Also, while staggering the timeline for data collection as a means for improving data quality appears a reasonable measure, why is it only considered for Enterprise Survey data? (p.60)

If BEE intends to publish data sets based on historical (DBR) data, how will the controversial data and methodology changes that had led to the suspension of the report be dealt with?

### **Comments on specific topics and suggested BEE indicators:**

**Gender.** We do believe that the report should take the gender of business owners into account. The pre-concept note refers to the “Women, Business and Law” report as covering the gender dimension. However, that report only covers the legal aspects (are women discriminated against with regards to legal provisions) and does not cover actual practice and experience of women. We note that it is proposed that the new BEE report will now include de facto experience (i.e. reflecting practical implementation) through the collection of information directly derived from firm-level surveys. Therefore and due to the high-profile nature of the report, we believe it would be a missed opportunity if that wealth of data and information was not disaggregated by gender. Disaggregation would help understanding the actual impact of business environment reforms on women.

**Corruption and accountability.** The pre-concept note states that the BEE report will not include an analysis of government corruption and accountability as this topic is already covered by other reports. We note, however, that through the use of firm-level surveys, whilst corruption may not always be the reason for such discrepancies, the World Bank team may inevitably come across cases where de jure and de facto processes and payments diverge. We are therefore unsure, how the World Bank expects to handle this given the general stance that corruption will not be analysed as

part of the BEE report. We therefore strongly recommend including information in the data gathering process of the BEE Report that directly addresses corruption and bribery.

**Digitalization and data security:** As BEE indicators generally reward the use of information technology (such as electronic filing and e-payment systems) – often justifiably so, for their benefits to process efficiency, as well as anticorruption effects – will BEE base its positive scoring of use of IT on the provision for minimum standard data security, including protection of personal data?

**Target groups.** An assessment of the quality of a business enabling environment has to consider different types of businesses and their different regulatory journey and experience. The Doing Business report was mainly targeted at domestic small and medium enterprises in the largest city (or cities). It is welcomed that this will be broadened, including covering international investors, but the focus on small and medium sized enterprises who constitute the vast majority of enterprises in most countries should stay. Likewise, it appears that the new report might also cover the de facto experiences of businesses outside the largest business city which would be strongly welcomed (but detail has not been provided). We also recommend the World Bank to consider whether the new report could capture other business formats such as social / impact / non-profit business etc. Whilst we support a broadening of the approach, the note provides little information on how such data would be aggregated without comparing apples with oranges. It is also important not to burden small and medium sized enterprises with new additional reporting requirements. The pilot scheme may help in that respect. We suggest that data will be provided in a way that some subdivisions of the target groups will be possible (as much as the total sample sizes will allow this).

#### TOPIC 1: Business Entry

- **Quality of regulation for business entry.** We welcome the inclusion of a new pillar on “quality of regulation for business entry”. This helps to ensure that the report takes into account the respective advantages of different economic and legal systems. It acknowledges the merits of a registration process that, for example, checks for beneficial ownership to prevent misuse of companies for illegal activities. Taking such important quality considerations into account is crucial and avoids being too narrowly focussed on reducing the time and costs to register a business. However, the economy can only benefit from formal incorporation and registration of companies, if the economy can rely on correct, complete and up-to-date company information from reliable business registers. The Pre-Concept Note does not sufficiently factor such a system of preventive control into its analysis. While reliable registers provide legal certainty and prevent disputes and thus follow-up costs, this is not being taken into account sufficiently.
- **Digital services.** We welcome the inclusion of digital public services and transparency of information for business start-up. We would encourage to expand section (2) and (3) on Interoperability and availability to beneficial ownership registers/data (explicitly name it). In addition, cross-border interoperability and availability of data should be considered to cover information on complex ownership structures across jurisdictions.
- **Efficiency of business entry.** This part of the business entry analysis is the one most closely related to the old Doing Business report. The new additions – in particular around quality of regulation – puts this indicator into perspective, which we welcome. Whilst we understand the articulated reasoning for obtaining the information through expert interviews, the World Bank may want to consider if there are additional sources of information that could help back up that testimony, such as a survey of a sample of companies who have recently completed this process.

#### TOPIC 2: Business Location

- **Quality of regulation.** Similar to indicator “business entry” the inclusion of the quality of regulation is welcomed. The inclusion of standards on issues such as building safety and green buildings is important. However, the information provided makes it difficult to provide substantial comments. The pre-concept note mentions “cumbersome regulations, excessive restrictions” etc. The real difficulty will be to define what constitutes a good practice vs. what is excessive.
- **Quality of public services.** We welcome the inclusion of digital public services and transparency of information. The set of indicators appear exhaustive and the corroboration of information from expert interviews through administrative data from land registries and municipalities should help ensure that the data collected is robust. However, it is important that the offer of digital public services is not considered at the expense of other quality criteria, such as the reliability of online information.
- **Efficiency of key services.** As for the indicator “business entry”, the World Bank may wish to consider if it is possible to broaden the data collection to be less reliant on expert consultations. As discussed above, surveying companies who have recently gone through the process of purchasing a property, obtaining building-related or environment-related permits may provide an additional source of data.

### TOPIC 3: Utility connections

- **General remarks.** We welcome the broadening the previous “Getting Electricity” indicator by including water and internet. The pre-concept note mentions “sustainability standards for electricity, water and internet services” will be monitored as well. It is unclear what this would entail (in particular whether it would entail the generation mix of electricity supply as one of the most important sustainability considerations to tackle climate change, see also mainstreaming of sustainability throughout all indicators).

### TOPIC 4: Labour

- **General remarks.** We welcome the inclusion of the employee perspective in the BEE and the move away from a sole focus on labour flexibility, which allows for a broader picture and more solid conclusions on labour market dynamics. It has for instance been recognised that efforts in improving **job quality** have the potential for building an overall environment of competitiveness and productivity.
- We also very much welcome the inclusion the ILO Labour Standards in the assessment so as to create a more coherent international framework and avoid countries deregulating labour to achieve a better ranking, thereby placing workers at a greater risk (See also ITUC/Global Unions (2007) [https://www.ituc-csi.org/IMG/pdf/doing\\_business.pdf](https://www.ituc-csi.org/IMG/pdf/doing_business.pdf))
- More details on the weighting of the different factors and criteria would be needed in order to give a full assessment of BEE. Given the stated focus on the microeconomic level, we would welcome more details on how this will be differentiated from the macroeconomic level, since there is a very close connection between both.
- Many developing countries have a high degree of informality in the labour market and the focus on labour regulations might not be sufficient. We would therefore appreciate a more detailed account on how this will be tackled within the BEE assessments (see also the discussion on target groups above). In this context an assessment of labour administrations in various countries may be another useful indicator. An analysis the relationship between provision of workers’ social protection and formalisation would contribute to an understanding of how to tackle informality.
- Labour market institutions and the capabilities of the trade unions and employers to deal with the application of the labour law (at a microeconomic level) are equally important in



contributing to the effectiveness of the labour administration (See also ILO (2010) [https://www.ilo.org/empent/Publications/WCMS\\_128021/lang--en/index.htm](https://www.ilo.org/empent/Publications/WCMS_128021/lang--en/index.htm)).

- In addition to looking at the efficient implementation of labour regulation and public services, it may be useful to have a general view on the **complexity** of the labour regulation framework at the macro-level in each country, as this is generally found to be an issue for MSEs in developing countries and could also provide useful insights into barriers to implementation.

## TOPIC 5: Financial Services

- **Quality of regulations (e-money regulation).** We suggest making proportionality of regulations a central feature among the six principles for the de jure assessment, for example expressed in risk-based approaches in regulatory frameworks. It can be reflected in the first principle “robust risk management”. Risk-based approaches to regulation for e-money are key for enabling the access to and use of e-money services such as payments by businesses, especially in the lower range of firm size which usually make up the largest share of private sector, in emerging markets and developing economies. Global standard setting bodies as well as the World Bank Group, given its long-standing work in universal financial inclusion, advocate for the application of proportionality in view of the multiple objectives of integrity, stability, and inclusion. There is still a long way to go as paradoxically especially lower income countries, which may best use proportionality (exemptions and simplifications) are least inclined to do so due to fear of sanctions. The BEE may provide an important signal. We appreciate the DB reports for their explicit acknowledgement of this feature in the enabling environment (e.g. “scores reward economies that apply a risk-based approach to regulation as a way to address social and environmental concerns—such as by placing a greater regulatory burden on activities that pose a high risk to the population and a lesser one on lower-risk activities,” World Bank Group, Doing Business Report, 2020)
- We would encourage to consider financial integrity in this section. The FATF AML/CFT assessments, related FATF and EU-lists, as well as risk assessments have an influence on the risk-perception of a country/sector inform the due diligence processes of company service providers such as financial institutions, lawyers, notaries etc. and therefore the access and costs of such services for companies. FATF compliance also indicates if a country has a functioning risk-based approach to AML/CFT which is key in reducing the costs for due diligence (of companies and business service providers) while ensuring financial integrity.
- The BEE could add value by better capturing the costs of compliance with AML/CFT regulations (for companies as well as business service providers) and its impact on access to relevant services (including measuring experiences of de-risking of certain company types considered high-risk).
- **Quality of regulations (green finance).** We appreciate and encourage the addition of new indicators relating to the enabling environment for ESG risk management practices as well as funding for green projects in private sectors. However, there may be a potential disconnect between the proposed indicators relating to corporate bonds and the typical conditions in emerging markets and developing economies, where private sectors are largely composed of firms in the lower range of firm size, MSME. It may be worth exploring indicators for the measurement of green financial practices – funding green projects and supporting ESG risk management-- that may be more relevant to a larger share of private sector. Alternative principles may be useful for the formulation of indicators in the context of the BEE: (i) Green Loan Principles by the Loan Market Association; or (ii) Principles for Positive Impact Finance by UNEP FI; or (iii) the Equator Principles. These may require a careful selection of principles that are relevant to development of private sector rather than financial institutions. In addition to the proposed de jure indicators, de facto indicators may be required to measure the enabling environment for ESG risk management and impact-driven business models in private sectors.

- **Ease of receiving financial services (making an e-payment).** We suggest including the measurement of cross-border payments for both business to business payments (B2B) and person-to-business payments (P2B), given the increased relevance of trade and e-commerce due to globalization. This would also be in line with the G20 priority, and data may help to feed into the G20 Roadmap for enhancing cross-border payments.
- **Ease of receiving financial services (obtaining a loan).** We take note that this indicator set will measure the time and cost (de facto elements) to obtain a loan and make an e-payment. It may be helpful to include access to finance (bank lending) indicators with respect to small and medium-sized enterprises, given the relevance of this segment in terms of firm size and the usually critical funding gap for these businesses in most economies. This could contribute to the readers' useful differentiation of firm size, despite the BEE's focus on the private sector in its entirety. Bank lending to SMEs represents a relevant feature of the enabling environment for these businesses. When measured as the share of bank portfolio, data may point to the ease of obtaining a loan for SMEs in contrast to corporates. For example, using data from the Financial Access Surveys (IMF), which may save cost and enhance comparability, a relevant indicator could be: percentage of SMEs among non-financial corporation borrowers from commercial banks.

## TOPIC 6: International Trade

- **General remarks.** Similar to the other areas, we commend the addition of de facto data to the de jure data. As in many other topics, striking a balance in the assessments between legitimate regulations and cumbersome ones will be a difficult task. Particularly for the de jure data a strong collaboration with institutions such as UNCTAD, ITC, WTO and WCO should be sought.
- The paragraph "a. Quality of regulations for international trade in goods and e-commerce" describes that – for specific purposes (public safety, health, environment) – trade restrictive measures may be important, but can also become counterproductive. However, the effectiveness of regulations is only partly reflected in the indicators. The Bank might want to consider adapting the choice of indicators to correspond better to the balanced analysis in the text.
- Furthermore, ambitious trade policies may also be part of industrial policies that improve the enabling environment for local private sector development. In times when a large share of trade is taking place through global value chains, this may also include policies to encourage spill-overs from FDI and linkages between foreign invested firms and the local economy.
- Good regulatory practices enabling environmentally sustainable trade can be considered as going beyond carbon border adjustment and tariffs. For instance, they can include green industrial policies or promotion of environmental standards among companies participating in GVCs.
- With regard to good regulatory practices, would it be possible to include an indicator on private sector participation in shaping regulations around international trade?
- The section "b. Quality of public services for the facilitation of international trade in goods" includes mainly aspects of trade facilitation covered under the TFA, but also adds infrastructure. If facilitation of trade in goods is understood in a broader way than the TFA, this section could consider including services provided to companies by public trade promotion agencies.
- The paragraph on "Internal/External cooperation" seems to mix up different aspects, such as border agency cooperation on the one hand and participation in trade agreements on the other hand. Could this be clarified and possibly disambiguated / sub-divided?
- When considering the quality of the regulatory framework, trade integrity should explicitly be considered to prevent fraud, smuggling, trade-mispricing, and trade-based money laundering (FATF standards).

## TOPIC 7: Taxation

- **Services provided by the tax administration.** We appreciate that this set of indicators draws from the well-established TADAT framework. However, the World Bank may want to include information on the reliability of tax administrations' official reporting.
- **Tax burden and efficiency of tax systems.** In many contexts, the real tax burden borne by businesses cannot be separated from the corruption present in the system. For example, "tax incentives, deductions, and reliefs" are often granted on an individual basis and facilitated by side payments. The World Bank may want to look into how it could include the impact of corruption on the practical implementation of the system. Further, the pre-concept note describes how it would calculate the "tax burden" but it does not describe how it would judge whether any particular tax rate is good practice or not. In reality this would be difficult in any case as there is no internationally agreed optimal tax rates for all countries. Therefore, we would suggest not to include judgments on the tax burden and optimal tax rates in the new report at all. It is an area that has led to controversy in the previous Doing Business Report and is not an area that we think the new report needs to go into.

## TOPIC 8: Dispute resolution

- **General remarks.** The indicator appears to strongly build on the Doing Business report indicator "Enforcing Contracts" with minimal changes. This is understandable given the previous indicator already covered the quality of regulation and adequacy of public services (though of course named and structured differently).
- **Ease of resolving a commercial dispute.** The proposal to include data on "obstacle to justice" based on firm-level surveys is a helpful one and will help discover issues that cannot merely be seen by looking at the time and costs to resolve a commercial dispute. However, this appears to be qualitative information rather than quantifiable data. Therefore, it is unclear how the World Bank expects to be able to quantify this information and convert this into an indicator. With regards to enforcement of court and alternative dispute resolution (ADR) rulings there is only mentioning of time and costs for enforcement. However, in many countries rulings are to a relatively large percentage not enforced at all, so there would probably have to be a sub-indicator on the percentage of enforced/non-enforced rulings.
- The new litigation indicator pits alternative dispute resolution against ordinary courts; and by allowing countries to score better by building such specialized services introduces bias toward private court services; We do not agree with such a bias as private court services also have the potential to undermine the public judicial system and do not necessarily serve a sound and reliable jurisdiction.

## TOPIC 9: Market competition

- **General remarks.** We welcome the inclusion of this new indicator as a proxy for the potential of a competitive private sector to develop. We support the proposal to also include the quality of regulations for bidding for public contracts given this can be an important source of demand for companies. Including best practices on environmental and sustainability consideration is likewise welcomed.
- **Quality of regulation.** We support the selection of both competition and public procurement to reflect two key considerations for firms but look forward to the determination of specific "good practices". With respect to competition, we find it striking that of the three core areas of competition law, only anti-competitive agreements and mergers are mentioned. The indicator could be further strengthened by also devoting attention to the issue of abuse of dominance (including by SOEs and government-linked monopolies).

- **Adequacy of public services.** With respect to the institutional framework and quality of competition enforcement, similar measurement challenges regarding independence and other due process criteria arise as with the courts and ADR mechanisms under Topic 8 (Dispute Resolution).
- **Bidding for government contracts.** It would have to be clarified how local content requirements would be measured in this regard. While it is desirable to also obtain data on this, it would be difficult to assess the presence or absence of local content requirements as inherently good or bad as they are indeed likely to lower efficiency (at least in the short-run), but on the other hand are a legitimate instrument to improve local productive capacities (at least for LDCs as also agreed under the WTO framework). Local content requirements can even be seen as “easing the business” for domestic firms while making it more difficult for international firms (reinforcing the argument that there may be merit to differentiate for target groups as much as possible).

#### TOPIC 10: Business insolvency

- **Quality of regulation.** We welcome the use of established good practice as a basis (UNCITRAL and the World Bank Principles for Effective Insolvency and Creditor/Debtor regimes). We want to draw the team’s attention to this report we recently supported: ([https://www.icr-facility.eu/fileadmin/files/downloads/different\\_documents/caipa-icr\\_insolvency\\_reform\\_in\\_the\\_caribbean.pdf](https://www.icr-facility.eu/fileadmin/files/downloads/different_documents/caipa-icr_insolvency_reform_in_the_caribbean.pdf)). The report was written by an insolvency expert using the information in the Doing Business report as well as the aforementioned good practice frameworks you seek to use for the new BEE indicator. It can therefore provide additional insights for you. It sets out some observations on the previous Doing Business indicator and some recommendations for the Caribbean that may be a helpful inspiration for the new BEE indicator (e.g. having a designated Supervisor of Insolvency; processes for out of court workouts and mediation).
- **Quality of institutional and operational infrastructure.** In some cases for the above-mentioned report, it was also be challenging to access the latest applicable laws. Thus, whether the latest legal frameworks for insolvency are published online could also be included in the assessment.
- **Ease to resolve an insolvency judicial proceeding.** We understand the proposal to mean an analysis of the ease to resolve a judicial proceeding based on a hypothetical scenario. What the proposed indicator does not seem to test is whether cases actually go through the insolvency system and if not, why not. We would recommend the team to look at this again as this may mean that one would not spot any de facto issues that may prevent debtors/creditors from going through the process.

Comments from the office of the WBG Executive  
Director representing Afghanistan, Algeria, Ghana,  
Iran, Morocco, Pakistan and Tunisia

OFFICE OF THE EXECUTIVE DIRECTOR (EDS06)

WORLD BANK GROUP

# Feedback from Capitals on Business Enabling Environment (BEE) Concept Note

March 15, 2022

## Introduction

Following up on the *Business Enabling Environment* (BEE) consultation strategy and the email received on February 08, 2022, here are the comments on BEE provided by four countries (Algeria, Iran, Morocco, and Tunisia), out of the seven countries within our constituency (EDS06). If we receive feedback from the remaining capitals under our constituency, we will share those separately in a later date if chances allowed for consideration after the deadline.

The consolidation reflects feedback from capitals on work in progress on the conceptual framework, topic-specific indicators, and the implementation of the project to succeed *Doing Business*. These comments are also formulated on the basis of the lessons drawn from the previous exercise “Doing business”.

	Country	Comments on Business Enabling Environment Pre-Concept Note (formulated by each country)
1	Algeria	<p><b>On the objective:</b></p> <p>The main focus of the BEE approach should be to support countries in the implementation of relevant reforms to improve their business climate. As such, and in addition to assessing the evolution of the quality of the business climate in countries, it would be appropriated if the BEE is translated into cooperation programs under which the World Bank would support developing countries, through technical assistance in particular, to better design and implement targeted reforms with a greater impact on improving the investment environment.</p> <p>These reforms must be carried by the countries and included in their development vision in order to guarantee enhanced ownership of the policy reform agenda.</p> <p><b>On the approach and methodology:</b></p> <p>The business environment differs depending on the nature of economies, which face different development challenges. Development policies, too, vary according to the income level of countries. The design of tax policy, for example, must be adapted to the stage of development of the country. Therefore, applying the same indicators for the assessment of the investment climate in advanced and developing countries could lead to biased conclusions. The question is that how does the World Bank plan to take into account country specificities in the context of the BEE exercise to ensure better comparability?</p> <p>Even if the World Bank team presents the BEE as a new approach different from <i>Doing Business</i>, the pre-concept note does not allow us to have a clear picture of the differences that would distinguish the two exercises, especially in terms of methodology. Therefore, what assurance will the World Bank team provide to ensure that the BEE approach is not marred by the same shortcomings that characterized the <i>Doing Business</i> exercise?</p>

	<p><b>On data integrity and reliability:</b></p> <p>The quality and reliability of the data are necessary conditions for the success of the BEE approach. According to the pre-concept note, the data to be collected will be "de jure and de facto". While "de jure" data is easier to collect because it relates mainly to a collection of laws and regulations, it is much more difficult to guarantee the reliability of "de facto" data, as it depends on the often subjective assessments of contributors. It is therefore necessary to define in advance the conditions to be met to ensure that the so-called "de facto" data are in conformity with reality. As such, it would be useful to establish criteria for the selection of resource persons for data collection.</p> <p>To enhance transparency, it would be desirable for these criteria to be made public and for the method of recruitment of experts at the level of each country to be subject to a transparent and standardized process, also subject to the appreciation and discussion of the member countries of the World Bank.</p> <p>According to the pre-concept note, it is stated that data collection will be done through three means: expert consultation, business surveys, and case studies. As such, it is useful to note the following:</p> <p>It would be necessary to further develop the third section of the pre-concept note, entitled "Characteristics of implementation" in order to articulate the choices made in the data collection approach, as well as the choice of experts and the recommended canvassing to ensure better comparability (between data from expert consultations and case studies).</p> <p>BEE aims to assess the business environment from the point of view of private sector development as a whole and not be limited solely to micro-level assessments (i.e., the ease of doing business at the level of a given company). Given the experience of Doing Business, how does the Bank intend to ensure that the data collected from experts and companies is representative of the situation of the private sector as a whole and that the assessments of experts are not based on 1 or 2 datapoints?</p> <p>The World Bank plans to collect the data mainly through expert consultation. Business surveys are reserved for a limited range of data related to the costs and times of connection to certain public services (e.g., electricity, water, and internet), the protection of employees, electronic payment facilities, the payment of taxes, etc.</p> <p>As for the case studies, they concern only three types of data: those relating to the time and costs of starting a business, those relating to the quality of labor market regulation and those relating to the efficiency of the tax system (see Appendix II of the pre-conceptual note). As such, it would be interesting to know the criteria on the basis of which the World Bank decides on the source to be used for the collection of data for each indicator.</p> <p>In addition, and in order to ensure better reliability of data, including "de facto" data, it would be recommended to use at least two sources for information collection (e.g., expert consultation and business surveys). Indeed, to the extent that the World Bank</p>
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	<p>will initiate surveys of companies, it would be interesting to optimize them by extending it to all indicators, especially for "de facto" data. Thus, deviations from the reality that the consultations of the experts could possibly generate would be corrected, at least compared with the results of the surveys of enterprises, provided that the latter are conducted according to the standards of rigor and representativeness of the samples.</p> <p>With regard to the data to be collected directly through the studies, local expertise can be combined as part of this approach to conduct studies at the level of local and foreign companies established in country, to leverage the knowledge at the microeconomic level. The reliability of the data to be collected under the BEE approach would be more effective if the collection and consultation process were extended to include institutions and bodies involved in the investment and business development support process. This could help to ensure better integrity and authenticity of information on regulatory frameworks and processes for modernizing administrative procedures.</p> <p>The BEE data collection process will be conducted in collaboration with the private sector and civil society. It would be important to include in this process SOEs, which is an integral part of many countries' ecosystem.</p> <p><b>On themes and indicators:</b></p> <p>The Bank states in its paper that the indicators that will be developed will be limited to assessing the conditions of the business environment and should not cover the Final Outcomes of these conditions. It is also clarified that indicators should be considered as proxies as it is not possible to establish an exhaustive list of indicators for the assessment of the business environment.</p> <p>While this approach seems to be warranted for this type of exercise, we believe that it would be appropriate for the team to develop Outcomes Measures and calculate them on a regular basis (e.g., annually) to assess the performance of the private sector in each country (such as the evolution of the share of value added in GDP, FDI flows, etc.). The calculation of these outcome measures should be done in parallel with that of the other BEE indicators. The usefulness of such an approach is twofold: On the one hand, it will aim to focus on countries that may be poorly rated under BEE, but whose private sector is paradoxically performing sustainably or whose economies are managing to attract increasingly large FDI flows. This could be explained, inter alia, by the fact that the indicators developed are not necessarily appropriate to the nature and characteristics of these economies. On the other hand, it will enable the BEE team to continuously adjust the indicators to be applied for the assessment of the business climate and improve their relevance.</p> <p>We understand from the pre-concept note that the themes as well as the measurement indicators are designed on the basis of the life cycle of a company (start-up, maturity, and decline). The note also explains that it is not possible to establish an exhaustive list of indicators for the assessment of the business environment. However, we believe that there is scope to extend the BEE to include other indicators relating to areas whose impact on the private sector has been widely</p>
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	<p>demonstrated in recent years. This is the case, for example, with the promotion of startups. It would possibly be relevant to adapt some indicators for example to better capture the effort made by an economy for the promotion of startups in particular.</p> <p>Maintaining the balance between indicators targeting private enterprise and those targeting the private sector as a whole would be a difficult exercise to deploy. In order to inject more objectivity into the evaluation process of the BEE approach, it would be appropriate to include additional parameters in the development of indicators, in particular those relating to the survival rate of newly created enterprises. These are parameters relevant to all economies, revealing the constraints specific to each of them, as well as the motivations for the implementation of economic reforms.</p> <p>For example, it would be very useful to pay particular attention to the assessment of equal opportunities between market players as well as the development and sustainability of the private sector as a whole, whose impact is greater compared to the interests of companies supported by specific indicators (such as connections to utilities etc.).</p> <p>It is worth noting that in the context of the Doing Business exercise, some countries considered as tax havens were greatly advantaged in the ranking, thanks to a good rating on tax payment indicators. The new BEE approach must ensure that such indicators are not being used in such a way as to penalize developing countries whose domestic resource mobilization is a strategic challenge for their development. It would also contradict the positions defended by the World Bank regarding the importance of mobilizing domestic resources and combating inequalities in taxation systems at the international level, especially for low- and middle-income countries.</p> <p>With regard to indicators relating to dispute resolutions, the quality of the institutional framework is assessed, inter alia, on the basis of the independence and impartiality of judges. This may be subjective, as no indication has been provided to measure this "independence" and "impartiality".</p> <p><b>On cross-cutting themes:</b></p> <p>The BEE approach proposes to include digital transformation and environmental sustainability as cross-cutting themes. Some indicators will assess, for example, the presence of environmental licenses and green tax incentives. As a result, the disparities recorded between developed and developing countries in terms of the implementation of the digital transformation process as well as in the management of issues related to environmental protection, could negatively impact the classification of developing countries with regard to these two themes.</p> <p>In particular, we believe that aspects related to environmental sustainability should be the subject of a separate assessment report, as they are not in line with the spirit of the BEE approach, which focuses on the ease of doing business. In other words, the business climate and environmental sustainability are divergent in that the latter is a constraint (not an ease) for the former. Thus, while the environmental issue should receive the highest attention from Governments, it should not be presented in the context of a report dealing with the facilities for doing business.</p>
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		<p>In this vein, the introduction of a quality criterion based on the "Environmentally Sustainable Trade" concept may not be appropriate. Indeed, the objective of promoting trade in "low-carbon products" is contrary to the very principle of the free movement of goods and does not take into account the difference in countries' levels of development. The pre-concept note does not indicate how the BEE approach will address the risks that e-commerce poses to the consumer and public safety, often requiring safeguards to guard against them. The latter should not be considered as barriers to trade and business.</p> <p><b>On ranking and scoring:</b></p> <p>Lessons learned from the "Doing Business" experience revealed that the establishment of an overall ranking of countries would divert the exercise from its main objective of promoting reforms aimed at private sector development, to become essentially a pure marketing exercise. It therefore seems important to us that the new "BEE" approach avoid adopting an evaluation approach based on the ranking of countries.</p> <p>Discarding the country ranking-based evaluation approach would also save the World Bank the risk of falling into cases of conflict of interest, by combining both the role of evaluator and that of provider of technical assistance to countries to improve their ranking.</p> <p>As it relates to scoring, it should not be aggregated by country. In this context, it would be more interesting if ratings were assigned by indicators. Several ways of doing this could be considered, such as scoring based on distance at the border or notation based on a categorization of countries by indicator. A traffic light system (e.g., green, orange, red) could be applied for this type of scoring.</p> <p><b>On the frequency:</b></p> <p>It would be more interesting to reconsider the frequency of publication of the BEE report. Indeed, the business environment and the reforms aimed at improving it are generally based on structural aspects whose evolution can only be sustained. As such, it would be more appropriate for the BEE report to be published on a biannual or triennial basis. It would also give the BEE team the time necessary to take all necessary measures to ensure that data collection is carried out according to a rigorous and reliable process, in particular for that related to business surveys.</p>
2	Iran	<p><b>On the index computational defects:</b></p> <p>It seems that two categories of factors including "index computational defects" and "weakness of index in preventing violations by staff" led to discontinuing the Doing Business (DB) report and data. In the Business Enabling Environment (BEE), the focus is on "index computational defects" and regarding "index weakness in preventing violations by staff", adequate measures have not been considered.</p>

		<p><b>Rebuilding trust and restoration:</b></p> <p>The pursuit of the Iran's Ministry of Economic Affairs and Finance as the national focal point for improving the country's business environment, led to adoption of several law articles regarding the promotion of the country's rank in the ease of doing business in upstream laws. However, the disclosure of the data irregularities identified in the Doing Business 2018 and Doing Business 2020 reports and subsequently discontinuing publication of the Doing Business Reports resulted in weakening trust to international institutions, including the World Bank. Therefore, we believe that extensive bank's efforts are needed for rebuilding trust and restoration of governments' lost confidence. In this regard, we suggest consideration of a specific mechanism for evaluation of the Bank's doing business team with participation of all client countries, in addition to interaction with the Bank's Group Internal Audit (GIA) unit.</p> <p><b>On the enterprise survey:</b></p> <p>Using enterprise survey in the data collection process is a good measure (as indicated on page 3 and 4 of the document). But it is necessary to specify details of this process, including: the number of participants for each indicator, the proportional number of participants in different countries, and the basis of their selection. Furthermore, the names of the participants should be announced where it is possible. Moreover, sampling should be done in rotating manner for different years, in order to prevent collusion between governments and specific firms.</p> <p><b>On the expert consultations and the processes:</b></p> <p>The exact meaning of expert consultations in the process of data collection needs to determine who they are and what the processes are.</p> <p><b>On data collection and validation:</b></p> <p>It is necessary to develop a specific guideline with transparent standards for data collection and data validation. Furthermore, the framework for acceptance or rejection of data corrections and reforms declared by countries, should be announced in detail.</p> <p><b>On the methodology:</b></p> <p>To avoid problems such as value judgement which led to discontinuing Doing Business Reports, the methodology of the BEE index should be published and notified in a detailed manner.</p> <p><b>Measuring efficiency and sustainability of private sector:</b></p> <p>To measure the efficiency and sustainability of the general private sector, in addition to new indicators such as "promoting competitive behaviors" and "addressing environmental concerns", we believe that some other indicators such as the "provision of public sector technical training to the private sector" and "contracting with the government" can also be considered.</p>
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3	Morocco	<p><b>Important issues that the BEE project is not considering which should be included within the context of private sector development:</b> First, we suggest the integration of another gender-based indicator among the cross-cutting indicators to identify the constraints that hinder women from integration into the business.</p> <p>Second, it will be important to think about considering the management of companies' complaints among the indicators assessing the quality of public services since it reflects the relationship between the company and the public as well as the willingness of public services to support companies including respond to their concerns.</p> <p><b>Feedback regarding the indicators included in each specific topic:</b> First, regarding the "International Trade" pillar, the indicator "Quality of foreign trade and e-commerce regulations" measures the alignment of the regulations governing cross-border trade, e-commerce and sustainable trade adopted by each evaluated country with good regulatory practices. In this regard, it would be appropriate to highlight the "sustainable trade" component in the title of this indicator, as it is the case of e-commerce.</p> <p>Second, more details are needed regarding the scope of assessment of the "market dynamics and competitive behavior" component of the "market competition" pillar, the latter being very broad compared to the other components. In this regard, the World Bank teams propose valuation parameters based on questions sent to companies, including their ability to compete horizontally and vertically without constraints and the existence of anti-competitive practices without giving other examples of areas of evaluation. While for the other indicators, the scope of evaluation is very precise and, in most cases, focuses on the cost, time and effectiveness of regulations and public services for each pillar.</p>

		<p>Third, it would be appropriate to provide more clarification on the methodological approach that will be adopted for the new system regarding the risk of impact of the variation in the number of respondents per country and per year on the results of the assessed economies.</p>
4	Tunisia	<p><b>Overall comments:</b></p> <p>Robust data and their appropriate assessment remain a strong prerequisite of based approaches to inform and support domestic reforms elaboration and implementation. Therefore, the WBG as a global knowledge provider should ensure that the BEE report has not only to incentivize crucial policy reforms but also overcome all the raised criticism to DB report for many years by Governments, Stakeholders, Civil society, and academia in terms of its methodology, indicators, and their assessment, as well as the aggregated rankings.</p> <p>We commend Management and especially the DEC team for the hard work done so far and appreciate the BEE Concept note shared with our Capital and especially -as requested by us through our Executive Director on January 18- for the integration of Appendix II. Detailed Preliminary BEE Topics and Indicators that would further inform and feed our reflections to comment on specific indicators and how they are proposed to be assessed.</p> <p>Regarding official country responses or comments to the report, we would be grateful if the Bank could take a formal position on whether to authorize countries to respond to the BEE report. If so, will it be on the draft country report or after the official publication of the report? If not, we would appreciate receiving arguments on the reasons for not allowing countries to respond to the report.</p> <p>We also ask Management to do its better to organize a second round of consultations once the revised version of the concept note is finalized. To this extent, we strongly call to the need to have a detailed table of the comments taken into consideration following the countries' responses to this first round of consultations.</p> <p>Ahead of providing specific comments on data collection, case study, utility connections, and labor force, we would also welcome clarity on what elements motivated the DEC team to choose the data collection approach regarding the De-Facto assessment, especially for indicators that will be assessed only through expert consultations or firm-level surveys. What will be the incentives and the safeguards for respondents to pay close attention to the surveys and to provide qualitative and accurate responses?</p> <p><b>Data collection approach: definition of representativeness</b></p> <p>Management proposes that the BEE would tend to use a combination of expert consultation and firm-level surveys for some <i>de facto</i> indicators such as "utility connections", "labor", "financial services", "international trade", "taxation", etc. Firm-level surveys refer to data collection from a representative sample of actual, formal firms.</p>

	<p>In this respect, we consider that the definition of representativeness is not explicitly specified in the BEE pre-concept note. <i>Could Management clarify if is it statistical representativeness to the entire economic fabric of the country, or to firms applying for the public services covered by the BEE indicators?</i> In the first case, coordination with national statistical agencies is needed to ensure representativeness. In the second case, coordination is needed with public agencies and operators to provide administrative data concerning the features of firms requesting public services (size, sector, type...). To ensure transparency, the data should be easily accessible online and published on official websites.</p> <p>We also call on the WBG to give particular importance to the choice of experts during the data collection phase as well as to ensure that the experts' list should be updated annually.</p> <p><b>Case study: firm's location assumption</b>  "BEE will not only collect <i>de jure</i> information but also <i>de facto</i> measurement". Collected information will be directly derived from firm-level surveys and expert consultations. For the benchmarking exercise, some assumptions will be retained such as firm size, sector, type ownership, etc. However, BEE does not specify if the firm's location will be retained as an assumption. Related to the previous point, the former DB report considered that the firm is in the economy's largest business city. This assumption showed its limits since several countries had favored reforms affecting more the largest economic cities than the rest of the country. In fact, this choice has aggravated regional disparities in terms of economic development. So, we consider that the choice of business location assumption is crucial. It could enable governments to undertake business environment's reforms affecting their entire territory and not only in favor of some cities to the detriment of others. We would appreciate it if Management could further elaborate on this issue.</p> <p><b>Utility connections: key types covered</b>  BEE proposes to measure the quality of regulations, the provision of public services, and effectiveness of the implementation of utility regulations and public services, for three main types of utilities (electricity, water, and internet access). DB report also covered 2 of these 3 types of utilities, in its "Getting electricity" and "Dealing with construction permits" indicators, in which obtaining water connection was included as a main component measured by a number of procedures, time and cost.</p> <p><i>As proposed by Management in the paper, the utility connections indicators would not cover sewerage connections. We are not in the same view as this proposal and stress the need to consider adopting it for two main reasons.</i> First, poor sewerage infrastructure has negative impacts on the firm's productivity, especially in industrial activities where water is an input. Second, improved wastewater management generates social, environmental, and economic benefits for society as a whole. It could ensure healthy lives and promote well-being as highlighted in the 2030 agenda for sustainable development through SDG 6 which focuses on ensuring availability and sustainable management of water and sanitation for all. More particularly, target 6.3 aims to "halve the proportion of untreated wastewater and substantially increase recycling and safe reuse globally".</p>
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		<p><b>Labor: perspective of employees</b></p> <p>The Pre-Concept note specifies that in contrast to the former DB’s “Employing Workers” topic, the BEE report would consider more explicitly the perspective of employees by offering a more balanced view, by including indicators on workers protection, decent working conditions, and public services, in addition to the data on labor market flexibility.</p> <p>However, the set of <i>de facto</i> indicators would only measure how efficiently labor regulation and public services are implemented in practice, information will be collected relying on the experience of firms and expertise of local experts. Likewise, questions about compliance with working hours, non-wage costs, and labor inspections will be addressed to firms and questions on discrimination, flexibility of hiring and dismissals, as well as the efficiency of public employment services will be collected through expert consultations with labor lawyers.</p> <p>Finally, we consider that the perception of employees will be not retained in the data collection phase since they will have no opportunity to comment on the area of labor covered by BEE indicators and no questions will be addressed directly to them or the organizations representing them.</p> <p><b>Taxes: Avoid the designation of “Taxes Burden” so as not to guarantee points to tax havens</b></p> <p>We need the new BEE to also cover a qualitative estimate of whether the taxation system is transparent and fair, and if taxes are levied effectively and fairly, to establish a level playing field. Aspects such as fairness and progressivity legal and financial frameworks will be important. If so, volumes will follow to the benefit of public resources and services.</p> <p><b>International Trade: Assessing via an appropriate approach</b></p> <p>While we notice that the “quality of public services for the promotion of international trade in goods” indicator will be assessed on a De-Facto basis through experts’ consultations approach, we are wondering why the “Efficiency of importing goods, exporting goods, and engaging in e-commerce” indicator would be measured only by firm-level surveys? We thus request that Management confirms that this survey approach should not be adopted on its own unless it’s proven impossible to measure de-facto the indicator through expert consultations.</p>
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Comments from the office of the WBG Executive Director representing Antigua and Barbuda, The Bahamas, Barbados, Belize, Canada, Dominica, Grenada, Guyana, Ireland, Jamaica, St. Kitts and Nevis, St. Lucia, and St. Vincent and the Grenadines

## EDS07 Submission on Business Enabling Environment

EDS07 appreciates the well-written and thoughtful Pre-Concept note, the concise presentation, and the Technical Briefing on Management's plans for the Business Enabling Environment (BEE) report. It shows the real work that DEC has put into thinking through the proposed BEE project. In particular, we commend the clear and robust theory of change around the BEE project and its pillars.

In our view, the BEE should provide an objective and quantitative means to guide countries to improve their regulatory environment and the provision of public services. This requires:

- The highest levels of **data integrity and transparency**. Institutional structures should be established to avoid the pitfalls of the previous Doing Business (DB) report. We support the proposal to engage with the WBG's Group Internal Audit until to examine the end-to-end process of data collection and reporting.
- Incentives for reform, including some form of **ranking** that is accessible and relevant to policymakers, civil society, and media. While we appreciate the need to avoid the "hype around rankings" that fed irregularities with DB, we should aim to keep enough general interest to incentivise significant policy reforms. The aggregate scoring around firm flexibility and social standards, is a good start, but we would like to see this again as it develops.

On specific issues, some issues are worth considering:

- The focus on **International Trade, rather than trade within borders**, skews the analysis towards larger private sector firms and does not capture the operational reality of SMEs who may not be engaged in international trade to the same extent. It would therefore be helpful to capture the trading frictions faced by SMEs as the trade domestically.
- We support the inclusion of provision of **public services** as part of the BEE. This corresponds with a positive role for government in addressing the challenges of business and of development more generally.
- While we appreciate that gender is not the focus of the BEE, we would appreciate the collection of **gender disaggregated data** where possible. The BEE will be gathering a wealth of data that could be used for other purposes, and the addition of adding a few gender questions to surveys and discussions with experts could produce a unique and valuable data set and relatively minor additional cost.

Finally, we appreciate that the BEE will be a very significant undertaking. We would like Management to allocate **sufficient resources** to produce a high-quality report.

We look forward to reviewing the Concept Note in May.

### **Ireland's Submission on BEE Concept Note**

First, Ireland welcomes the prospect of a similar (if slightly altered) publication. They regretted the fact that the data which may have been collected in respect of the non-published Doing-Business Reports would not be available, as they found the insights and trend analysis they conducted thereon very useful (although they understood that, given the sensitivities regarding the collation of that report before its cessation, that granular data was unlikely to become available).

- **Continuity** – Ireland's National Competitiveness and Productivity Council (NCPC) have tracked Ireland's performance in the sub-indicators over time to assess where policy intervention has brought about improvements. They would be very keen to see some elements of continuity in the underlying datasets even if the headline indicators will no longer be comparable.
- **Sub-National** – the NCPC welcome the broadening of the evidence base to multiple city locations per country but would understand that this could be difficult to deliver in practice given Ireland's small population size and the difficulty in securing enough survey respondents to provide an unbiased sample. They are also keen to see an update to the 2019 report to track progress in the five Irish cities included. The Department of Finance would be interested in the linkages between the Sub-National and the broader BEE and if all elements of the sub-national indicators are intended to be continued in some form? (We note that the expansion of coverage beyond the 'Capital' focus of Doing Business Report is contingent on a number of factors including cost)
- **Sustainability** – given the growing importance of the Climate Action agenda, it will be important that green metrics are also included in the survey questions as consumers, enterprises and governments increasingly demand to see 'green credentials' before doing business. In the future the countries that have made significant progress in this area are likely to enjoy a competitive advantage.
- On the proposed broadening of the focus in relation to taxation, we have no concerns regarding the indicators to be encompassed.

Comments from the office of the WBG Executive  
Director representing Argentina, Bolivia, Chile,  
Paraguay, Peru and Uruguay

**EDS08**  
**Argentina, Bolivia, Chile, Paraguay, Perú and Uruguay**

**COMMENTS TO THE BUSINESS ENABLING ENVIRONMENT (BEE)**  
**PRE-CONCEPT NOTE**

According to the Pre-Concept Note, the Business Enabling Environment (BEE) seeks to assess the country's environment for business development at each stage of its development (e.g., market entry, location, operation, closure, etc.) based on the previous methodology applied by the Doing Business (DB) through an improved proposal of indicators linked to the regulatory framework and public services.

This note includes comments from Argentina, Bolivia, Chile, Paraguay, Peru and Uruguay, all member countries of EDS08. Since the first publication of the DB, our countries have acquired extensive experience and maintained frequent dialogue with WB staff responsible for the DB. The general and specific comments on each dimension of the BEE presented below are based on this experience and are intended to make contributions expected to be incorporated in the preparation of the BEE Concept Note and its subsequent implementation.

**General Comments**

**Aggregating Indicators.** The Pre-Concept Note proposes to generate a series of indexes for each of the topics that make up the BEE. What is not yet defined in the Pre-Concept Note is whether there will be an aggregated index as was the case with the DB. We believe that a consolidated index incorporating all topics and dimensions will not truly reflect the opportunities and challenges faced by companies in developing their economic capabilities in a given country.

One of the trade-offs for having cross-country comparability with an aggregated index are the assumptions and generalizations that must be made regarding country-specific public policies to promote business climate. Due to the heterogeneity of economic conditions and the different regulatory frameworks of each country, it is difficult to establish a general score through aggregation mechanisms. It is even more complicated to establish the "correct" weightings for each of the topics that would make up an aggregate index.

Therefore, we would like to emphasize in publishing the data and indicators of the BEE Report next to each other, but not aggregate them into one overall country ranking or score. We ask Management that this issue be resolved when the Concept Note is distributed for Board consideration.

**Data Collection and Expert Consultants.** The BEE Pre-concept Note highlights the use of expert consultants and company surveys to collect information. Previous experience with the DB in the use of anonymous external consultants has allowed us to learn that this way of collecting data leads to information biases due to possible subjectivities incurred by these actors. These biases are greater when it comes to measuring de facto information.

We believe the main problems generated with the DB derived not from the design of the indicator itself but from the methodology used for obtaining and processing the data.

The data collection approach based on "expert opinion" did not consider more "objective records" that in most cases could have measured the universe and be statistically more representative. Therefore, it is concerning that regarding collection of de-facto data, the Pre-concept Note favors the use of expert consultants, instead of surveys or other more objective methods. As presented in the Pre-concept Note, consultants will be used to collect most of the de-facto data to measure or assess efficiency of business entry; quality of utility regulations; quality of tax regulation; efficiency of resolving commercial dispute, and business insolvency, among others.

In this regard, we are of the opinion that the emphasis should be on using primary or original sources and not relying on the opinions of law firms or consulting firms. To avoid this, such consultations should be limited to quantitative, measurable issues and no attempt should be made to collect qualitative information in this way. In other words, information based on the perception or subjectivity of private sector experts should be minimal. Moreover, in the few instances where consultant could be used, it is important to be transparent and careful about the selection process followed to hire them. Selected experts should be independent and without potential biases and tendencies towards underscoring or inflating the reforms.

Overall, our recommendation is that all BEE indicators for the different topics should address these methodological limitations related to data collection more than anything and try to use indicators with a greater degree of objectivity. We expect that the Concept Note will address the methodological issue of data collection and processing and spell-out clearly the sources of information to be used for each of the BEE indicators.

**Government officials' involvement in the BEE process.** It calls our attention that the Pre-concept Note does not mention the role of government officials in the implementation of BEE. We believe that along with the private sector, the public sector is an important partner for the success of this initiative. Especially, considering that the promotion and implementation of policy and regulatory changes to strengthen the business climate requires government empowerment and participation. We believe that this coordination should take place at three levels.

First, to have a balanced assessment about the different topics and corresponding indicators and how to measure them, it is important to have formal interviews and consultations with public sector representatives during the preparation of the BEE report.

Second, BEE should use two corroborating mechanisms for the data collected through expert consultations and surveys on regulations and public services: (i) desk research (i.e., the reading of laws/regulations, checking of features on public websites) and (ii) official data (i.e., administrative statistics from registries, courts, and other agencies)". Although we welcome the Pre-concept Note suggestion to use official records for corroboration, we recommend making this mechanism mandatory, so that there are no doubts about how that information will be processed and to what extent arbitrariness of criteria will be avoided.

Third, countries should be allowed to officially respond to or comment on the BEE report to discourage attempts to informally exert influence on the data and the results of the report. Such country responses or commentaries should be published on the BEE's website together with the report.

We expect the Concept Note will include a protocol on how official data will be used to corroborate data collection and on how the exchange of information and dialogue with government representatives will work during BEE implementation and before its publication.

**Indicators free from ideological and cultural legal bias.** DB indicators demonstrated a conceptual and methodological bias in favor of deregulation and in favor of common law systems to the detriment of countries with civil law as the underlying legal system. Indicators should however measure the impact and results of regulations on the ease of doing business and should not be prescriptive regarding the way to achieve these results. Adherence to the rule of law, access to justice, impartiality of the judiciary and overall legal certainty before and during legal proceedings should be given greater importance. However, promotion of market deregulation as an end in itself should be entirely avoided. We ask Management to confirm if this will be the approach in the Concept Note.

**Role of DEC Global Indicators Group Unit.** We agree that this Unit should be responsible of designing, piloting, and implementing the BEE. However, we are of the opinion that this group should not be involved in the policy dialogue with governments to promote reforms or to offer RAS and advisory services to member countries. This should be the responsibility of the Regions and Global Practices. Moreover, we ask Management to consider whether the Bank should at all do BEE advisory work. Specifically, advisory services focused on improving the BEE score of a given country. We ask Management to clearly specify the roles and responsibilities of DEC Global Indicators Group Unit, Global Practices and Regions in relation to advisory services related to BEE.

**Transparency.** Regarding transparency elements, we consider important to insist that the entire calculation procedure and methodology used be published in detail on the BEE's website. Additionally, regarding the evaluation and the proposal to balance the use of different methods for the collection and validation of information, more details should be provided on the methodology to be used, as well as the weight that each of the instruments for data collection will have. Establishing these criteria is an important part of the methodology, as it will allow a fair assessment between the information from private sources, collected through surveys, and the systematized information provided by public institutions.

**Data representativeness and validation.** The Pre-concept Note mentions that BEE will try to achieve a balance between data comparability across countries and data representativeness in a given economy and that data collection and reporting processes will be governed by the highest possible standards. These standards to be applied should be based on well-known techniques that, with pros and cons, will ensure the statistical validity of the results obtained.

In addition, the variability of the responses to the business surveys over the years should be evaluated. The responses should reflect how the conditions for improving the business and investment climate vary over time and have verification mechanisms to avoid replicating previous surveys, which would affect the rigor of the study.

**Quantitative assessment.** It is indicated that the objective of this benchmarking exercise is to provide a quantitative assessment of the business environment for private sector development. However, Section II under BEE's topics, constantly refers to the

quality of regulation in each of the topics. Establishing a score for a qualitative assessment is not the same as conducting a quantitative assessment.

**Sample size.** Sample size will be key to quality data. We believe that the necessary precautions should be taken to find the optimal sample size and to take into account geographical conditions, since a sample that is too small for different regions or specific industries may lead to outliers that ultimately do not reliably show the business climate.

**Frequency of Publication.** Given that a country's regulatory framework does not change frequently from year to year and considering the cost and time it takes to conduct surveys of companies, we recommend that the BEE Report be published every two years.

**Support for business climate development.** Another point not covered by the BEE that is important for understanding a country's business climate is the tools and facilities governments sometimes provide in emergency and/or crisis situations. For example, there are public entities in LAC that offer economic support in crisis situations, such as benefits to deal with tax arrears and debt restructurings to facilitate the recovery of companies in crisis. We believe that these aspects should also be included in one of the BEE topics, such as the "operating a business" stage.

**Start-ups.** From reading the document, it can be inferred that BEE has a bias towards start-ups and their development. Much mention is made of the benefits of their growth and the barriers they may face. However, it is not emphasized that there are still many companies (even in the developed world) that do not fit the start-up concept and do not need to adapt completely to this model in order to develop and succeed. Such is the case, for example, of small "*bodegas*", bakeries, or small markets. Therefore, applying indicators based on the characteristics of start-ups to these companies could ignore the reality they face and put them at a disadvantage in their evaluation. Moreover, start-ups, though highly relevant, are only a fraction of the entire universe of companies and small businesses in developing countries, so it would be inaccurate to model the indicators on this specific type of companies.

**Human Capital and Labor Market.** Although the World Bank collects information on a country's human capital through the "Human Capital Index", the BEE document states that it will not be considered within the new indicator. However, we believe that the qualification of a country's employees in the labor market is a fundamental factor in understanding the business climate of a company when it comes to investing in a country. Not contemplating this factor leads to the fact that expenditures made by the Governments mainly on education and technical training are not taken into account in any way by the index.



## Specific Comments

The objective of the BEE as stated in the Pre-concept Note is to provide a quantitative measure of the business climate in different countries. The business climate according to the report is defined as the conditions beyond the firm's control that affect its performance. We believe that from the indicators included there are many dimensions that are not on target due to omissions or errors in the way factors are surveyed or measured. The table below presents specific comments on each of the topics that make up the BEE.

TOPIC	COMMENT
<p><b>A. Business Entry</b></p> <p><b>2. Indicators in the area of business entry</b></p>	<p>At the Business Entry stage, three indicators of digital public services and information transparency for business start-ups are mentioned:</p> <ul style="list-style-type: none"> <li>• Availability of online services for business incorporation and start-up,</li> <li>• Interoperability of services for business incorporation and start-up of operations, and</li> <li>• Online availability of corporate information and transparency of information.</li> </ul> <p>For this stage we recommend to also include investments in digital assets or information technologies, especially by public national and subnational entities related to business formation.</p> <p><i>a. Quality of regulations for business entry</i></p> <p><i>(1) Good practices in the regulatory framework for business incorporation (p. 10)</i></p> <p>With respect to the good practices mentioned, it is not possible to determine which ones in particular are considered for the development of the indicator. We expect to have more information in the Concept Note in order to be able to issue an opinion in this regard.</p> <p><i>(2) Restrictions in the regulatory framework for business entry (p. 10-11)</i></p> <p>In order to give an opinion, we expect to have more information in the Concept Note regarding the relationship (positive or negative) between the indicator about the restriction of entry of local private companies, and a conducive environment.</p> <p>In this regard, we would also like to have answers to the following questions.</p> <ul style="list-style-type: none"> <li>• Will the indicator allow us to assess to what extent the restrictions correspond to a legitimate public policy objective? For example, restrictions related to security guarantees when risk to people is involved.</li> <li>• Will it allow to evaluate the magnitude of the restrictions in comparison with similar measures in other countries, or would the comparability be only internal over time?</li> <li>• Will the indicator include the cost generated by the activities described, or if not, does it refer to the cost of compliance with</li> </ul>

	<p>the requirements and/or conditions that such activities demand for their fulfillment?</p> <p>Finally, we consider it important to include in this indicator the interoperability of public and private services for company incorporation and start-up. This indicator evaluates the availability of electronic systems for exchanging information between the agencies involved in the process of creating and operating a company, such as the company registry, the tax administration and the social security agency.</p>
<p><b>B. Business Location</b></p> <p><b>2. Indicators in the area of business location</b></p>	<p>The Business Location stage refers to the quality of public services and transparency of information. It uses three sets of indicators related to the location of enterprises:</p> <ul style="list-style-type: none"> <li>• The quality of regulations for real estate leasing, property ownership and urban planning,</li> <li>• The quality of public services and transparency of information, and</li> <li>• The efficiency of key services to obtain a business location.</li> </ul> <p>We consider important for this indicator to include, as a component, the availability of online services for construction permits and environmental licenses, among which functionalities such as digital payments will be taken into consideration as an important point for a better evaluation.</p>
<p><b>C. Utility Connections</b></p>	<p>In the Operating a Business Stage, one of the indicators mentioned is reliable connections to public services, for example, that the electricity supply or internet connection are not limiting for the development of the company's activities.</p> <p>In this case, it is necessary to specify that these are investments by public and private service entities (municipalities, water, energy, telecommunications companies, etc.). Also, the availability, security, quality, and sustainability of internet service becomes of similar importance to access to water and electricity services, in the current context of work and business environment.</p>
<p><b>D. Labor</b></p> <p><b>1. Motivation</b></p>	<p><b>Argentina's Comments.</b></p> <p>Labor market policies should be dealt with separately by the Bank, and like gender should not be included in the BEE. In fact, the Employing Workers Indicator (EWI) was already removed from the DB indicators in 2009 and its reintroduction in the BEE would be detrimental given the complexities of labor issues and varying national contexts. The substantive conceptual and methodological arguments that led to the removal of the EWI from the DB are even more valid for the BEE. This position is also consistent with the recommendations to remove the EWI made by the DB 2013 Independent Panel review. Also, a labor indicator in the BEE does not meet the proposal's criteria of adding value, given the information already gathered by the OECD and ILO in terms of statistics and the supervisory mechanisms on international labor standards, as well as data gathering under SDG 8.</p>

	<p>Instead, in relation to labor policies, the Bank should continue the approach established in the <i>2013 WDR on Jobs</i> and the subsequent <i>2015 Balancing Regulations to Promote Jobs</i> by the Bank and ILO, which benefited from active dialogue and consultation with representatives of employers and workers as well as other major stakeholders. As the <i>Balancing Regulations</i> report rightfully acknowledges “Beyond some... general principles, however, there is no overall blueprint to design or adapt labor regulations. Rather, there are different reform paths that depend on country characteristics and are shaped by social, political, economic, and historical circumstances combined with different legal traditions.” Therefore, it would be very damaging to go backwards and reinstate the EWI in the BEE. Given the complexity and significant dimensions of labor policies, it is simply impossible methodologically to attempt to create an indicator consistent with the “balancing regulations” approach.</p> <p><b>Peru’s Comments.</b></p> <p>Although the incorporation of employing labor is valued positively, the methodology through which the evaluation of the labor market is incorporated must be the object of a deep dive analysis.</p> <p>The BEE labor indicators will allow capturing the segmentation that is generated by differences in regulations applied to different contractual arrangements (permanent vs. temporary jobs), or type of workers (migrant vs. non-migrant), and when there is lack of enforcement (formal vs. informal).</p> <p>However, there seems to be an assumption about the formal characteristic of employment, since, for example, the indicators of "Workers' social protections" and "Individual labor dispute resolution" may be measured mainly in the formal sector of the economy.</p> <p>In this sense, we strongly recommend to consider representing the informality of the economy to some extent, as this mainly affects developing countries. Consideration of informality is very important so that the results do not have a bias of representation only in the formal sector.</p> <p>Also, it will be important to clarify if the indicators will allow segmenting between outsourcing and non-outsourcing companies.</p> <p>Regarding "From the perspective of firms, well-designed legislation can help them attract skilled labor and adapt to economic shocks and to changes in economic conditions and technology" (page 22). It is important to define in the Concept Note what is meant by well-designed legislation. Is there an established model of legislation or is it based on the reality of each country?</p> <p>Also, regarding "unemployment insurance schemes", it should be assessed the availability of unemployment insurance or any other form of worker protection scheme.. In the latter, the basic aspects of such protection scheme should be defined.</p>
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<p><b>D. Labor</b> <b>2. Indicators in the area of Labor</b></p>	<p>In the Concept Note is important to explain how the Labor indicator will capture (quantitatively) the non-wage costs imposed on employers through government regulations.</p>
<p><b>E. Financial Services</b></p>	<p><b>Quality of regulations for secured transactions, e-payments, and green financing</b> (Page 27). The document establishes for each of the three instruments mentioned which components should be included in their regulation for the measurement of the indicator. However, the metrics for each instrument are not specified, nor is the respective procedure for their calculation.</p> <p><b>Quality of credit reporting framework</b> (Page 29). The document specifies in general terms that it will include and seek to measure the functioning and processing of credit information in the institutions providing public services and the processes within the framework of the registry of collateral in a functioning system. However, the metric to be defined for such purpose is not specified, nor the procedure for its calculation.</p> <p><b>Ease of receiving financial services</b> (Page 30). It is established that the main processes associated with domestic loans granted by public or private banks will be considered. It is recommended that all entities of the financial system be included and not only focus on a single actor in the financial market.</p>
<p><b>F. International Trade</b></p>	<p>With respect to the "International Trade" chapter, we believe it is difficult to assess accurately the indicators of "Good regulatory practices enabling international trade" and "Regulatory restrictions on international trade".</p> <p>Non-compliance with WTO rules is not always clear and judging a country negatively in an index for unresolved open cases is not fair neither adequate. Similarly, international trade regulations can affect different companies differently, even if they are in the same productive sector. Potential import restrictions due to non-compliance with regulations may be due to non-compliance by companies rather than to regulatory problems. On the other hand, there are cases such as the panels for biodiesel whose resolutions are changeable, and it is necessary to guarantee the principle of innocence in the indicators as well.</p> <ul style="list-style-type: none"> <li>• We believe it would be appropriate to include "Good regulatory practices enabling environmentally sustainable trade" as a criterion for determining the <b>"Quality of regulations for international trade in goods and e-commerce"</b> (page 32). Although we understand the importance of environmental issues for the country's development, we do not consider that this should be a variable to measure whether there are good foreign trade regulations. The premise under which this area (international trade) is included in the BBE is to qualify/characterize the viability of the private sector to operate a business. The operability of a business does not depend directly on whether the foreign trade regulatory framework is environmentally sustainable. Also, it should be specified whether the regulatory quality requested in this item refers to the</li> </ul>

	<p>existence of a Regulatory Quality Analysis (RQA), prior to the approval of the rules for international trade generated in a country. It must be determined if the existing regulation evaluates whether the country applied regulatory quality criteria in its formulation,</p> <ul style="list-style-type: none"> <li>• In addition, it should be noted that the study proposes that the component <b>"Good regulatory practices enabling environmentally sustainable trade"</b> (page 33) be measured based on whether a country has established "Border Carbon Adjustments" and lower tariffs for environmental products. It should be noted that carbon pricing or carbon taxing has not been implemented in all countries and that the reduction of tariffs for environmental goods is an issue on which the WTO has not yet reached an agreement. Thus, if this interpretation were to be included, some countries would be negatively (an unfairly) rated in this area and consequently in the area of foreign trade. Likewise, the document should specify how countries that apply measures other than carbon taxes to reduce their emissions will be treated, considering that this tax is not applicable in all cases.</li> <li>• <b>Quality of public services for the facilitation of international trade in goods</b> (Pages 33 - 34). This set of indicators will be built, among others, based on information obtained from databases of international organizations, which in turn are fed by the reports or notifications of the countries. In this regard, the document does not specify the consequences or treatment of lags or delays in the reports/notifications of the countries. The evaluation should include the services provided through information platforms regarding the characteristics of logistics services, their providers, and costs.</li> <li>• <b>Efficiency of importing goods, exporting goods, and engaging in e-commerce</b> (Page 35). Regarding the time and costs related to e-commerce, the methodology to be used in cases where a percentage of the costs of internet domains, services to receive online payments and insurance are not domiciled in the country under evaluation should be specified.</li> </ul> <p>Given the importance of <b>international trade in services</b> at present, as the study itself reveals, it is suggested to consider some component that can measure the quality/efficiency of this type of trade within the international trade area of the BEE.</p> <p>The document establishes the use of case studies limited to certain topics. In order to avoid replicating the problems presented in the DB, the scope of the case studies should be defined, considering that their implementation is feasible. (Page 31)</p>
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<p><b>G. Taxation</b></p>	<p>We believe it is extremely important to review the approach and methodology of the tax chapter. <b>An isolated analysis only from the tax pressure side leaves aside the use of these resources</b> to promote and support the productive sector and the overall sustainability of the economy. The existence of this indicator is very biased and harmful to a country's business reputation. A single indicator should be presented that reflects the net effect between taxes and related spending to promote business at a micro level. Positive effects of tax collection, such as improving the education and health of an economy's workers, should be included in this same indicator as they are the counterpart of tax collection.</p> <p>On the other hand, the concept of "Tax burden and efficiency of tax systems" is strongly conditioned by countries' income levels. Different access to technology of the population generates different technological capacities in general to be applied to the electronic collection systems of the official entities. Similarly, the stability of tax regimes ("Stability of tax regulations") should not be assessed in emerging countries since these countries have fewer tools than developed countries to deal with crises and frequently must resort to tax changes to face critical situations.</p> <p><b>Tax burden and efficiency of tax systems</b>( Page 40). Time to comply with tax regulations. The procedures and evaluations to be carried out in each of the situations resulting from compliance with the regulations corresponding to the tax processes must be clearly defined. For example, the activities to be carried out by the public institution will depend on whether the rectification of the tax return generates an additional tax payment or a tax refund.</p> <p>Likewise, it should be considered that sometimes the size of the company has an impact on the time it takes to comply with the regulations, due to the diversity of requirements that must be met. Therefore, the methodology should include these differences in the data collection and evaluation process.</p> <p>The changes with respect to DB seek a tax system that is more representative of the economic and individual conditions of the countries. The indicator that measures the <u>services provided by the tax administration</u> presents as relevant the electronic systems for tax filing, payment and assessment measured in information technology infrastructure. For example, the degree of interoperability between the tax administration and other government institutions reduces the need to request information from businesses that would otherwise already be available.</p> <p><b>Addressing clarity of tax provisions.</b> This indicator measures the systems in place to obtain feedback from businesses through surveys, FAQs on websites and public contact centers, and by providing guidance to businesses by issuing clarifications and interpretations through general or application-specific reports to provide certainty. The indicator will also analyze the availability of specialized guidance on environmental tax compliance and communications aimed at increasing awareness and acceptance of green taxes. How will this indicator be measured?</p>
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	<p><b>Transparency in the formulation of tax regulations.</b> This indicator measures whether the authorities routinely inform companies about future changes in procedures and processes and the time between the announcement of tax changes and their enactment. It will also assess whether the authorities conduct regulatory impact assessments and public consultation for all new regulations, including environmental taxes. Regarding impact assessment and public consultation, it would be necessary to know how the indicator is measured.</p> <p><b>Electronic systems for tax filing, payment, and assessment.</b> With respect to this indicator, it is necessary to identify the services that are subject to evaluation. On the other hand, regarding interoperability, we agree with its measurement.</p> <p><b>Risk-based Audit.</b> It would be useful to know how to measure this indicator. In addition, it should be clarified whether "where there are transparent and effective audit procedures" means that the rules, manuals and guidelines are available to taxpayers. Regarding the collection of third-party sources, the branch of the entity that also participates in the Information Plan indicates that it agrees.</p>
<p><b>H. Dispute Resolution</b></p>	<p><b>Dispute resolution mechanisms.</b> Timeliness of attention to "disputes" (appeals, according to our legislation). Deadlines are regulated in the Tax Code. There are control and follow-up mechanisms to ensure attention within the aforementioned term.</p> <p>For this indicator it is important to take into considerations the country-specific normative. For instance, in the case of the structure and independence of the resolution mechanisms; although the resolution areas are part of the same Administration, they are independent from the delimiting areas. The pronouncement issued may be reviewed by the Tax Court, a collegiate body that is independent from the Tax Administration. In addition, taxpayers have the possibility of resorting to the jurisdictional channel so that the Judicial Power may hear the dispute; taking into account that, once the administrative channel has been exhausted with the pronouncement of the Tax Court, if applicable, the debt is collectible.</p> <p>Alternative dispute resolution process through the fast track, such as arbitration. Regarding this point, it should be noted that in some countries the law does not allow the tax debt to be submitted to arbitration.</p> <p><b>Time to comply with tax regulations.</b> Conceptually the indicator is adequate, however, it is necessary to know details of the components to be measured. Regarding the last paragraph, it seems that it would not be directly consistent with the proposed indicator.</p>

<p><b>I. Market competition</b></p>	<p>The methodology through which the evaluation of market competition is incorporated must be the object of an in-depth analysis.</p> <p><b>Effective implementation of the simplified merger review</b> (p. 51). With regard to the effective implementation of the simplified merger review, it is important to clarify how it will be measured whether the information request process is a burden on business, and how it will be determined that the competition authority is using the simplified procedure appropriately.</p> <p><b>Market dynamism and competitive behaviors</b> (p. 51). Regarding the measurement of competition in the markets, given that it is not usually homogeneous in all industries, has a segmentation according to large productive sectors been considered?</p> <p>In addition, it is indicated that market dynamics will be measured through consultations with the companies, and it is mentioned as an example that they will be consulted on the market exit rate, however, it is not clear if for this particular consultation the companies will be in the best position given that it is an aggregate data of the sector.</p> <p>Aspects of competition policy enforcement and regulations focused on improving competition in the private sector will be covered, including in markets where the government is a purchaser of services or goods. None of these areas were previously covered in the DB approach.</p>
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<p><b>J. Business Insolvency</b></p>	<p>Efficient insolvency is presented as a general framework provided that non-viable companies are guaranteed to be liquidated quickly while viable companies are effectively restructured in a sustainable manner.</p> <p><b>Quality of regulation in insolvency cases.</b> The BEE seeks to clearly establish, depending on compliance with the rule, the procedure as to whether liquidation and/or reorganization proceedings may be available to the debtor and creditors, as the case may be.</p> <p>Specialized procedures for MSMEs, whose indicator will measure whether the aspects related to liquidation and reorganization procedures adapted to MSMEs under the insolvency regulation. The incorporation of specific aspects such as the existence of debt cancellation guarantees is considered positive.</p> <p><b>Quality of the institutional and operational infrastructure in the event of insolvency.</b> The Insolvency Services Interoperability indicator will measure institutional quality through the implementation of an integrated database that brings together information from the debtor, creditors, various guarantors and relevant agencies with a role in insolvency proceedings.</p> <p><b>Other notes regarding implementation:</b></p> <p>They highlight changes to data collection that include sending blank questionnaires (rather than pre-filled questionnaires with prior year information) to experts in both the first and subsequent years. This would help eliminate the potential risk of anchoring bias, although it may result in more year-to-year changes and volatility in the data compared to DB.</p> <p><b>Ease to resolve an insolvency judicial proceeding</b> (Page 56). With respect to the "... assumptions underlining the defined company ...", the scope of the assumptions to be established in the study must be precisely and exhaustively defined, since the extent of these assumptions will depend on the underestimation or overestimation of the costs or times in which insolvency proceedings are carried out.</p>
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Comments from the office of the WBG Executive  
Director representing Austria, Belarus, Belgium,  
Czech Republic, Hungary, Kosovo, Luxembourg,  
Slovak Republic, Slovenia, and Turkey



Office of the Executive Director for  
Austria, Belarus, Belgium, Czech Republic, Hungary, Kosovo, Luxembourg, Slovak Republic, Slovenia, Turkey

### General comments

**The visions for scoring should be better reflected in the concept note.** Currently, the pre-concept note does not clarify how BEE will present the scores and how it will handle the issue of ranking. We need to be clearly informed about how the indicators will be grouped, and whether aggregate scores or an index of countries is envisaged or if countries would be grouped based on certain common characteristics, like economic development. Ranking can be an important tool in creating awareness and political attention, however, we should avoid the ill-positioned hype this attracted in the DB initiative. Overall, we have strong reservations about the ability of an aggregate score to accurately capture the realities of business environments in countries, which would require a much more nuanced approach. Thus, how the measurable indicators will be presented is a key outstanding issue of BEE and remains unaddressed. **We expect to be closely consulted on this aspect, with ample opportunity to weigh in on the direction taken going forward and it might warrant a technical briefing by itself.**

*Note:* within our mixed Constituency group, there are divergent views on the topic of ranking. Luxembourg wishes to be recorded as **opposing** the ranking exercise, as it does not believe that it adequately captures the business environment in the country, and that a single score is therefore misleading. Luxembourg would propose a much more nuanced approach to presenting the findings of the BEE initiative. For example, BEE could benefit from executive summaries for all countries, with a narrative that lays out areas for improvement but also highlighting progress and areas where economies are deemed to be progressing well / succeeding.

**We welcome some innovative features of BEE**, such as the effort to evaluate the business environment from the standpoint of private-sector development overall rather than just individual firms, including the provision of public services in an economy and not just the regulatory burden. And we welcome the inclusion of data based on de facto implementation of regulations rather than only de jure measurements. However, **we also recommend placing more emphasis on official data and statistics provided by local statistical offices or information services. Additionally, the possibilities of authorities in providing feedback on the answers received from experts should be clearly defined in order to improve integrity.** It is especially hard to see how experts can have a well-informed view on interagency communications, which are also among the many aspects looked at by the BEE. Therefore, **we recommend equal access in the evaluation of information from the public administration and the business community.**

In the past, information from entrepreneurs was more relevant to the Doing Business project than information from the public administration and some countries got the views of 20 experts in total while

this corresponds to levels of 3-5 under each category which undermines the representation. For example, in DB2020, the average number of experts was 7. In order to make a fair and unbiased assessment, the number of consultants should be identified upfront for each category with a **better sectoral and regional representativeness** than in Doing Business. In addition, without jeopardizing the integrity of the study, independent professional bodies such as union of chambers should have the option to recommend companies who will conduct the surveys under well-defined selection criteria in a transparent way. Despite the competent authorities have alerted the *World Bank* to lack of objectivity in assessment of some indicators several times, the *World Bank* has not addressed the comments and has presented incorrect information for several years. In some countries, *the World Bank* mentioned the procedure despite it was not enshrined as an obligation in any regulation and in some it did not. Based on the key objectives and features, **it is not clear how BEE will be different from Doing Business in an aspect that received much criticism.** It is welcome that WBG tries to remove the potential risk of anchoring bias, which arose during the Doing Business surveys, because of the pre-filled questionnaires with information from the previous year. However, we are afraid the blank questionnaires are not enough to total removing of this risk. Companies will still be able to look back at their previous responses and copy them into the new questionnaire.

On **integrity and accountability concerns**, we would like to ask how the BEE team proposes to implement/monitor data collection and reporting processes to ensure they will be governed by the highest possible standards, as the note says, including robust data safeguards. What will be the new mechanisms envisaged? We find the current description of such measures to be too succinct to give us satisfactory reassurance on this extremely important aspect. **The need to restore credibility and confidence in the WBG's BEE project should be the highest priority.** It goes without saying that the institution cannot afford any additional tarnishing of its reputation when it comes to perceived accountability and integrity standards. We trust this will be adequately elaborated in the follow-up concept note.

As before, we believe that **BEE should continue to foster market reform processes** (rather than focusing on bureaucratic efficiency) to ensure it can result in positive outcomes in countries and specifically reap benefits for the poorest. In addition, we believe that BEE should underline the social benefits of socioeconomic protection, and we see some steps taken to this effect for example in the proposed indicators under worker's social protection (including in the informal sector). We would like to better understand what benchmarking and standards are used in this respect. Overall, we encourage BEE to incentivize policies that invest in people and the environment, and this should transpire in all the indicators whenever possible. In other words, it should reinforce regulations that foster health care, workers' safety, and be forward looking in terms of attention to climate, for example incentivizing low carbon activities, climate adaptation and mitigation efforts.

In the document WBG claims „BEE acknowledges that some business regulations (e.g., certain regulations related to taxation) may add to the regulatory burden faced by individual firms but recognizes the positive impact that they may have on the economy. BEE will attempt to address this trade-off when deciding on the scoring methodology.” Almost every regulatory burden has positive impact on the economy in a higher perspective (e.g., the higher local business tax allows the local government to provide better quality public

service or a strict regulation on the foundation of a company, which make longer and more expensive the whole process will result fewer inoperable and bankrupt companies at the macro level). **It is not clear, where and how the WBG will find the border between „useful” and „harmful” burdens. For example,** some very developed countries do not have minimum wages, though they are examples for good worker protections while some countries have too many or too high minimum wages leading to informality. Wage setting mechanisms thus seem to be more relevant indicators than the existence of a minimum wage. Also, the length of provision and replacement rate of unemployment benefits vary across countries. A well-designed scheme should offer adequate safety net without disincentivizing employment. One could also mention professional licensing and certification requirements when it comes to safety of utility connections where too much administrative requirements can become a burden without any additional value to safety. **It is unclear that how these subjective indicators will be assessed.**

**Protecting minority investor rights** does not take place in BEE. It is a prerequisite for advanced security markets while also angel investors and joint venture increasingly getting attention globally, we would like that indicator to be included in the BEE which we believe will improve the startup ecosystem.

We think that the authors of this study should **consider the extent to which entrepreneurs should round time data** for individual operations where they use public sector services, such as: establishing a company, registering a trade in the trade register, etc. We understand that with this step, the creators of the study want to simplify the collection of data and information of individual entrepreneurs. We would like to point out that if the time data for these activities, which last a few minutes or hours, are rounded to one day, for example, then these time data will not truthfully indicate the performance of public sector services.

In our view, **it would be worth considering comparing only SMEs in this study** and excluding large companies from this project. Also, the possibility of using real anonymized examples of companies instead of fictional ones should be explored without the detriment of cross-country comparability.

Finally, the note mentions that BEE should serve the institution's twin goals of eliminating poverty and boosting shared prosperity. Could this link be better laid out in the narrative?

Please, clarify and describe what type of the advisory services will be available and how the independence of advisory services from data collection will be ensured.

### **Procedure**

We are **concerned about the tight timelines** for the development of the new BEE methodology and stress the importance of delaying the launch of the new BEE report should the necessary steps for a quality product require additional time. Given the events leading up to the termination of the Doing Business project, we think it is even more essential that the new methodology is developed with attention to quality and the highest integrity standards, ensuring all stakeholders' confidence is restored rather than moving under accelerated timelines at all costs.

According to the pre-concept note, BEE will clarify the scope and rationale of each indicator on the BEE website, as well as during interactions with stakeholders. If necessary, it will replace its indicators by others that are proven to be better proxies. In our view, **this kind of revision must be avoided to keep**

**the results comparable** across years, and to provide a useful monitoring tool to the measurement of enabling environment.

On a **procedural aspect and next steps**: we were informed that there will be refinements to the project after the initial consultation, and that we can expect a phased and iterative approach for BEE. Could you please explain what this will mean in practice? In addition to the Board discussion at the end of May, will we have opportunities for input again after the pilots have taken place, but before the data collection for the first BEE report is launched? For transparency reason, please provide selection criteria and list of countries for BEE piloting.

Given the expanded scope of the BEE project, we are also interested to hear about **human and financial implications and plans** to adequately resource the work, to ensure it will be executed as expected.

Throughout the process, **we strongly recommend continued communication** with the Board but also with all stakeholders.

### **Utility connections**

Since environmental sustainability is a key horizontal issue, therefore it might be valuable to look at administrative burdens and opportunities for own production, e.g., deploying solar panels or digging wells. Especially the latter could be affected by legislation, as ill-designed regulations could lead to illegal water taking. It is also worth considering if sewerage and garbage should be part of the utilities that are covered. Legislation and services in these areas are key for a more sustainable environment, while burdensome legislations, weak enforcement and inefficient services can lead to illegal dumping.

In relation to transparency of tariffs and connection requirements and Time & Cost to obtain electricity, connections how the World Bank will report the duration to obtain new electricity connection? In case of former getting electricity indicator the competent Slovak authorities reported duration of 8 days, the World Bank reported 24 days. The 8-day period represented the average period for all customers connecting to the distribution system at the low voltage level. The Slovak authorities have been drawing attention to this fact several times since 2014, but without response.

In case of commercial utility connections, please clarify, if the parameters of the case study will require the installation of a private high-voltage substation, or a low-voltage connection without its own substation is sufficient.

### **Financial services**

Page 64, Appendix II. Detailed Preliminary BEE Topics and Indicators - in the column „Set of indicators” specifically in the „Financial services - Quality of credit reporting framework” relating to „Components” specifically in the „Operationalization of credit bureaus and registries” we propose to add an expression as well „De jure” in the column titled „De jure or de facto”, where is found now only the expression „De facto”. In our opinion this should be consistent with page 29, b paragraph (b. Quality of credit reporting framework) third subparagraph, sentence „Because of its nature, the component combines de jure and de facto data.”

In Doing Business experience, ranking in `Getting Credit` topic was somewhat controversial not rightly reflecting the actual situations of countries based on their development status which led to criticism. For

example, some least developed countries ranked high in the DBI. Therefore, either new indicators need to be developed or the measurement methodology should be improved to overcome these kinds of hurdles to make it a suitable indicator to be used in measuring the doing business environment.

### **International trade**

To the general introduction part, we would like to state that the regulatory framework should be assessed differentially and exclusively in relation to the purpose for which it was adopted. Many measures must have an impact on international trade as soon as possible, at least in the form of increased administrative or other costs and payments but pursue the objective for which they were adopted. This category includes, for example, the safety and security of the population, the protection of the domestic market in the case of anti-dumping measures or protection against greenhouse gases, and the promotion of green technology in the case of unique carbon measures.

We appreciate that the BEE methodology will be aimed at increasing the representativeness of the obtained data, but at the same time we would like to prove the fact that especially when applying de facto components there is always a high degree of subjectivity of a particular respondent.

In our view, the security of the international supply chain should also be assessed in the context of international trade, both in the regulatory framework and in its practical application.

When evaluating some criteria, we have doubts whether they should be evaluated in the context of international trade. These are, for example, the criteria for internet services or payment services.

When examining the criteria related to the competent authorities, the criteria must strictly distinguish between the costs they have to bear due to the administrative requirements of state / government authorities (e.g., customs) and other costs required by the entity in relation to private companies, e.g., transportation, logistics, or finance.

### **Taxation**

#### *General comments*

We fully agree with the intention to take Doing Business evaluation to a higher level. The Business Enabling Environment document is to a large extent generalizing. Setting up the right criteria for evaluation and right selection of model representative will be essential. We consider it important select suitable entities for the case study not only in terms of size, industry, and structure of firms but also in terms of the particular economy evaluated – other conditions (e.g., turnover) should be chosen for smaller economies such as Slovakia and others for bigger economies such as Germany. When interpreting the data, it is necessary to take into account with a significantly greater weight the statistics of the state authority with average values for the particular segment and not subjective information from selected business entities.

Regarding indicators relating to taxation, we miss a set of more objectively measured indicators. Taxes and all procedures related to them are considered a burden for business per se and are therefore negatively treated. In our opinion, indicators that are subjective in their nature are not appropriate for broad international comparisons as they lead to biased assessments. In the past, Slovenian representatives had some talks with World Bank's officials regarding taxation indicators issues and came to the conclusion that some (sub)indicators that were subjectively assessed influenced the final result

significantly. Therefore, we are not in favor of including so many subjectively based indicators in the research since this will lead to misinterpretations and a lack of trust. Indicators based on interviews and hard to quantify questions can easily turn into **indicators of perception**. While perceptions can be useful, the BEE indicators are presented as rather “hard data”. Data integrity and transparency are high in the BEE agenda but **what concrete steps will be taken to ensure** that e.g., interviewees answers will be **representative** and do not simply reflect potentially flawed perceptions?

We are **concerned about the proposed rolling releases**. Updating sub-indicators on different schedules will make the interpretation of any change in the main BEE indicator, and especially its ranking difficult. It isn’t even clear from the proposal, whether updates can happen on a different schedule for different counties. The latter should be avoided as it would lead to constant disputes.

The **proposal to use representative surveys is welcome**. Taking within country differences into account is important, as many studies have found significant between firm differences in the administrative costs of taxation. However, the pre-concept **note lacks a discussion of the necessary sample sizes**. Administering surveys with large samples is inherently costly but without sufficiently large samples no reliable conclusions can be drawn, as between-country differences will not be statistically significant. This statistical uncertainty would also be amplified by large within country and within segment variations (see the differences between median and mean tax administration costs in KPMG and GfK, 2018; EY and BI, 2020; VVA and KPMG, 2022). Therefore, BEE needs to allocate resources to ensure reliable data collection. In our view high quality should come before absolute timeliness. Year-over-year changes in compliance costs are typically marginal (as shown by the perceptions of experts interviewed for Paying Taxes) and reforms usually need several years to take effect, thus firm-level surveys should be taken only every 3-4 years, but each wave needs to be large and comprehensive.

If we understand correctly, **case study companies will be different for different countries to represent dominant sectors in an economy**. We would like to point out that it can cause other discrepancies in terms of comparability among countries. Different sectors can be subjected to different taxes (e.g. bank tax) or different tax regulation and tax administration obligations such as a need of transfer pricing documentation etc.

#### *Quality of tax regulations*

What **will count as a change in tax law, and how will international comparability be ensured**? Will any modifications to the monitored texts be considered as a change in tax law? While frequent but not substantial changes require monitoring by businesses that can incur costs, this approach would not distinguish them from major changes that might affect entire business plans of many firms.

**Only the main laws will be monitored, or other supporting regulations as well**? E.g., in Hungary certain regulations are covered in the law on the Rules of Taxation, or in the law on Tax Administration and the Regulation of Tax Administration.

**The indicator does not cover rules on taxation of personal income, payroll taxes and social contributions**. According to EY and BI (2020) monitoring these requires the lowest amount of time among the major tax types, but it is still a substantial burden, especially for small firms (EY and BI; 2020, Fig. 20).



Based on the description given in the pre-concept note, **it is not clear how international comparability will be ensured in assessing the complexity of record keeping and filing.** E.g., multiple short documents vs. single large document. This also needs to be considered from the perspective of governments should not be able to game the indicator.

Our understanding is that most businesses typically don't file documents other than regular financial accounts. However, businesses that claim tax deductions often have to file additional documentation. As this affects only a relatively small share of businesses, the variation within countries should be considered.

Many countries started initiatives to pre-fill VAT forms based on transaction level data from electronic fiscal devices for B2C, or electronic invoices for B2B. These methods might require new documents to store but in practice, these are all documents that any reasonably efficiently run business would produce and archive anyway. How do you intend to deal with such situations?

The **sub-indicator does not cover labour taxes.**

*Tax burden and efficiency of tax system*

The **BEE aims to corroborate indicators with administrative data sources.** In case of the taxation indicator this was mentioned for the *quality of tax regulations* and for *services provided by the tax administration* sub-indicators but not for this sub-indicator. However, we believe this is an area where tax administrations have excellent data, and **effective tax rates can be calculated from the amount of tax actually paid.** These can also be disaggregated across firm size, or industry. There are already initiatives for effective (national) CIT rates from the EU and the OECD. It is also relevant for other taxes, as countries have different VAT-exemption limits, or special income tax and social contribution regimes for self-employed entrepreneurs. **In our view, such an approach would be much more representative and reliable than the aggregation of infrequent surveys and expert opinion.**

**Will the case study parameters be country-specific, or global?** The first approach takes country characteristics into account but might limit international comparability. Do you see it as a trade-off, if so, how do you intend to balance the two sides?

A part of the BEE is a „time to comply with tax regulation” indicator which was also a part of Doing Business studies. We understand the importance of this aspect for comparison of tax systems, however, in the past we saw inconsistencies between firm-level survey answers among countries. Do you plan to take any measures to ensure this indicator will be more consistent and therefore comparable? The Minister of Finance of the Czech Republic explained our concerns in the letter at the end of 2019 which was addressed to the President of the World Bank Group. At that time the Czech Republic experienced a drop in the Starting a business ranking due to the time needed for VAT registration. However, the time reported in Doing business 2020 was rather unrealistic taking into account the profile of the model company.

Similarly, newly established legal persons are not obliged to register for VAT in Slovakia. The company is obliged to register for VAT if it achieves a turnover of at least EUR 49,790 in the last 12 months. Of all newly registered LLCs in Bratislava, only about 11% of companies are compulsorily or voluntarily registered for VAT, so this is not a common practice. This procedure should have been deleted in the case of Slovakia.

The proposal **does not cover the administrative costs of taxes and contributions related to employment** (either under the taxation indicator, or under the labour indicator) **and corporate taxes**. Recent studies have shown that the administrative costs of employment amount to roughly the same order of magnitude as VAT-related costs (EY and BI, 2020; VVA and KPMG, 2022). Corporate taxes incur lower costs, but they are significant nevertheless.

The Pre-Concept Note is planning for a **representative survey to assess cost. We believe this the right way to approach for this question, however a sufficiently large sample size is crucial**. Recent EU-wide studies (KPMG and GfK, 2018; VVA and KPMG, 2022) have suffered from low sample sizes (around 100 observations for each country, stratified by firm size and industry) which made between country differences highly uncertain. For the purposes of the BEE a much larger sample size is desirable (e.g. EY and BI, 2020).

It is not clear from the Pre-Concept Note whether the case study companies will be country specific also for Time to comply indicator? If so, we believe that the time to comply will be then incomparable or would require very complex and detailed guidelines.

## References

- Ernst & Young and Budapest Institute. (2020). Measuring the administrative costs of tax compliance in Hungary. <https://ngmszakmaiteruletek.kormany.hu/adopolitikai-kutatasok>
- KPMG and GfK. (2018). Study on tax compliance costs for SMEs: Final report. Publications Office. <https://data.europa.eu/doi/10.2826/02329>
- VVA and KPMG. (2022). Tax compliance costs for SMEs: An update and a complement. mimeo

## Appendix

### Technical comments on the construction of the main BEE indicator

The new indicator **should be comparable between countries and across time as well**, in a way that shows and emphasizes the uncertainty in the indicator.

An important problem with **the Doing Business indicator has been that as the calculation method changed, the results became difficult to compare across years**. The new BEE indicator should avoid this issue by publishing results in a way that between year comparisons can be made using the same indicator, not different ones with the same name. Changes in the calculation method could be still possible but results with different methods should be calculated for multiple years (for example both proposed versions BEE 2025 and BEE 2029 could be calculated across years 2024-2030) and across years comparisons should be made possible only with the same indicator. As the main indicator changes, ensuring backward comparability could not always be cost effective or possible, but the goal should be to have each version of the indicator calculated for as many years as possible. **The presentation of the results should emphasize the uncertainties of the results**. There have been multiple methods developed to measure uncertainty of composite indices. Seth and McGillivray (2018) propose a method with a set of alternative indices which are calculated with different reasonable weights. Høyland, Moene and Willumsen (2012) have assumptions which are more difficult to understand as it uses a more complex modelling approach but has the advantage of giving different intervals with different percentage ratios of being in them. For example, a 95% interval gives a wider range than a 50% interval.

**If the result for each country will be a set of ranks, aggregate or distance-to-frontier scores**, the results could be presented using their ranges. For example, country X in year Y has rank 34-48. This presentation has the advantage of being easily understandable, while still making clear the uncertainty.

**An alternative approach would count the countries which are better than country X in every or most reasonable rankings and countries which are worse**. Country to country and year to year comparisons could be made also available on the BEE website. This is important as even if two ranges overlap (for example country X rank 32-48 and country Y rank 40-60) it is still possible that in every reasonable ranking country X is ahead of country Y and this information should be explorable. Further, graphic presentations could be developed to show results of comparisons and results together with uncertainty.

**The pre-concept note mentions grouping by quintiles as an option which in a way addresses uncertainty, but the above-mentioned methods are superior to it**. Two countries with very similar results could be categorised into different quintiles if they happen to be close to the cut-off between quintiles, as well as two countries with very different results could be in the same quintile.

### References

- Høyland, B., Moene, K., and Willumsen, F. (2012). The tyranny of international index rankings. *Journal of Development economics*, 97(1), 1-14.
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Comments from the office of the WBG Executive  
Director representing Bahrain, Arab Republic of  
Egypt, Jordan, Iraq, Kuwait, Lebanon, Libya,  
Maldives, Oman, Qatar, West Bank and Gaza, United  
Arab Emirates, and Republic of Yemen



### Feedback on the BEE Pre-Concept Note

- **Rankings:** We understand that aggregate rankings would be avoidable, however, it is not clear whether there will be rankings or scores given per indicator.
- **Data Collection:** In many indicators, firm-level surveys were mentioned as data collection tool; however, to ensure a fair number of respondents, a target for the number respondents/sample size needs to be set as well as an efficient mechanism for dissemination of the surveys.
- **Role of Government:** In the DB report, government entities contributed to the questionnaires. It is not clear whether governments would have a role in this project.
- **Recurring topic:** Environmental sustainability is a factor in several of the indicators; capturing this factor into the methodology would be challenging at the outset.
- **Assumptions:** The BEE will assess the private sector as a whole regardless of company size; however, it is not clear whether there will be other assumptions/case scenarios for the indicators.
- **Informal Economy:** The informal economy is not captured by all economies due to difficulty in establishing its boundaries. It would be practical to establish a base line approach towards achieving this objective
- **Data Corroboration:** It could prove to be challenging to ensure objectivity when each indicator's set of data is corroborated differently. Therefore, establishing a clear mechanism at early stages of the project is beneficial
- **Utilities:** BEE expands utilities to water and fixed broadband; in the DB, it was about access to electricity to warehouses, it is not clear what the assumptions are in the BEE project. Also, the share of fixed broadband is falling as people are moving towards mobile broadband, therefore it will not be a fitting data point to use. Instead, access to internet is more suitable especially as many companies have shifted towards a “work from home” model during the pandemic.
- **Market Competition:** This topic has a level of ambiguity in how it would be measured. Firstly, a competition authority is difficult to identify. Secondly, market competition shouldn't be restricted to procurement measures only.
- **Fee-based Approach:** Ranking reports should not be based on a fee-approach to ensure utmost objectivity.
- **Frequency:** Publishing the results annually would allow economies to fairly compete by setting forward-looking policies.

Egypt



## Initial Comments on BEE-Business Enabling Environment Pre-Concept Note

General Comments
Based on the Doing Business concerns related to the issues of transparency, governance, and methodology- we would like to get further clarification on the governance and methodology that the proposed report will follow to avoid such previous issues.
How does the BEE compare against similar or related international reports (such as WTO, ITC, and UNCTAD)? Kindly clarify
<b>The scope of BEE is much wider and determine the collection and processing of huge amount of data and information far beyond the scope of doing business and that might considered confidential</b> , for example it includes in the utility sector in addition to electricity , Water and ICT (under safety of utility connections pillar , it entails safety control procedures relevant to the internet , cybersecurity and “protecting data as well as the infrastructure of the internet per se” (page 19). In addition, the scope and indicators of BEE is much wider and includes other sectors, that were not included in doing business which raise a concern on the accuracy and fairness of data comparability across countries which needs to be clearly justified.
<b>In light of the previous comment</b> , we would like the World Bank to clarify how the proposed report will deal with the paradigms of data privacy and confidentiality, taking into consideration the debates and discussions within the international fora on that regard
<b>The further two pillars added public services and efficiency will as well entails the collection and assessment of wider scope of information.</b> For example in International Trade, while doing business focused on the ease to comply with trade regulations the BEE expand the scope and includes the quality of the regulatory framework which includes regulatory restrictions on international trade and e-commerce for example. Also it includes the quality of public services provided by the government which includes transparency and availability of information. Further in indicators in the area of labor, adding the pillars on quality of labor regulations and adequacy of public services where information on public employment services assessment and labor dispute resolution will be needed.
How will the BEE take into consideration factors within the local and regional green value chains to help each country to better integrate?
Does the BEE consider international initiatives that would affect the business environment within a given country (including green initiatives)? Kindly clarify



How is the role of the state included within the scope of the BEE, particularly with respect to assessing firm's performance?
How will the proposed report help enhance investment and technology transfer to each country?
How can the BEE provide a balanced analytical approach within the countries it would operate, taking into consideration the different levels of development that each would have?
Given the cross-cutting themes presented within the scope of the BEE, explain how the BEE will benchmark the country's business performance, taking into consideration the different levels of commitments under the GATS agreement?
<p>The BEE, given its wider scope, should include within the scope of its analysis the following:</p> <ul style="list-style-type: none"> <li>• outcomes on country development, investment in technologies (taking into consideration the green, regional, and global dimensions)</li> <li>• Regional integration and its impact on the business enabling environment</li> <li>• Localization of value chains</li> </ul>

Page-Specific Comments		
Page	Paragraph	Comment
5	Overall efficiency: will measure the efficiency with which the goals of each topics are obtained in practice as experienced by the private sector. it will be assessed through firm level surveys and /or expert consultation	Are surveys a reliable measure for efficiency ?, surveys usually measures the satisfaction of the participants , however a better measurement of efficiency is measured as outputs relative to inputs /costs
7	Trade-offs faced by BEE Project, No. 1 Focus on private sector development	It is not clear how a regulation can effect business environment and not affecting individual enterprises or vice versa
8	Efficiency of business Entry	Literature grounding is not that clear for this indicator, further is time and cost fair enough to measure the efficiency of business entry? What about the cases

		were the firm is the one not completing the process or delaying finishing the required documents?
<b>16</b>	Efficiency of key services in getting a business location	Time and cost are not enough to measure the efficiency, we can call it availability. Further it don't take in consideration the shortage from the customer/entrepreneur side for example inability to follow or use the online services. Hence other indicators that reflects the availability and clarity of the required documents, information and steps guiding the registration process, is the online registration system is user friendly....etc.
<b>25</b>	Entirety of "c. Ease of employing labor" section	Kindly include a set of indicators outlining the scope of study for this section (as was provided within previous sections).



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MINISTRY OF FINANCE  
MALE'  
REPUBLIC OF MALDIVES



March 14, 2022

**Subject: Business Enabling Environment (BEE) Pre-Concept Note**

Reference is made to your letters dated February 10, 2022 and March 1, 2022 with regard to the captioned subject.

We are pleased to submit the following comments we received from the Ministry of Economic Development to the Pre-Concept Note of the new Business Enabling Environment (BEE):

1. We have thoroughly reviewed the concept paper for the new BEE. The proposed methodology is more comprehensive than the Doing Business (DB) methodology. We believe that the quantitative and granular approach of the assessment would paint a more realistic picture of the business environment and would also open more rooms for improvement. However, we would like to raise the following concerns.
  - a) The new approach largely concentrates on the regulatory framework and public service provision at a very microeconomic level. We do believe that comprehensive regulatory frameworks will promote good governance, hence, it needs to be more transparent and there should be no space for ambiguity. Furthermore, provision of e-government services or interoperability of all public services will improve the service efficiency and contribute to private sector growth. However, if significant weight is granted on these indicators, under-developed countries or small countries like the Maldives will be in an unfavorable position. Most importantly, disparate access to internet and digital services correspond closely with income level of a country as it requires expensive infrastructure setup. Hence, with the existence of digital inequality, it will be a major challenge for small countries.
  - b) One of the major challenges faced by the Maldives in the DB assessment process was the inconsistencies in the information provided by the private parties. While regulatory authorities have provided adequate information on the time and cost of providing services, private firms have not recognized it and information provided were not accurate.

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MoFmv



www.finance.gov.mv



+960 3349200



rmd@finance.gov.mv

In such a case, the government did not get the opportunity to clarify on which ground these claims had been made. However, if the data is to be collected from multiple expert consultants, we assume that this issue could be resolved, to some extent, if they are well-informed of the changes to policies and procedures. Furthermore, updates and changes brought by the government institutions are always shared publicly, but the World Bank team does not recognize it as it is in local language. All government institutions do not have bilingual websites to disseminate information.

- c) Some indicators need to be improved to reflect a more accurate picture. For instance, Maldives has consistently been given a low score for electricity provision. It was claimed that there is no reliability of supply and transparency of tariff index as the duration and frequency of outages was 168 minutes, which is less than the threshold of 100 minutes. As electricity outage for 100 minutes on a single day of the year would not be a good measure to gauge the reliability of electricity provision, it would be more accurate to measure the percentage of the time that the electricity was available or the total number of time-outs and frequency.
  - d) Further, we would like to understand how weights have been allocated to rank the indicator parameters. For instance, in the case of access to credit, we do understand that a high weightage should be given to collateralization (both immovable and movable assets). However, it would be good to allot some weight for unsecured loan category which plays a vital role in SME development. Therefore, pre-discussion would be helpful. Also, the methodology and procedure of the DB was too complicated for government institutions and regulatory authorities to comprehend and provide the required or the right information needed for scoring. Since BEE is adding a lot more granular indicators to the methodology, it is at utmost important to give extensive training programs to all stakeholders.
  - e) It is highly recommended to provide a draft report to key stakeholders to allow the authorities to review and address the information inconsistencies before the final report is published. It is also recommended to give adequate time to clear the misinformation between the regulators and de-facto firm level responses. Furthermore, a grievance mechanism needs to be established to resolve such issues.
2. In conclusion, we are in favour of conducting the new BEE if the weakness in the DB can be addressed, especially on the issue of addressing information inconsistencies through the establishment of a grievance mechanism.

Thank you.



## World Bank New Index: Business Enabling Environment (BEE): Pre-Concept Note Feedback

### Business Entry Indicator

- It is not clearly defined how the different modes of transportations (Sea, Air, Road) that are typically involved in cross border trade will have an impact on this report. This is of paramount importance considering the different modes generally undergo different procedures and have different efficiency levels.
- As compared to the Doing Business Report which primarily focused on capturing data and findings from the main business city the BEE report would be performed at a national level. In the UAE's case where there are 7 emirates with varying procedures how will the data findings aggregated and consolidated?
- The Quality of regulations and the efficiency of the importing and exporting goods will measure efficiency and performance for 3 categories i.e., a) International trade in goods, b) ecommerce and c) environmentally sustainable goods, will each of these trade types have a different weightage?
- Will the 3 main indicators have a different or equal weightage applied to provide the outcome/score of the report?
- Since there is no case study approach to be followed for measuring the efficiency of the international trade, will the time release study performed to quantify the findings have a predetermined criteria to be followed?
- Which data capture mode would be followed for the Dejure indicators that would be performed with Lawyers, consultants?
- Which data capture mode would be followed for the Defacto indicators that would be performed with customs brokers, clearing agents, freight forwarders?
- How will the experts be identified to participate in the consultations?
- Will benchmarking against good regulatory practices enabling international trade only be limited to the agencies listed in the Pre-Concept Note i.e. WTO, TFA, WCO, UNECE, OECD?
- What are the different standards developed and governed by global bodies will be used to benchmark against?

- From an overall perspective, the scope of the indicator has been broadened to account for various facets within international trade procedures, there is little mention in the preconcept note on how the quantification of the areas involved would be conducted.

Overall, many of the new tool features including the list of indicators and their measurement approach is not defined and mentioned as will be decided at a later stage, so the comments here is based on what is defined clearly on the pre-concept note.

1. On the tradeoff table, the tradeoff approach for the scoring methodology might end up being a subjective scoring and this is something that needs to be avoided for a more objective cut-off based on standards related to each indicator guaranteeing objectivity as well as sustainability over time comparisons.
2. For the entrants versus incumbent firms, a better objective way to address this can be achieved by having a balanced list of indicators that accounts for both groups.
3. For the coverage of the new tool, how will the different cities data will be standardized (especially for countries with a federal system), for example, in case of the business entry assessment for the availability and efficiency of online platforms where two or more cities/ states have a platform that is different in scoring than the other cites/ states. Will this be just a normal average or weighted average,....etc? this is essential to addressed in an objective approach.
4. Will there be any specifications of list of government entities within each country that reflect the pillars (similar to what was the in the DBR).
5. On having data from, firm level surveys, will this be the same data at the World Bank Enterprise Surveys or a new firm survey done specifically for BEE. If this is the same data from World Bank Enterprise Surveys ([www.enterprisesurveys.org](http://www.enterprisesurveys.org)), then there are few points to be highlighted:
  - i. Does this mean that the list of countries in BEE are the ones published on [www.enterprisesurveys.org](http://www.enterprisesurveys.org)?
  - ii. Not all countries on [www.enterprisesurveys.org](http://www.enterprisesurveys.org) are measured for the same year, how this will be addressed?
6. Three years example on the regular updates is a long period to update the indicators coming from firm surveys especially with the current dynamic changes in the world, will there be any considerations for a better update frequency?
7. In regards to International Trade, what adjustments have been made to ensure Trade bloc economies (i.e. European Union) are not necessarily favored by the methodology.
8. For Financial Services, why is the scope limited to debt and not equity (via Stock Markets). Ease of Equity financing is an important component of an efficient

business environment, and may be a crucial objective for many start-ups, especially those in tech.

9. The UAE's labour force is predominantly made up of expatriates. Procedurally, hiring expatriate labour would involve additional steps (i.e., visas, approvals, work permits, etc.) relative to hiring citizens. Are there mechanisms put in place to ensure such economies are not penalized for their labour composition?
10. Time and cost to Import/Export may also depend on the nature of the product (i.e. Agricultural produce vs Medical/Military equipment). How will this be adjusted since the 'Case' approach has been discontinued. Are any assumptions made?
11. World Economic Forum, Economist Intelligence Unit and other organizations have numerous indicators that already measure elements pertaining to Labour, Financial Services, Digitization, etc. Will the new report borrow these indicators or will the Business Enabling Environment consist exclusively of World Bank indicators?
12. Enterprise Surveys has a significant variation between number of respondents between countries. As an example, 600 Business Owners were surveyed for Austria, 377 for Albania and 1323 for Russia. Will the BEE report:
  - a. Have a minimum sample size for a country to be considered in the rankings
  - b. Have an equal amount of targeted respondents from each country
13. Enterprise Surveys also shows a large variation in respondents between countries in terms of:
  - a. Proportion of Business respondents by business size (i.e. Small, Medium & Large).
  - b. Primary sector of business operations (Retail, Manufacturing, etc.).

Are there plans to set targeted ranges for each respondent group? As an example, Manufacturing regulations may be more stringent than retail regulations, essentially penalizing manufacturing-heavy economies.

14. Some indicators of Enterprise Surveys are not intuitive. "Percent of firms paying for security" as an example:
  - a. Does a higher percentage represent better score or vice versa?
  - b. Does security here denote official sources (i.e. Police, private security firms, etc)?
  - c. Security requirements may differ per industry (i.e. Theft in Retail may be more prevalent than theft in manufacturing).
  - d. More clarity is needed for economies have a better understanding of what to target when deriving policy reforms.
15. Will the BEE record annual reforms by country per pillar as was done in DBR? Will World Bank highlight key reform elements per pillar as 'Best Practice'?



16. In the business entry indicator, why it is mentioned in the efficiency of business entry the time of operating a new firm and the cost, it should be mentioned how easy this new firm entered the market and ready to compete with the other competitors (Job growth).
17. The report mentioned that “The data collection and reporting process will be governed by the highest possible standards,” what are the mechanism that this report will follow to ensure that the data collection and the expertise are unbiased.
18. Not clear how efficiency will be measured and quantified especially that it is stated it will be based on firm-level surveys and/or expert consultations, which might in some cases be subjective.

## Business Location Indicator

Under the Location pillar, We noticed that one of the indicators that used to get measured by Doing Business – number of steps (procedures) in evaluating the efficiency of services related to owning / building the work site (Location), only fees and time were indicated.

We consider it appropriate to add a provision for the number of steps required to obtain services (Indicator C - below)

<b>c. Efficiency of key services in getting a business location</b>	(1) Time and cost to purchase a property	Land Department
	(2) Time and cost to obtain building-related permits	Dubai Municipality
	(3) Time and cost to obtain environment-related permits	Dubai Municipality

## International Trade Indicator

- It is not clearly defined how the different modes of transportations (Sea, Air, Road) that are typically involved in cross border trade will have an impact on this report. This is of paramount importance considering the different modes generally undergo different procedures and have different efficiency levels.
- As compared to the Doing Business Report which primarily focused on capturing data and findings from the main business city the BEE report would be performed at a national level. In the UAE’s case where there are 7 emirates with varying procedures how will the data findings aggregated and consolidated?

- The Quality of regulations and the efficiency of the importing and exporting goods will measure efficiency and performance for 3 categories i.e., a) International trade in goods, b) ecommerce and c) environmentally sustainable goods, will each of these trade types have a different weightage?
- Will the 3 main indicators have a different or equal weightage applied to provide the outcome/score of the report?
- Since there is no case study approach to be followed for measuring the efficiency of the international trade, will the time release study performed to quantify the findings have a predetermined criteria to be followed?
- Which data capture mode would be followed for the Dejure indicators that would be performed with Lawyers, consultants?
- Which data capture mode would be followed for the Defacto indicators that would be performed with customs brokers, clearing agents, freight forwarders?
- How will the experts be identified to participate in the consultations?
- Will benchmarking against good regulatory practices enabling international trade only be limited to the agencies listed in the Pre-Concept Note i.e. WTO, TFA, WCO, UNECE, OECD?
- What are the different standards developed and governed by global bodies will be used to benchmark against?
- From an overall perspective, the scope of the indicator has been broadened to account for various facets within international trade procedures, there is little mention in the preconcept note on how the quantification of the areas involved would be conducted.

## **Dispute resolution Indicator**

After examining the index and the new methodology, the concept of evaluation has changed from focusing on the business environment and small projects to a holistic perspective of all business laws and regulations and their services and their impact on the private sector in general.

1- Does this mean that the scope of the evaluation will be for all commercial cases, regardless of value, as well as labor cases related to them, the course of their services, settlement solutions in commercial and labor cases, the perspective of continuity of development in them and their digital transformations?

2- The sub-elements in the (employment) axis are concerned with labor laws, labor protection and their disputes, employment and the like, and the reference for these data according to the mentioned methodology will be the texts of the laws as well as the reality of the actual application in addition to the study of some cases.

3- Will the employment axis be shared between the courts and the Ministry of Human Resources and Emiratization, or will it be handled by the Ministry?

4- Does it include the employment axis (citizens / non-citizens).

5- Does the methodology include 100% of national companies and institutions, or something else?

6- What are the observations, initiatives and outputs of previous reports and their impact on the new methodology?

7- What is the perception regarding the measurement of indicators in terms of cost, speed, automation, and the extent to which there are regulations specifying times for each “time target” procedure

8- The comprehensiveness of the inclusion of a cost criterion for public and private agencies is detailed and takes a combined weight in the measurement (the executors of judgments, reformers) within the report, where in many countries the government cost is low, but the customer bears a high cost in the private sector, which did not appear in

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9- Is it conceivable to include a standard that measures the extent of automation, time and steps, not only for public bodies, but also for private ones?

10- The extent to which sales procedures are automated in execution and the transparency of sales procedures.

11- Will the return rate (return) be measured after deducting the cost of private repairers and executors of judgments?

12- A proposal to direct the questionnaires to:

- Lawyers according to a list of active lawyers in the courts for the parties to the conflict who are not convicted and executed
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Comments from the office of the WBG Executive  
Director representing Bangladesh, Bhutan, India,  
and Sri Lanka

## **Response to the Pre-concept note on Business Enabling Environment (BEE) shared by the World Bank Group (WBG)**

It is to be noted that our response also includes views on the BEE methodology, topics, and general comments.

### **I. Methodology**

1. Lack of clarity on the cities to be covered in a country. The BEE note does not clarify the extent and number of coverage of cities against topics and components mentioned. Criteria for choosing the cities may be finalized in consultation with the respective Governments.
2. BEE proposes selective use of case studies for data collection. This would lead to unpredictability as there would be variability in data collected. For example, (1) the time and cost to take an internet connection is to be calculated under utility connections. In the absence of a case study, there are both private and public players in existence in India and the time and cost would significantly vary among the market players. (2) requirements for business entry or international trade can differ for different business models, product lines, country of origin, of investment, FTA rules, etc.
3. Definition of “restrictions”: On measuring regulatory restrictions under all topics of BEE, the components need to be carefully drafted such that, it does not term certain regulations, which are taken for safety and security of the citizens and nation, as being restrictive. For example, in the wake of Covid, the Government of India amended its foreign direct investment policy to prevent/curb opportunistic takeovers or acquisitions of any Indian companies. Thus, drafting of such parameters shall be through detailed consultations with Government of India.
4. One size fits all approach: BEE framework proposes to assess the 'quality of the regulations' of individual countries based on parameters developed by organizations such as OECD, IMF etc. The methodology initiated by the World Bank proposes to assess such regulations from the prism of policies mainly advocated by the developed economies. Such an one-size-fits-all approach may not be in the interest of developing countries such as India. In this context, the meaning of the term 'quality of regulation' itself becomes quite subjective. Hence, the proposed framework can also lead to extra territorial application of developed countries' regulations on to developing countries, disregarding their specific developmental eco systems and needs.
5. BEE proposes remuneration of respondents and fee-based model for expert consultations to preserve anonymity and ensure quality of

responses. This approach may be counterproductive as can lead to bias /undue influence/poor judgement. It is also felt that the wide choice of possible experts, as their quality and size and expertise will also play an important role on their judgement and responses, should be done in broad consultations with a country's Government.

6. BEE pre-concept note includes broad parameters which are yet to be crystallized into objective elements of assessment. Further, the relative weightage has not been yet provided to better appreciate possible action points/outcomes.
7. BEE framework appears limited while comparing economies on the federal structure, stage of economic development, and aspects related to its national security, which necessitates revisiting certain sets of indicators and components.
8. The present proposals outlined in the Pre-Concept Note on BEE appears to have potential in laying down intrusive frameworks that may undermine India's sovereignty in crucial matters such as international trade and taxation.

## **II. Business Entry**

9. The registration of information on beneficial owner differs from country to country during various stages of business lifecycle. There will be a lack of uniformity in terms of business stage at which information on beneficial ownership is required. For example, in India, Registration of information on beneficial owner is not required at the stage of incorporation of a company however, the same is required at a later stage, after incorporation. There are separate provisions in law, rules & e-forms which govern such disclosures and even the need of such information. Therefore, assessment of such requirements may not be comparable across economies.

## **Business Location**

10. BEE touches upon the aspect of urban planning but besides building regulations, what other parameters on urban planning will be considered, remains not highlighted in the present framework.

## **III. International Trade**

11. Regulatory framework pillar is a *de jure* topic, which means assessment will be via expert consultations. Hence, the benchmarks need to be chosen carefully to make it an objective exercise and comparable across the economies. Among those documents listed as

guidelines, WTO's Trade Facilitation Agreement and Revised Kyoto Convention are mandatory guidelines and other recommendations such as Trade Information Portals, establishing a Legal Framework for international trade Single Window are only suggestive, not prescriptive. It lists best practices but leaves adoption of the same, subject to the suitability to each of the economy. Thus, BEE may make clear distinctions between such mandatory commitments and recommendatory endeavors, whose implementations may vary across economies depending on their level of growth, industrialization and growth.

12. Environmental aspects in International Trade:

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- It is observed that some parameters and components may not be uniformly applicable across sovereign economies. To illustrate, the component #3 of Regulatory practices pillar indicator is titled `Good regulatory practices enabling environmentally sustainable trade`. While this component can serve as a useful yardstick to measure BEE, it may not serve as a fair parameter to be uniformly applied across all economies as different sovereign nations have varying levels of commitments under international conventions, such as the United Nations Framework Convention on Climate Change (UNFCCC).
- The proposed framework promotes carbon footprint reduction by establishing Border Carbon Adjustments (BCAs) on environmental goods as a part of its good regulatory practices enabling environmentally sustainable trade. India already has certain reservation with the mechanism and its manner and modalities as adopted by the European Union and other developed Countries. In the conference in G-20 forum also, a number of countries like Mexico and Indonesia expressed concern on BCA. It is also being deliberated in WTO and being put to test if it is WTO compliant. Therefore, assessment of countries on implementation of measures like BCA may not be considered at this stage.
- Along with BCA, the proposed framework promotes low tariffs on environmental goods. In this regard, it is submitted that under the Paris Agreement, India has targeted to reach non-fossil energy capacity to 500 GW by 2030 as one of its Nationally Determined Contributions (NDCs). With the object of promoting domestic manufacturing of solar cell and panels and providing a level playing field to domestic manufacturers, India has raised tariffs on solar cells and solar modules to meet this target in line with its policy of self-reliance and Atmanirbhar Bharat (self-reliant India). India has otherwise been incentivizing green energy extensively and has been pioneer in solar energy exploitation. However, such a policy of higher tariffs (even though aimed towards environmental goods) will receive a score, untrue to the spirit followed in the country for its focus on green energy development, if measured on the basis of parameters as proposed in the BEE framework. The given parameters will fail to recognize the correct policy of this government in this reform priority. Hence, this anomaly is requested to be rectified.

13. Operationalization of risk management system: Some of the proposed data requirements of the proposed BEE framework are intrusive in nature such as share of consignments selected for immediate release, the share of consignments selected for document checks, the share of inspected consignments requiring physical examination, the share of consignments selected for post-entry audits, and the share of consignments leading to additional investigations and/or changes in the declarations.
14. Evaluating regulatory restrictions on international trade through the lens of policy tools such as non-tariff measures, mandatory licensing measures and membership requirements for trade actors, could play to be unfavorable to most developing countries. Many developed countries, having used these tools quite effectively for their gains in the past, may stand vindicated.
15. Regulatory restrictions on e-commerce: The proposed approach appears to discourage certain standards on cross-borders data flows, and taxation measures as a part of regulatory restrictions on e-commerce. However, India may need to use these policy tools to develop its e-commerce policy according to its own domestic needs. Hence, the definition of restrictions in this aspect may be finalized in consultation with respective Governments.
16. The proposed framework advocates certain regulatory practices in e-commerce under quality of regulations for international trade in goods and e-commerce. In this context, it is submitted that India has developed its e-commerce regulation, balancing the needs of a large section of offline domestic retailers, e-commerce operators and brick and mortar/ other domestic MSME suppliers. However, such carefully calibrated regulations may not amenable to objective criterion measurement, if measured on the basis of parameters that will be used by the proposed framework.
17. In respect of topics and components on `Risk Management` and `Operationalization of risk management system`, it is stated that since the criteria and parameters for operationalization of such systems includes dynamic elements in the governance framework and are sensitive in nature, sharing data and inputs for BEE evaluation may act as a key hurdle for strategic reasons. Hence, this aspect may also be re-considered for review.
18. e-Commerce Trade have been disproportionately emphasized in the document. Its weightage needs to be rationalized or made proportional to a respective country's e-Commerce Trade share vis-à-vis Total Trade especially for all newly developing countries like India.
19. Subjectively defined 'Good Regulatory Practices': It is seen that many of these mentioned good regulatory practices are not yet multilaterally agreed, and many a times are followed only in select developed countries. Only those which are multilaterally agreed upon



should be adopted like WTO's Agreement on TFA, SPS-TBT etc.

#### IV. **Taxation**

20. Taxation indicator also measures how frequently tax provisions are amended over periods of time. Goods and Services Tax (GST) in India is in a formative stage. Hence, this indirect tax law has to be resilient and responsive to the dynamic business environment requiring the necessary amendments. In several instances, amendments in tax rates and tax laws are made during the course of year to address the immediate policy needs. For example, import duty on edible oil has been reduced a few times in the past in order to lower its domestic prices. Also, import duty on medical equipment was reduced on an immediate basis during the Covid-19 pandemic. Such tax measures to address the legitimate needs of the countries may be excluded while evaluating the aspect of 'stability of tax regulations' in a country.

#### VI **Dispute Resolution**

21. The proposed framework states that "Throughout the topic, commercial disputes are not meant to include more specific types of litigation, such as corporate lawsuits or intellectual property cases." It is suggested to clarify that the exact nature of commercial disputes this indicator would assess, especially in the absence of a case study scenario.
22. Court automation and e-services, it is proposed to study the impact of Artificial Intelligence (AI) and Machine Learning (ML) for better decision making as areas that can be potentially included in the next phases of the project. It is suggested that a consultative process be undertaken before these aspects are proposed to be included.
23. In the pillar that assesses the ease of resolving a commercial dispute, an indicator 'Obstacles to Justice' has been added. It is proposed to be assessed by questions like lack of fairness of the judicial process, inefficient expertise of judges, excessive duration of proceedings, manifestly high cost of litigation, and others etc. for which data will be collected through a firm-level survey. This indicator is very subjective and would not be a correct representation of the state of affairs of the dispute resolution mechanism in the country. There would also be the peril of status-quo bias in this case. **It is strongly suggested to consider excluding this indicator.**
24. In relation to Time & Cost to resolve a commercial dispute; a case study is proposed to be used to collect data. Among others, it measures the time and cost involved for an expert (the time for preparing an expert

testimony and expert fees). It is not a standard practice in India to call for an expert in every case. It is based on the discretion of the judge to call an expert witness and is a rare event, during the lifecycle of a case. It is suggested that while setting the case study assumptions for calculating time and cost to resolve a commercial dispute, the appointment of an expert should not be made a mandatory assumption.

25. Judicial Expertise, independence, impartiality, and transparency: The Indian Constitution has provisions for judicial independence, impartiality and transparency. However, within BEE there is a third-party assessment of measuring the above. Therefore, this may not be included for measuring the impact of dispute resolution.

## **VII. Market Competitiveness**

26. With regards to the expert consultations and sample selection in this topic, views of Competition Commission of India (CCI) i.e a Competition Authority and other Regulator(s) must also be accounted for to enable a holistic assessment.
27. Limited only to collusion/ anti-cartel enforcement and merger control regulations: The pre concept note only mentions collusion/ anti-cartel enforcement and merger control regulations to be covered under the Quality of Competition Regulations indicator. However, as competition law also deals with other forms of anti-competitive agreements as well as abuse of dominance/ market power as part of enforcement mandate, it will be appropriate to cover these regulatory aspects, as they constitute important areas of enforcement, in promoting competition in the marketplace by addressing market distortions.
28. Advocacy framework to be factored in: Apart from enforcement mandate, advocacy is a key tool in the arsenal of competition agencies for promoting market competition. Accordingly, an advocacy framework must also be factored in as a parameter in the proposed indicator, along with the initiatives taken thereunder such as market studies, compliance manuals, outreach with stakeholders, competition assessment of laws/ policies, manuals for guidance of businesses etc.

## **VIII. Business Insolvency**

29. For data collection, the role of administrative Ministry and Regulator(s) may be included ,in addition to ,expert consultations. For firm level surveys, the administrative Ministry and Regulators may be consulted for selection of sample firms.

30. Environmental obligations in bankruptcy: Insolvency law in general takes into consideration the environmental aspects of a firm while resolving or liquidating it. The law does not circumvent environmental laws of a jurisdiction. In case of any contentious environmental obligations, the Adjudicating Authority ensures that the same is not being circumvented in a particular case while approving a resolution plan or liquidation order. Further, the number of insolvency proceedings having contentious environmental obligations may be very low to begin with as such obligations are more likely to arise in case of heavy industries, construction companies etc. Thus, contentious issues with respect to environmental matters are being dealt with on a case-by-case basis. The weightage and scope of this indicator may therefore be reviewed by World Bank. This aspect may not be assessed as a stand-alone indicator.
31. Commencement of insolvency proceedings: This indicator may also include the linkage between reorganization and liquidation as in practical aspect both occur sequentially. Where circumstances justify it, the system should allow for easy conversion of proceedings from one procedure to another. When either of these procedures is initiated with respect to a debtor, it is often impossible to tell, at the time of commencement, whether the debtor should be liquidated or rehabilitated. As a general principle, therefore, although these two procedures are presented as "two-track" procedures, they are normally utilized sequentially; that is, a liquidation procedure will only run its course if rehabilitation efforts (whether formal or informal) have failed. Several countries reflect the above linkages in the design of their laws. For example, in some countries, liquidation procedures normally may be commenced only if all attempts to rehabilitate have failed or if the creditors feel that rehabilitation is not possible and decide early on during the process to initiate liquidation of the firm.
32. Creditor participation: The differentiation between types of creditors in terms of their participation may not be factored in. In India, the types of creditors are Financial Creditors and Operational Creditors as compared to Secured and Unsecured Creditors in most countries. The intelligible differential between financial and operational creditors under the insolvency law of India (the Insolvency & Bankruptcy Code, 2016) has been upheld by the Hon'ble Supreme Court of India in the case of Swiss Ribbons Pvt. Ltd. This should be considered while formulating the questions relating to Creditor Participation.
33. Management of debtor's assets: Given the importance of new financing/ interim financing for an enterprise during reorganization, provisions in the insolvency framework that give the insolvency practitioner/ administrator adequate powers to obtain such financing should be included in this indicator. Further, priority given to post-commencement credit in the liquidation distribution waterfall may also be considered.

34. Scope of liquidation and reorganization proceedings:

- This indicator may also include the extent to which a debtor is displaced from the management and control of the enterprise once insolvency proceedings commence. In the case of reorganization procedures, some countries have opted for full debtor control (debtor-in-possession) while some have opted for creditor in control (creditor-in-possession)
- The pre-insolvency aspect as present in various countries like India has not been covered thus, the indicator must include an assessment of whether the insolvency framework allows for pre-insolvency proceedings viz. pre-packs wherein the approval by the court of reorganization plans have been negotiated before commencement of the reorganization proceedings
- Provision in insolvency law that bars wilful defaulting promoters/debtors from participating in the resolution process may also be assessed from the perspective of maintaining the integrity of the process and to create deterrence in respect of default of loans by making real the fear of losing control of the company

35. Insolvency proceedings may have international aspects, and insolvency laws should provide for rules of jurisdiction, recognition of foreign judgments, cooperation, and assistance among courts in different countries, and choice of law. An indicator with respect to provisions in legal framework for smooth conduct and resolution of cross-border insolvencies may be included, given the transnational nature of modern businesses. The insolvency framework should set clear rules on the recognition of foreign court orders. The framework should draw features from the UNCITRAL Model Law on Cross-Border Insolvency and at the same time be customized to the specific needs of a particular jurisdiction

36. Extent and frequency of data dissemination on insolvency proceedings by jurisdictions may be considered as an additional indicator

37. Interoperability of services for insolvency proceedings: The indicator may take into consideration the differences in regulatory set-up of each jurisdiction. For example, databases may be maintained by more than one agency. Further, for jurisdictions that have only recently set up a regulatory framework for insolvency resolution, integrated data bases may be work in progress. The indicator may factor in work in progress scenarios as well

38. In the pillar of assessing Ease to resolve an insolvency judicial proceeding, it is stated “the data will be collected based on assumptions underlining the defined company, including its type and size, as well as the value of claim. This set of indicators will not require a case study”. This lacks clarity as to how in the absence of a case study there would

be underlining assumptions in calculating the time and cost to resolve insolvency.

Comments from the office of the WBG Executive  
Director representing Brazil, Colombia, Dominican  
Republic, Ecuador, Haiti, Panama, Philippines,  
Suriname and Trinidad & Tobago



March 15, 2022

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## **Consolidated Comments, Inputs from Brazil, the Philippines and EDS15 on the Business Enabling Environment Pre-Concept Note**

We submit for the Bank's consideration the comments, suggestions and recommendation of our Constituency to the Business Enabling Environment Pre-Concept Note circulated to various stakeholders for feedback. We acknowledge and appreciate the inputs provided by our authorities, in particular, **the Business Environment Modernization Directorate of the State Modernization Secretariat of General Secretariat of the Presidency of Brazil and the Philippine Department of Finance.**

In general, the proposal of the new report (Business Enabling Environment) presented by the World Bank is satisfactory. We welcome the conception of a new business climate report, noting the key role of the exercise in making important decisions that are critical to a country's policy environment towards businesses. However, the shift in the business environment assessment from the perspective of individual small and medium-sized enterprises under the DB to that of the whole private sector development under the BEE deemphasizes the focus on vulnerable groups, and may run counter to WBG's twin goals of ending extreme poverty and promoting shared prosperity.

In this context, we acknowledge that the BEE methodology will concentrate on the regulatory framework and public service provision at the microeconomic level, and will not cover macroeconomic conditions covered under reports. We also note that the proposed BEE web platform will feature a section on complementary resources in recognition of the relevance of other exogenous issues. Be that as it may, we maintain that the assessment should yield a complete and useful figure that could translate into powerful insights contributing to an improved business climate. Relatedly, government authorities should be informed on how the excluded macroeconomic indicators would affect the country scores in the resulting BEE reports.

We wish to reiterate the call for transparency of data by publishing raw, anonymized data from respondents of participating countries (recommended by the EPR). We took note that the Note mentioned that data collection and reporting process is envisaged to be governed by the highest possible standards, we underscore the importance of engaging external evaluation group to work with the Bank's internal evaluation group in order to eliminate opportunities for conflict of interest and potential interference of governments. This will also preserve the quality, integrity and reliability of the BEE.

The BEE should ensure fair representation of countries through appropriate selection of respondents/experts with appropriate size or number per country (unlike in the DB that there are countries with a good number of respondents or contributors while some had few) and integrating a more systematic and impartial selection process which is properly documented and disclosed. It will also help if the criteria on the selection process will be shared and published for transparency. Countries should be equally represented in the number and type of experts. An independent third-party panel may be tapped to help establish high-standard processes ensuring integrity and credibility and key Governors of the Bank can contribute to this process.

We appreciate the proposal to veer away from rankings as we believe that rankings are more susceptible to biases given some countries are closely comparable with each other. Furthermore, the assessment should not be viewed as competition among nations, but rather create an environment where countries can adopt standards or principles that will help improve their status. In this regard, we suggest that the Bank explore the applicability of adopting a ratings scale while it has yet to decide how to aggregate scores from specific indicators.

Further, we would like to emphasize that the actual BEE Concept Note should be presented to all member countries prior to the Bank's circulation and final approval process, knowing full well that the Pre-Concept Note only outlines the proposal and is subject to varying interpretations at this point. As the proposed BEE would have a significant impact on policy decisions, due diligence should be reasonably carried out.

Some issues still require clarification or consideration. However, considering the current stage (definition of some aspects and details of the methodology), it is possible to approach an ideal proposal. A BEE novelty considered very positive is the sending of blank questionnaires. This change will resolve the anchoring bias that existed in the Doing Business.

Another extremely positive aspect is the qualification of the respondents/experts/contributors, as it is essential that the opinion comes from those who are experts on the topic. In the same way, experts need to be practitioners and knowledgeable of the issues they are asked to, and above all, impartial and independent from the national government agencies.

The need to consider and use in the report, whenever the evaluated economy has, primary data available, auditable and from reliable sources is pointed out. If they differ from research carried out, the World Bank may hire experts to carry out a detailed analysis.

It is necessary to observe the single reference date for all economies, regardless of the primary source used. Another aspect is that indicators that measure processes are presented in the reports in detail, fully explained, that is, indicating the procedures considered, as in Doing Business.

The scoring and methodology should be disclosed, explained and peer reviewed, if possible and we propose that another round of stakeholder consultation will be performed once these have been designed and formulated.



It is also considered opportune to mention the moment of interaction/exchange between the BEE Team and the Government agencies involved in the Doing Business Report, the Update Review, because at that time the Governments can provide the updates and important changes implemented in the evaluated period to complement, ratify or rectify the data collected. BEE is expected to have a similar procedure.

We note that the Business Enabling Environment seems to incorporate some advances in relation to the former Doing Business, which is positive for economies around the world.

We also would like to inquire from the DEC the extent that the comments and recommendations of the External Panel Review experts (EPR) have been considered in the design and conceptualization of the Pre-Concept Note, its themes and indicators. The EPR made several valuable suggestions to improve the defunct DBR which we think should be included in the BEE.

For one, the availability of public goods, among others such as safety and security as well as access to economic and social infrastructure is not included. While regulation and public services are both important for investment climate, public goods are also important factors for private sector development and in setting up a business. An explanation why the BEE is only limiting to regulations and public services should be provided as well as the other notable recommendation of the EPR that's not considered in the BEE.

The EPR also highlighted the impression that the defunct DBR was being used by countries to attract or promote FDIs. If this is not the intent of the new report, it should be highlighted to manage expectations.

As such, we reiterate the call for Management to consider all the lessons learned and key recommendations of the EPR and the IEG in this new product to ensure that data manipulation will no longer happen in the future.

Since this is only for the Pre-Concept note, we strongly suggest that the actual BEE Concept Note should be shared to all member countries for comments prior to the Bank's circulation and approval recognizing that the Note only outlines the principles and some details of the proposal and is subject to varying interpretations at this point. As the BEE would have a significant impact on policy decisions, due diligence should be reasonably carried out.

It is concluded that, as a first impression, the Business Enabling Environment seems to incorporate some advances in relation to the former Doing Business, which is positive for economies around the world

We also appreciate a feedback from the DEC on our comments and suggestions. Moreover, the following are the specific comments and recommendations to the various themes and processes identified in the Pre-Concept for consideration and feedback by the DEC.

## THEMES



### 1. BUSINESS OPENING

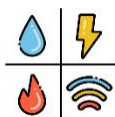
- The active participation of the private sector should be highlighted in this new project, with the objective of improving operational efficiency in line with commercial boards, municipalities and states.
- It is understood that the project needs to better detail the implementation issues of the private sector. For example, in the data collection, only representative/sample companies will be included or collected, thus, selection process and criteria should be disclosed for transparency and explained.
- Unlike in the case of Doing Business, wherein only one company was considered limited to a certain size and with certain characteristics, the BEE should improve this analysis by increasing the sample size and scope of observation and analyzing a composition of indicators such as number of companies, generation of employment, revenue, participation in GDP and collection of taxes.
- Regarding the balance between legal and factual indicators, it is believed that, when intend to analyze the norms and the practice, some previous concepts that will guide the analysis and comparisons must be clear from the principle. In this sense, although there is clarity about what the sector is private, the note leaves open questions for expert consultation as what a domestic or foreign business is. questions like this directly interfere in the balance between the legal indicators (normative) and the de facto (practical), since the concept adopted will change the analysis path.
- Furthermore, in other cases it is explained that a set of company conditions for the evaluation, a kind of Case of Doing Business, but the note leaves this question open for indicators. In some, it is mentioned that they will be used, but in others, not there is such a prediction. Therefore, greater clarity is needed about the object that will be treated in the analyses, either by delimiting some legal types for analysis (as highlighted in the previous item), either specifying the conditions of these fictitious companies.
- Greater clarity and transparency are needed in the public services indicator. It is necessary to clarify whether the existence of the public service is sufficient for the indicator or whether it will simply be adopted what is most used in practice.
- Furthermore, it is reinforced that the BEE should not leave issues of definition open for expert consultation, such as what is a domestic or foreign business.
- How about the significance and role of “trademarks and patents”, often necessary and crucial for entrepreneurs to set up their business.
- The role of local governments providing SMEs any difference in the value of the fees required by Organs public, as well as offering payment facilities and agility processing these (online payment, QR Code, barcode, payment confirmation time, etc.) should be considered.

- Regarding the consultation with specialists regarding indicators, it is suggested that they select those that act on the activity rule and not on the exception, as in Doing Business. This issue will be mentioned in Data Collection Approach.

## 2. Business location



- Considering the change brought about by the COVID-19 pandemic, there were proliferation of small businesses in some countries incorporated in the residence of their manager(s). Nothing was identified in this topic or in its sub-items referring to this form of occupation.
- The guarantor requirement of the lessee when the entrepreneur needs to rent a property to establish your company should also be part since in many cases, the security deposit and/or surety bond is (are) not accepted in some countries.
- It is also considered that the World Bank could include the questioning about the existence of an integrated system between the federative entities of the evaluated economy that previously approves the viability of the property at the moment of the beginning of the process of incorporation of the company (business entry).



## 3. Connection of Public Services

- The BEE project will measure the quality of regulations as well as the provision and efficiency of implementing regulations for the three main types of public services: electricity, water and internet which goes far beyond the scope of Doing Business, which covered only the Obtaining Electricity indicator;
- It is noted that the performance of economies will be evaluated based on indicators quantifiable but unclear how this quantification will be done; We need more explanation on the quantification and analysis once available.
- Enterprise-level surveys will replace case studies for the calculation of the time and cost to obtain electricity, allowing obtain representative data on the actual time and cost to obtain connection and service interruption.
- The use of case studies for the indicator of electricity. In this context, considering the characteristics and territorial and social complexity of various locations in different countries, for example in Brazil, certain basic assumptions on connections should be further analyzed and studied to ensure the comparability between countries. It cannot be expected that the deadline and the electricity connection cost in municipalities located island provinces or in the forest Amazon, in the Pantanal or even in the northeastern sertão is the same for a connection in the capitals.

- There is a need for greater transparency in relation to consultations with experts. An expert answer, which can often be biased, cannot prevail over an official data of a regulatory agency, for example. Situations like this occurred in Doing Business.
- Only the assessment of the cost of the electricity connection is maintained, and not including the cost of electricity in the new indicators. We understand that the cost of tariffs is an essential variable for any company. Thus, including energy tariffs must be very well studied and debated. It offers a fair comparability between countries with a free market or, even, those that are able to source (domestic) and produce their own energy.
- Include indicators related to the use of renewable energy as a business environment assessment factor. This is in line with the green initiative of the bank since a large part of the world's population is vulnerable to adverse weather events, such as floods, droughts, lack of rain and other types of disasters natural that may harm the business environment due to the risk of energy supply electricity disruption for companies operating in the sector. The expansion of the use of renewable energy sources electric minimizes this risk

#### 4. WORK



Regarding work, we find the proposal for this indicator adequate and quite comprehensive. However, the sub-item Individual Conflict Resolution Labor, could be approached if, in addition to official public bodies, the country in question adopts, as a way of settling labor disputes, the arbitration court mediation and/or labor unions.

- Another issue to consider is how the data will be collected from labor lawyers. It is suggested that the information collected are confirmed with the Ministry of Labor or the specialized courts, as this is existing (de jure) legislation. This question does not apply to the item Adequacy of Public Services to the Labor market.
- Regarding the item “Ease of Hiring Labor”, it is understood that data on labor inspection can be collected in public and auditable basis.

#### 5. Financial Services



- The motivation of the “Financial Services” section indicates that the objective is to measure the financing capacity of the firms' operations. In this sense, the inclusion of indicators related to “green financing” does not seem to make sense. “Green financing” is related to the characteristic of the financing obtained, measuring issues of sustainability of the economy. This characteristic, however, does not contribute to the indication of the financing capacity of firms in a given economy. While sustainability issues are relevant, they should not be confused with the financial system's contribution to entrepreneurship. As indicated in the document itself, “green financing act as a catalyst of an environmentally sustainable economy shifting investments into green technology and sustainable programs” (p.28). Therefore, it is confirmed that this topic deals with the allocation of resources in certain projects; it is not about the ability to obtain resources. Thus, imagining that the sustainability issue can be a strategy to promote the business itself, it is suggested to move “green financing” from the “financial system” section to the “business operation” section or to a “constraints” section. regulatory”.

- Furthermore, the document mentions that electronic payments are “relatively new”. This is not a true statement, as the Electronic payments have been popular for decades. In the text proposal, there is an excessive weight for the measurement of electronic payments. It is almost immediate that the condition of being electronic allows the payment to have less cost than a non-electronic payment. However, epayment is not the object that aligns with the objective it wants to measure in section E, that is, the efficiency of being able to be made a payment, or rather the efficiency with which a firm can receive payments. There are electronic payments that are not efficient by market conditions and this can mask the indicator which is reported in the text. Thus, it is suggested to change from “ease of making an e-payment, including time and cost to make an e-payment through internet banking mobile banking, e-money, and payment cards for B2B and P2B” for “ease of receiving B2B and P2B payments, including time and costs for making an online payment, acquiring service, time-delay for a card scheme settlement, ease of negotiating prices payment receivables”.
- In addition, the text proposes that the time to obtain a credit operation is an indicator of access/use of financial services. This is not a good measure as it disregards operations that are requested and rejected. The measurement of efficiency in the use of the financial system should fall on the time taken by a bank to decide on the request for financing a project or granting a loan, contrary to what is proposed: measuring exclusively the time it takes to obtain the credit. In a healthy business environment, funding bad projects should be rejected. Thus, it is suggested to replace “time to obtain a loan” by “time to receive a decision on a loan request”.
- Finally, to obtain data on the quality of regulation in financial systems, it is suggested that “de facto” data be obtained from the data from the Payments and Infrastructure Committee's Red Book from the Financial Markets, BIS/CPMI, in addition to the use of data from assessment of national regulations carried out by the same Committee (Level 2 assessment of the Principles for Market Infrastructure Finance, PFMI-L2).
- In the sub-items Electronic Payments and Ease of Receiving Services financial aspects of this topic, it is considered interesting to include some questioning about the means of payment available in the country to be analyzed. Thus, it could be asked about the existence of means of payment with secure identification and speed of execution of the operation.

## 6. International Trade



The proposal for this topic proves to be comprehensive and qualified in relation to Doing Business.

- Qualification of the assessment by including the quality of the regulatory framework, as well as the quality of public services provided by governments.
- Inclusion of aspects related to the adoption of digital technologies and environmental sustainability.
- Inclusion of qualified specialists for the topic such as dispatchers, customs brokers, shipping companies, authorities ports, as well as customs and other bodies, and can be corroborated by documentary research.

- The absence of a case and the maintenance of the time and cost estimate can distort the answers, since each one will start from different premises, according to your import and export niche, type of product and especially the means of transporting the goods (air , sea or land).
- Due to the expansion of the scope of the indicator, several weaknesses of the Brazilian model may emerge. This will require agreements and union of intentions and efforts of the actors involved, as well as dedication to the work plans.
- In relation to objective data dealing with the regulatory framework and the quality of the public services provided, it is believed that there should be greater government participation in the provision of information or in the confirmation of these, given that in the research previously carried out by Doing Business there were respondents who did not carry out activities related to the cases established in the research.
- Regarding the companies that should participate in the research, it is essential that are active in import and/or export activities. In this sense, it is suggested that companies be indicated by non-governmental organizations. This also applies to the item that deals with the efficiency of importing and importing goods and involvement in e-commerce.
- Regarding the item Regulatory Restrictions on Electronic Commerce, it is understood that there is a need for more detail regarding the tax cost, given that there is a fine line between tax of a country and the definition of restrictive rates for internationally traded products.
- Regarding the Commercial Infrastructure item, it is considered that the different territorial dimensions of economies are limiting for an equitable assessment.

## 7. TAXATION



- Considering the good practices and recommendations of the OECD and CIAT over the last 20 years, especially the impact of tax actions that positively affect the business environment, considerations are presented for each item on the topic.
- On the item Quality in Tax Regulation, as described by the World Bank team itself, there is enormous subjectivity in the analysis of the quality of regulation. It is observed that the sub-items included in this item do not refer to “quality” in the regulation, as it would be difficult to assess, but to the ease of complying with tax regulations. It is suggested to change the nomenclature “Quality in Tax Regulation” to “Ease of Compliance with Tax Regulation”.
- Regarding the item “Existence of Systems for Routinely Dealing with Complexities and Ambiguities in Tax Interpretation”, it is understood that the objective is to understand if the Tax Administration offers ease for the taxpayer to comply with the legislation, that is, if there are systems that provide the taxpayer's

personalized tax agenda, collaborate in completing the declarations and objectively indicate how the regulation should be interpreted in the specific case. As in the previous item, it is suggested to change the text “There are systems to routinely deal with complexities and ambiguities in tax interpretation” for “The Tax Administration has an automated system that:

- Provides the personalized tax schedule of the taxpayer;
  - Collaborates in filling in the declarations and in the others obligations required of taxpayers;
  - Indicate objectively how the regulation should be interpreted in cases of common difficulties in the sector of taxpayer
- On the item “level of complexity of ancillary obligations”, it is understood that the analysis of the complexity of ancillary obligations is subjective and difficult to compare. In order to preserve the idea of measuring the complexity of the obligations involved, but improve the objectivity of the indicator and align it with good technical practices, it is suggested to verify the effective existence of a continuous process of adaptation of tax bureaucracies to each economic sector carried out in cooperation with taxpayers and taking into account the management of tax risk. In other words, what is wanted is for the tax bureaucracy to have the least impact on the prices of products and services in that economic sector, while taking into account the tax risk. In this regard, it is suggested to change “Degree of complexity of ancillary obligations” to “There is a continuous and effective process of adapting tax bureaucracies to each economic sector carried out in cooperation with taxpayers and taking into account the management of tax risk”.
  - Going beyond what was initially proposed, it is mentioned that the technical literature on tax administration in recent years has been given special attention to the preventive action of the tax authorities in order to prevent nonconformities. This approach is one of the most relevant factors for the stability of a tax environment, as it avoids the emergence of nonconformities and, consequently, minimizes the lack of predictability of the environment and the costs for the subsequent treatment of these nonconformities. To carry out the preventive treatment of non-conformities, the technical literature launches, every year, new tools, such as PAYE, early tax withholding, natural integration of tax administration systems with taxpayer systems, dynamic choice of tax responsible, among others. For this topic, it is suggested to add a new item: “Existence of Effective Tools for the Prevention of Tax Nonconformities Aligned with the Tax Risk Management Process”.
  - On the Tax Administration Services item, the tax administration technical literature has consolidated the existence of effective cooperative compliance programs with taxpayers as one of the most effective tools for stabilizing the tax environment. Therefore, it is of paramount importance in assessing a tax environment to analyze the effective participation of taxpayers in building a predictable and balanced environment for new investments and ventures.



This construction is not to be confused with the conflict resolution mechanisms, already covered in another item, as it concerns the creation of a less conflicting and less costly tax environment, and not the solution, the availability of tools for resolving existing conflicts. In this sense, it is suggested to add a new item: “Existence of Constant and Effective Mechanisms for Cooperation between the Tax Administration and Taxpayers for Uniform Interpretation of Tax Regulations and for the Reduction of Bureaucracy Costs”.

- On the item Tax Burden and Efficiency of Tax Systems, the tax burden, by itself, is not an indicator of a good or bad tax environment. To reach this conclusion, it is enough to verify the tax burden of the most developed countries in the world. If the tax burden is stable (does not change over time) and is the same for everyone (does not produce unfair competition), from the point of view of this indicator, it is a sufficient condition for companies to carry out their planning with low risk of tax changes that impact the models of business.
- Therefore, it is suggested to replace the text “Total Tax Contributions” by the text “Stability of Tax Rates and Equality in the Tax Burden between Taxpayers of Same Size”.

## 8. DISPUTE RESOLUTION

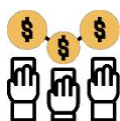


- The provision in procedural legislation to hold a pre-trial conference to clarify the scope of a dispute from the beginning is the practice of countries that adopt the Common Law System. It would be interesting if the report could absorb similar practices adopted by Civil Law countries in order to have equanimity in the comparisons between countries.
- The objective of clarifying the scope of a dispute from the outset can be achieved through the existence of other procedural mechanisms. As an example, it is possible to mention the attempt at conciliation carried out before the presentation of the defense piece, in which the parties are granted the right to present the factual reasons that led to the demand and the assessment of the risks in the continuation of the same.
- Restricting the approach on the quality of dispute resolution to mechanisms in force in specific legal systems does not favor a fair analysis, nor does it contribute to the construction of legislative improvements.
- As for the existence of specialized courts and chambers, it is important that the methodology specifies the scope of specialization based on the subject. In the case of commercial contracts, the doctrine classifies them in typical and atypical contracts, being common the specialization of the courts and chambers restricted to typical contracts. This narrower specialization brings the intended results and is used in various legal systems. In order for there to be equanimity in the comparison between countries, it would be important that the methodology carefully observe this issue.



- The prior clarification on the application of the items of the report to the specific case presented deserves attention, because, despite dealing with the quality indicator in which the report mentions that it will not “concentrate on a specific case study”, this information is presented in a clearly for the respondents and, based on the experience of Doing Business, the argument used by the World Bank to punctuate the specialization item uses the case study.
- Restricting the approach on the specialization of courts and chambers to mechanisms in force in specific legal systems does not favor a fair analysis, nor does it contribute to the construction of legislative improvements.

## 9. Market Competition



In this topic, only the possibility of including a questioning to identify whether the country being analyzed has some type of differentiated policy for Small Businesses is highlighted, assuring them the right of preference in public bids.

## 10. BUSINESS INSOLVENCY



- Possibility of submitting a JRP (Judicial Recovery Plan) by creditors should be scored in the legal framework, even if through total or partial equalization of the score referring to the possibility of a creditor submitting a request for judicial/extrajudicial recovery of the debtor (item of Doing Business that will apparently be kept in the BEE). In Brazil, creditors cannot file RJ/REJ in the debtor's place (only the debtor can file its own RJ/REJ directly), but they can file a debtor's bankruptcy petition (and the debtor, when defending, can request RJ) and, from the Law 14,112/2020 (reform of the Bankruptcy Law/RJ), they can now present their own debtor's RJ plan
- Discipline on transnational insolvency should be punctuated in the legal framework (the text does not say anything about it), evaluating the treatment given by the country's legislation regarding the crisis of the transnational company and its compliance with the standards of best practices;
- Despite the novelty (absence of a case), maintaining the focus on estimating the time and cost of insolvency proceedings, based on consultations with experts, can encourage the repetition of Doing Business results, by inertia. Furthermore, consulting experts without a case will further distort the answers, since each one will start from different premises (eg. Secured creditor or not? Subject to judicial reorganization or not? How big is the debtor, creditor and debt?) and influenced by individual experiences. In a caseless model, the ideal would be to take into account data (such as calculated medians) from recognized studies (which have carried out general analyses), and not consult experts.

## 11. PROTECTION FOR MINORITY INVESTORS (Excluded in BEE)

- The new report proposed the exclusion of the assessment related to the protection of minority investors, on the grounds that their presence did not seem well justified and that the selected topics seek to follow the life cycle of a company, including its market share.
- It is understood that it is important to assess the level of protection of non-controlling investors, as this directly impacts the availability and cost of capital to finance business activity. A regime that seeks to ensure respect for the contracts agreed between the parties, with suitable creditor protection instruments, favors an environment for obtaining cheaper credit through debt assumption. Similarly, an environment that offers protection mechanisms to non-controlling investors has the potential to reduce the cost of capital of the business, through equity participation.
- Therefore, in relation to this topic, it is suggested that the World Bank reconsider the proposed exclusion and reinclude the topic “protecting minority investors”, preferably replacing it with a more comprehensive expression, such as “protecting non-controlling shareholders”.

### Implementation Characteristics

Below is information on the report's implementation characteristics, in comparison with the previously released report, Doing Business.

#### A. DATA COLLECTION APPROACH

The proposed methodology for consulting experts and conducting research is considered to be useful and appropriate. However, in the previous index, the specialists in Brazil did not reflect the professionals who actually dealt with each topic.

Believing in the cultural and educational diversity of the different world economies, it is necessary to consider correctly analyzing these specialists, avoiding possible errors of opinion. On the use of the two methods in a single theme, it is believed that prior specification is necessary, as the proposal does not make it clear when this will occur, since it only presents it as a possibility.

Regarding the use of standardized case studies, it is considered important that they are specified and shared in advance, because as with the consideration of experts, not all cases used in the former Doing Business were applicable to the reality of all countries.

Regarding representativeness, there is a need to clarify the weights for each type of query, as the predefinition of this item makes the process more transparent.

The fact that the questionnaires are sent in blank is considered extremely positive, preventing the previous year's response from being kept just so as not to require more time or effort to respond.

It was not possible to identify in the document details of how the indicators will be grouped to produce aggregate scores, by topic or even by economy. Thus, any analysis of the new methodology is quite limited.

Considering the prerogative of transparency pointed out by the World Bank, it is necessary to make available the entire database collected in the report preparation process, with information on maximum and minimum values, considered outliers, standard deviation, weight (if any) between others, even if the respondent's or specialist's confidentiality is maintained.

## **B. SKILLS ASSESSMENT**

It is understood as positive the proposal of teams with a combination of skills, knowledge, practice and training according to the analyzed topic.

Training and updates according to the particularities of each economy can be considered useful in carrying out the analysis of the collected data.

## **C. FREQUENCY AND COVERAGE OF DATA COLLECTION AND REPORTS**

The frequency of data publication was not identified, as the possibility of splitting the report was pointed out in the document.

It is believed that a detailed indication of the World Bank's proposal is necessary in the event of non-annual implementation of the 10 themes proposed in the Business Enabling Environment.

## **D. PRELIMINARY SCHEDULE**

About the schedule, it is believed to be adequate. However, in the now-defunct Doing Business, the year of the report did not reflect either the year of data collection or the year the report was released.

In this sense, it is suggested that the year of the edition reflects the year of data collection and publication. For example: 2023 edition (collection in 2023 and publication by the end of fall 2023).

Comments from the office of the WBG Executive  
Director representing Brunei Darussalam, Fiji,  
Indonesia, Lao People's Democratic Republic,  
Malaysia, Myanmar, Nepal, Singapore, Thailand,  
Tonga and Vietnam

**Business Enabling Environment (BEE) – Consultation Feedback from EDS16**

On behalf of the member countries in our constituency, EDS16 would like to express our gratitude to the DEC team for providing the Pre-Concept Note and Consultation Strategy on the Business Enabling Environment (BEE) project. Capitals which provided feedback generally welcomed the BEE Pre-Concept Note as a step in the right direction. The BEE report's objectives of reform advocacy, economic research, and policy advice; enhanced focus on the *quality* of the regulatory framework and public service provision; and holistic assessment of the private sector (as opposed to only on the impact on local SMEs), were well received. There was also support for the use of case studies to facilitate comparability.

We have four general points, plus detailed feedback in **Annex A**. Our office will continue to engage and provide feedback to Management on the Pre-Concept Note and the later Concept Note.

First, on the frequency and coverage of data reporting, we have concerns about the proposed approach of staggering firm-level surveys on a 3-year cycle. While we appreciate the cost considerations, we believe that it is critical that the frequency chosen provide meaningful comparability and adequately reflect the pace at which emerging economies may implement improvements to regulations or public services. While some improvements may need time to take effect, others may take effect quickly. If there is a two- or three-year lag for such improvements to be reflected, this could reduce the report's usefulness for timely cross-country comparisons and reduce the motivation for reform. On the other hand, the frequency determination will also need to consider the report's coverage which, granted, would be quite ambitious should BEE extend beyond the second largest business cities in certain economies. Taken together, it would be useful to have a more in-depth discussion on the options being considered for frequency and coverage, and their implications, during deliberations on the BEE Concept Note.

Second, attention should be paid to ensuring comparability across cities for any given indicator in which variability in scoring may be due to variations arising from differences in the cities' economic structures, rather than from the effectiveness of their regulatory frameworks. For example, if going forward the BEE defines business entry as including all necessary regulatory licenses that businesses require to be operational (beyond incorporation), this could disadvantage cities whose economies are dominated by activities which, by their nature, require more stringent operational licensing. Another example is public procurement: tenders may take longer in economies wherein more complex activities dominate (e.g. construction), and it should not be the case that the scoring of such indicators in more homogenous economies is disadvantaged relative to economies with a more diverse basket of activities which allows for faster procurement on average. For a consistent and fair comparison, indicators could either account for structural differences through weighting or limit their scope such that such differences do not come into play (e.g. in the case of business entry, focus on incorporation only).

Third, we note that the BEE approach (and that of the earlier DBR) tends to recognize best practices only when they are spelled out expressly in legislative provisions. In our view, this approach is too narrow because it does not take into account jurisdictions that have a common law legal system in place, and wherein case law and the Courts play an integral and binding role. For instance, in such jurisdictions certain insolvency best practices, such as the assignment of protections, may consistently be implemented as a result of Court decisions proceeding from well-established and binding case law, but would not be recognized under the BEE approach because they are subject to the disposition of the court rather than spelled out in law. Yet it is difficult to see how in such cases best practice has not been met, particularly in light of the Court's role as a neutral arbiter to complement legislation in the common law legal system. Beyond case law, certain best practices (e.g. environmental) may see very widespread implementation in practice due to "soft" incentives (e.g. green awards, certifications for meeting published guidelines) and should not need to be hard-coded in statutes to be recognized. The BEE project is an opportunity to develop a more flexible and inclusive methodology which recognizes the *de facto* implementation of best practices, not only practices provided for *de jure*.

Fourth, we note the ongoing discussion on the value of aggregate rankings and mixed opinion among stakeholders. On one hand, maintaining rankings in some form could help to promote the report's profile and reach, and increase the chances that it will lead to reform. On the other hand, doing so may introduce subjectivity in the aggregation process and unnecessary hype. While our constituency sees the value of aggregation and is open to both approaches, we are also cognizant of the recent External Panel Review's recommendation to remove the aggregate index and country rankings. While it is the prerogative of Management and the Board whether to adopt the ERP's recommendations, it would be appropriate for Management to give due consideration to the ERP recommendations, and since the recommendations have been made public, the final approach chosen should be compellingly and clearly explained.

With respect to the remainder of the BEE development process, our capitals have registered their expectation for continued consultation at the Concept Note stage, as well as after the initial design of the questionnaire is completed. They also request to be kept thoroughly apprised of the team's learnings after the pilot surveys are conducted (including how data collection and indicators may be adjusted), even for countries not involved in the pilot. Lastly, we would welcome a Board update from DEC summarizing the views received from academic, expert opinions and other stakeholders.

Thank you.

## A. Business Entry

Indicators	Corresponding Pages in Pre-Concept Note	EDS16 Comments
Quality of regulations for business entry	10-11, 61	<p>Based on Pre-Concept Note, this comprises (i) good regulatory practices for business incorporation, and (ii) regulatory restrictions on business entry for domestic and foreign private firms.</p> <p>Compared to DBR, (i) is new and encompasses regulations and international standards such as Financial Action Task Force (FATF) standards. In our view, FATF standards are a separate measure, similar to how Human Capital indicators are kept separate from BEE. Nonetheless, should BEE team still include FATF in this indicator, DEC should note that <b>FATF standards do allow for countries to take a risk-based approach and there may be instances where they make a policy call not to adopt certain recommended standards</b> based on country-specific AML/CFT/Proliferation Financing risk situations. BEE should recognize this flexibility accorded by FATF itself into account.</p> <p>In addition, we are concerned that if the BEE defines business entry as including all the necessary regulatory licences that businesses need to be operational in practice beyond incorporation, this may reduce the comparability of the report since the time taken to obtain operational licenses would vary for different types of business activities, disadvantaging economies whose composition of business activities require more stringent licensing. To avoid adding this noise to the measurement of business entry and for consistency across jurisdictions, it may be preferable to <b>separate incorporation from the application of operational licenses</b>.</p>

## B. Business Location

Indicator	Corresponding Pages in Report	EDS16's Comments
Efficiency of key services in getting a business location	16, 62	<p>Under the Doing Business project, time was based on a simple straightforward case study of a purchase without loan. Under BEE, understand that it is based on a set of assumptions. As the assumptions have not been given, it is difficult to comment at this stage.</p> <p>Nonetheless, we would like to point out that there is some disparity across countries with regard to the number of procedures which affects the overall time taken. E.g. for some countries, there are due diligence checks prior to/after signing the sale and purchase contract. Assumptions adopted should <b>ensure comparability in view of such variability in procedures, taking into account not only the time taken but also the quality and effectiveness of requirements</b>.</p>

Indicator	Corresponding Pages in Report	EDS16's Comments
		For cost, under the Doing Business project, only stamp duty for the purchase and other related fees such as registration fees, search fees are taken into consideration. In order to improve their ranking, some countries abolished payment of stamp duties and imposed a recurrent capital tax. This did nothing to reduce the cost of ownership, but improved DBR rankings, disadvantaging countries with lower recurrent taxes. For a more holistic assessment of cost, <b>total cost of ownership should be taken into consideration under BEE.</b>

### C. Utility Connections

Indicator	Corresponding Pages in Pre-Concept Note	EDS16's Comments
Quality of utility regulations	18-19, 62	<p>It is unclear what are the intended indicators to be used in the new BEE report. We suggest that the new BEE report could align with the previous WB Getting Electricity indicators on network reliability and electricity connection</p> <p>In addition to internet/ broadband services, we suggest for World Bank to also include additional indicators to measure mobile services, which are also key to increase ease of business. World Bank could directly obtain authoritative data from the national authorities/ regulators where available.</p>
Utility performance and transparency of utility services	19-21, 62	<p>We suggest that the new BEE report could align with the previous Getting Electricity indicators on utility performance and transparency utility services.</p> <p>For the new BEE report, the tariff transparency i.e. public availability of tariffs, notification to consumers, customer service (pertaining to online billing &amp; payment of bills) could align with the previous Getting Electricity indicators.</p>
Efficiency of implementation of utility regulations and services	21, 63	We suggest that the “Getting Electricity” connection indicator be adopted. However, on the provision to electricity supply, <b>a clear distinction should be included for time taken to lay underground cables, and provides a higher score weightage in comparison to overhead cables.</b> It is not a fair comparison to compare an underground system to an overhead system, as the former is a more reliable and safer setup.



**D. Dispute Resolution**

Indicator	Corresponding Pages in Pre-Concept Note	EDS16's Comments
Adequacy of public services in commercial litigation	45-46, 66	We note that future phases of the BEE may include areas such as the use of artificial intelligence and machine learning for better judicial decision-making. As far as we are aware, no jurisdiction presently uses such technologies in formal decision-making. We would suggest that <b>such technologies only be considered for the BEE report once the technology is sufficiently mature and proven to aid judicial decision-making</b> , to avoid rewarding first movers at a point in time where use of the technology may be ineffective or even irresponsible.

**E. Market Competition [New]**

Indicator	Corresponding Pages in Pre-Concept Note	EDS16's Comments
Quality of regulations that promote market competition	48-49, 67	For indicators measuring good regulatory practices integrating environmental/sustainability considerations in public procurement, we <b>suggest that BEE take an outcome-based approach in assessing regulatory practices in integrating E&amp;S considerations in public procurement</b> . For example, in some cases government procurement agencies may promulgate best practices, administrative instructions, and incentives to adopt E&S considerations in procurement, but not expressly require them in legislation. The survey should consider the impact of these and reflect the <i>actual implementation of E&amp;S considerations</i> , rather than only whether such considerations are hard coded into law.
Efficiency in the implementation of key services promoting market competition	50-52, 67	<u>Time to award a public contract and time to pay Government contractor</u>  We urge the BEE team to pay attention to the underlying activities being procured when computing the time taken to award a public contract. Some governments may by necessity have heavier procurement in activities which are more complex and require more time to approve award, such as construction, but this is a result of the nature of procurement rather than the efficiency of public service administration. To ensure the comparability of this indicator across jurisdictions, it should be <b>weighted according to the basket to goods and services procured</b> to arrive at a fair representation of the time taken on average.

**F. Business Insolvency**

Indicator	Corresponding Pages in Pre-Concept Note	EDS16's Comments
Quality of regulations for insolvency proceedings	54-55, 67	<p><b>A. <u>Background</u></b></p> <p>1. BEE uses three sets of broad indicators in the area of business insolvency: (a) the quality of regulations for insolvency proceedings (regulatory pillar), (b) the quality of institutional and operational infrastructure for insolvency processes (public services pillar), and (c) the ease to resolve an insolvency judicial proceeding.</p> <p><b>B. <u>General comments on Methodology - Consideration of best practices as a matter of express legislation only</u></b></p> <p>2. At pg 54 of the pre-concept note, it is stated:</p> <p><i>“This set of indicators falls under the regulatory pillar <b><u>as it relates only to de jure elements based on the reading of the law</u></b>. The indicator will also reflect burdensome regulations and normative gaps when good practices are not implemented. The data will be collected through expert consultations with local insolvency lawyers and data verification through desk research and a study of the applicable laws. No case study will be used. The quality of regulations for insolvency proceedings will have six indicators.” [Emphasis added].</i></p> <p>3. WB proposes to recognise or give credit/award points only for best practices which are spelt out in <b>express</b> legislative provisions. Credit may not be given or points may not be awarded where the legislative provision subjects a best practice to the decision of the Court, or where a best practice is articulated only in case law and not expressly coded in legislation, or a matter of pure practice.</p> <p>4. This proposed approach is, our view, too narrow because it does not take into account the jurisdictions that have in place a common law legal system and wherein case law and the Courts play a key integral role.</p> <p>5. A more flexible and inclusive methodology ought to be developed and implemented. The methodology should be sufficiently flexible to allow/facilitate the assessment of whether an economy meets the requirement of a specific indicator or fulfils a particular best practice, particularly if the best practice as a matter of common or accepted practice and/or encapsulated in binding case-law in that economy, instead of considering solely the presence of hard-coded legislation.</p> <p><b>C. <u>Comments on the sub-indicators for the broad “Quality of regulations for insolvency proceedings” indicator</u></b></p>

		<p>6. <b><i>“Commencement of insolvency proceedings”</i></b>:</p> <p>a. There appears to be some ambiguity/uncertainty as to the exact nature and scope of the “<i>early warning tools</i>” expected of a jurisdiction and how each jurisdiction will be assessed, as there are no further details on the concept in the pre-concept note. Nevertheless, we note some guidance on this concept from the following documents:</p> <p>i. This concept is used in an European Union Directive<sup>1</sup> which requires Member States to put in place early warning tools that impose obligations on business managers when the business enterprise starts to experience financial difficulties and about ways to respond as well as to incentivize them to take pro-active action early on..</p> <p>ii. The United Nations Commission on International Trade Law (UNCITRAL) Legislative Guide on Insolvency Law has recognized a few possible early warning tools that a jurisdiction could adopt: (a) one possible tool is to impose an obligation on a debtor to apply for commencement of formal insolvency proceedings within a specific period of time after insolvency occurs in order to avoid trading whilst insolvent; (b) another tool is to focus on the obligations of directors in the period before the commencement of insolvency proceedings and imposing liability for the harm caused by continuing to trade when it was clear or should have been foreseen that insolvency could not be avoided.<sup>2</sup></p> <p>We would suggest the BEE team <b>take reference from the UNCITRAL Legislative Guide</b> in constructing this indicator.</p> <p>9. <b><i>“Scope of liquidation and reorganization proceedings”</i></b>: This sub-indicator measures the key features of modern liquidation and reorganization regime/framework, such as how the reorganization plan is approved, equity considerations for approval mechanisms for implementation, and protections available for dissenting creditors:</p> <p>a. We note that the previous WB RIS recognized only “<i>formal in-court proceedings available to all commercial debtors and does not include schemes of arrangement, out-of-court agreements with creditors or reorganisation before administrative bodies</i>”. As a result, WB did not recognise <b>schemes of arrangement</b> as a valid mode of corporate reorganisation for the purposes of the WB RIS.</p> <p>b. We would suggest that WB, in the revised BEE, consider <b>broadening the definition of “reorganisation” to encompass more types of reorganisation regimes and systems</b>. This would provide a more inclusive and accurate reflection of the different insolvency systems available globally arising from the different legal traditions in the different jurisdictions.</p>
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<sup>1</sup> Directive 2019/1023 of the European Parliament and of the Council of 20 June 2019.

<sup>2</sup> The United Nations Commission on International Trade Law (UNCITRAL) Legislative Guide on Insolvency Law Part four, pg 7 paragraph 7; Chapter II “Elements of directors obligations in the period approaching insolvency.

		c. There is a new focus on whether the liquidation and reorganization proceedings “ <i>address environmental issues and ensure compliance with environmental law</i> ”. We would <b>appreciate clarification on what this encompasses and how there is a nexus between environmental protection laws and insolvency laws.</b>
Ease to resolve an insolvency judicial proceeding	56,68	<p>Whilst we are of the view that the ease of resolving an insolvency judicial proceeding is an important factor in measuring the effectiveness/quality of a jurisdiction’s regulations for insolvency proceedings, we propose that WB reconsider the measurement proposed, ie “<i>likely time to resolve the proceeding ... in calendar months from the filing until the payment of some or all of the money owed to creditors or approval of the reorganisation plan</i>”.</p> <p>We explain as follows:</p> <p>(a) An order of court initiating the insolvency in any in-court insolvency or reorganisation proceeding will generally be made within a few months from the commencement of the proceeding (“<u>judicial proceedings phase</u>”). This is regardless of the size of the company, the quantum of debts, the scale of its operations, the location of its assets, whether there are cross-border issues, the number and complexity of the issues of law, etc</p> <p>(b) However, it may take years for the first distribution to creditors following an order of court initiating the insolvency (“<u>insolvency administration phase</u>”). In many cases, there is usually no money left for creditors after paying the liquidation expenses and based on the proposed criterion, the time before payment of dividends to creditors is possibly infinite.</p> <p>It may therefore be more practical to look at the ease of resolving an insolvency judicial proceeding with two parts in mind: <u>judicial proceedings phase</u> and <u>insolvency administration phase</u>.</p>

## G. Labor

Indicator	Corresponding Pages in Pre-Concept Note	EDS16’s Comments
Quality of labor regulations	23-24, 63	There is a wide range of approaches toward regulating and protecting labor (e.g. on minimum wages, unemployment insurance, pensions and social protections) and the suitability of each approach depends on each jurisdiction’s particular context. The evaluation of labor regulations and labor market services should therefore focus on the extent to which policies and services lead to good <i>outcomes</i> for workers, without favoring specific approaches.
Adequacy of public	24, 63	

services for the labor market		
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## H. Finance

Indicator	Corresponding Pages in Pre-Concept Note	EDS16's Comments
Quality of regulations for secured transactions, e-payments, and green financing	27-29, 63	It will be useful to broaden the scope to cover other instruments beyond green bonds, such as green and sustainability-linked bonds and loans, given the increasing prevalence of such instruments.
Quality of credit reporting framework	29-30, 64	On the use of innovative alternative data by credit bureaus, we would suggest that such innovative approaches only be considered for the BEE report once the technology or data are sufficiently mature and proven to aid decision-making, to avoid rewarding first movers at a point in time where use of the technology or data may be ineffective.

## I. International Trade

Indicator	Corresponding Pages in Pre-Concept Note	EDS16's Comments
Quality of regulations for international trade in goods and ecommerce	32-33, 64-65	While the imposition of Border Carbon Adjustments (BCAs) <i>could</i> allow jurisdictions to move forward on ambitious climate policies without the threat of competitiveness loss and carbon leakage, there is currently no international consensus on whether the BCAs are in line with trade rules under the WTO. Having an indicator on BCAs could compel jurisdictions to impose BCAs, which could inadvertently result in increased protectionism if there are no proper monitoring and international guidelines to guide the usage of it. The World Bank Group should consider consulting other international organisations (e.g., WTO) on these indicators.
Quality of public	33-35, 65	On the operationalisation of risk management systems, enforcement agencies may not always share their criteria or statistics on our risk management or targeting frameworks due to operational sensitivity and confidentiality. It

services for the facilitation of international trade in goods		would be useful to clarify the scope of this indicator, as its likely that most enforcement agencies would not be comfortable in sharing their risk assessment matrix and criteria.
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## J. Taxation

Indicator	Corresponding Pages in Pre-Concept Note	EDS16's Comments
Quality of tax regulations	38, 66	<p>(1) Stability of tax regulations We suggest that WBG reconsider this sub-indicator. Measuring the frequency of tax provision changes might not be a good gauge of “quality tax regulations” and thus being attractive to businesses. A good tax system ought to be responsive and agile in keeping up with national/international developments, as well as prompt in addressing domestic fiscal needs. There might be sound reasons for frequent changes to tax regulations and it should be considered holistically, and in that specific country’s context.</p> <p>(2) Complexity of record keeping and filing We suggest for WBG to provide greater clarity on how this is to be measured. Counting the number of supporting documents might not be the best way to measure complexity, as while the tax administration might require one piece of information, it could be the taxpayers’ own systems/records that resulted in them submitting multiple documents, and this could vary depending on business size. Measuring the absolute number of documents also does not take into consideration the ease of submission to the tax authority upon audit e.g. whether it is manual or digital submission.</p> <p>(3) Transparency in the formulation of tax regulations We suggest for WBG to provide greater clarity on how this is to be measured. There are market-sensitive or time-sensitive regulations that may not always be suitable for public consultation. It is also not very clear what “regulatory impact assessment” refers to and whether the expectation is that this is mandatory for all policy/administrative changes. In addition, the frequency of publication of jurisprudence (of matter decided cases) and law interpretations should play a smaller weight compared to the other de-facto factors as this would depend largely on the complexity of the proposed regulations.</p>

Services provided by the tax administration	38-39, 66	<p>(1) Presence of effective and efficient dispute resolution mechanisms</p> <p>Timeliness might not be an accurate indicator of effective and efficient dispute resolution mechanisms as it is also affected by the complexity of a case or the willingness of the taxpayer in providing requested information and documents. We suggest that the emphasis be on transparency of process and clear service standards that are measurable.</p> <p>Availability of data in this area will depend on the definition of “dispute”. If it refers to all forms of objections or disputes from taxpayers, some tax administrations would not be able to provide precise numbers. The definition of disputes should be scoped pragmatically and realistically.</p>
Tax burden and efficiency of tax systems	39-41, 66	<p>(1) Time to comply with tax regulations</p> <p>We suggest that WBG provide greater clarity on how this is to be measured, e.g. does it include withholding tax and tax clearance (this was not included previously in EoDB).</p> <p>We suggest that WBG provide greater clarity in how the duration and frequency of tax audits is to be measured. In the previous EoDB report, the post-filing index looked at 2 factors:</p> <ul style="list-style-type: none"> <li>(i) perception of audit likelihood; and</li> <li>(ii) efficiency of refund</li> </ul> <p>On (i) perception of audit likelihood, this was not a good reflection of audit likelihood as the survey respondents were tax agents who would only be able to give inputs based on the proportion of their tax clients being audited. This meant that their survey inputs might not be representative of the entire business population in general, leading to misperception on the real rate of audit. WB might want to take note of this consideration when deciding on the survey methodology and context of the BEE survey questions (e.g. whether it is only for audited companies).</p>

Comments from the office of the WBG Executive  
Director representing P.R. China



## **Feedback on the Pre-Concept Note of Business Enabling Environment (BEE) by the Chinese Government**

China welcomes the proposed Pre-Concept Note of BEE for assessing the business and investment climate, and hopes that the World Bank Group (WBG) will continue to build a fair and rational evaluation system serving as global public knowledge goods. During this process, we ask the WBG to uphold objective and neutral principles and prevent politicization. The recommendations are as follows:

### **I. Overall Recommendations**

**1. Open consultations on the Concept Note, methodology as well as the proposed questionnaires.** Considering that the main content of the Pre-Concept Note is more like the introduction to the assessment system, which does not include the methodological content, such as the evaluation and scoring criteria of each topic. We recommend that the WBG should hold another external consultation on the Concept Note, methodology and the proposed questionnaires with the stakeholders before the Concept Note discussion with the Board by the end of May 2022.

**2. Further improve data collection methods.** First, governments of all economies should be allowed to continue to update data of reforms through the government engagement portal and be corroborated by the data collected from expert consultations and firm-level surveys. Second, keep holding the annual policy consultations and dialogues with the willing economies, and select some of them to hold on-the-spot evaluations every year. Third, verify the procedures, time and cost involved in the whole process of each topic one by one to further optimize the firm-level survey approaches, and present the detailed results in the economy profiles.

**3. Ensure the balance of the three pillars in each topic, and give one-third of the weight to each pillar in the score.** Among the three pillars, in terms of the *regulatory framework pillar*, we suggest adding the evaluation of whether to carry out random inspections, randomly assign sampling personnel and public inspection results as cross-cutting content across topics. In terms of the *public services pillar*, we suggest adding the evaluation of whether enterprises can independently choose online or offline services, whether a feedback mechanism for enterprises on the quality of public services is established, and whether a mechanism for collecting enterprises' opinions and suggestions on the business environment is in place. In terms of the *overall efficiency pillar*, we agree to assess the relevant procedures, time and cost. However, in terms of costs, we recommend that the WBG only evaluate charges levied by the governments or government-authorized agencies on enterprises, not including charges on consulting

professionals such as lawyers and asset appraisers, or market charges such as port and terminal charges etc.

**4. Keep Labor as an observation topic and not include it in the formal evaluation until the methodology is mature.** The proposed evaluation content of Labor topic tends to encourage the government to deregulate the labor market, which may have adverse effects on the protection of workers' rights and interests. In order to better balance the relationship between enterprise supervision costs and social benefits, it is suggested to listen to the opinions of the International Labour Organization, enterprises and other stakeholders on the specific evaluation content extensively and decide whether the Labor topic should be aggregated into the score, after the methodology has been improved in two or three years, so as to ensure the scientificity and credibility of the evaluation results.

**5. Delete the content not directly related to the business environment, and reduce qualitative assessments.** For example, the percentage of water receiving chemical treatment in the Utility Connections topic is not directly related to the stability and continuity of water services needed for the daily production and operation of enterprises. So we recommend to delete it. Also, the Taxation topic is intended to assess staff integrity assurance mechanisms which are a part of the internal management of the authorities and a universal requirement for all public servants in the field of business environment. Thus, we recommend referring to the methodology of the *Doing Business* report, which clearly assumes that the relevant institutions are performing in accordance with the rules, and to delete this kind of assessment content. For another example, the Dispute Resolution topic is intended to evaluate the rationality of the judgments, but there is no objective or neutral international unified standard on how to define whether these judgments are well-reasoned. We suggest that the quantifiable indexes such as the retrial rate of the revised judgments of first-instance cases should be used instead.

**6. Better connect the evaluation standards to the international norms.** For example, the international community has reached a consensus on opposing global competition to lower tax rate and established the "two-pillar scheme", but the total tax and contribution rate is still taken as evaluation content in the current Taxation topic. So we recommend to delete this content or take it as an observation indicator without scoring. For another example, the assessment criteria for green financing under the Financial Services topic should not be limited to the ICMA's *Sustainability Bond Guidelines*. Furthermore, it should include international rules such as the *Principles for Responsible Banking* formulated under the leadership of UNEP and the *Common Ground Taxonomy: Climate Change Mitigation* jointly issued by China and the EU.

**7. Use case studies in Business Location, Utility Connections, International Trade and Market Competition topics.** First, only three topics (Business Entry, Labor and Taxation) will adopt case studies according to the Appendix II of the Pre-Concept Note. To ensure fairness and comparability of the evaluation results, we suggest continuing

to use the case studies to make sure the same standards are applied to all economies in the four additional topics: Business Location, Utility Connections, International Trade and Market Competition. Second, we suggest to update the case study assumptions with the times. Compared with 2003, the current development level of the economies in the world has stepped up to a new stage, the type and scale of the hypothetical enterprises and projects should be dynamically adjusted and upgraded accordingly.

**8. Clarify the selection criteria for sample cities and pilot economies.** The Pre-Concept Note mentions that the new approach will cover as wide as possible regarding country and within-country coverage and some economies will be selected for piloting. We suggest to further clarify the selection criteria for sample cities and pilot economies, especially whether the selection criteria for the sample cities are consistent with the *Doing Business* report.

## **II. Recommendations for each topic**

### **A. Business Entry**

1. The Business Entry topic includes “employment and employee registration”, which is overlapped with the Labor topic. It is suggested to be incorporated into the Labor topic.

**Our main considerations:** Most micro and small enterprises do not need to recruit employees at the time of business registration until they grow to a certain scale when recruitment, registration of employees and social security contributions payment are required. Therefore, it is suggested that the relevant content should not be included in the evaluation of the Business Entry topic, but to be incorporated into the Labor topic.

2. The Business Entry topic includes “open a bank account”, which is overlapped with the Financial Services topic. It is suggested to be incorporated into the Financial Services topic.

**Our main considerations:** Most micro and small enterprises do not need to open bank accounts or apply for loans at the time of business registration. Therefore, it is suggested that the relevant content should not be included in the evaluation of the Business Entry topic, but to be incorporated into the Financial Services topic.

### **B. Business location**

1. Delete the evaluation content related to ownership in order to avoid the evaluation results being affected due to different types of ownerships.

**Our main considerations:** The Business Location topic mentions that the tenure of land ownership and property rights will be evaluated, which implies that private permanent property rights are superior to public ownership.

2. Delete the content of leasing and ownership restrictions. If it cannot be deleted, make it an observation indicator or lower its weight.

**Our main considerations:** The evaluation of the quality of regulations should focus on whether the protection of real estate property rights and other rights is adequate. The tenure of leasing or ownership of property rights does not affect the full protection of property rights and should not be included in the evaluation. We suggest to fully consider the *Land Management Evaluation Framework* referred in the Pre-Concept Note and does not evaluate the restrictions on land property rights.

3. Delete the evaluation of geographical coverage of land transactions, property rights and encumbrances.

**Our main considerations:** Providing transparent information, fair transaction rules as well as stable and predictable legal provisions can satisfy the requirements of business entities to obtain business locations. The evaluation of geographical coverage of registered land is not relevant to this topic.

4. Retain the building quality control index of Dealing with Construction Permits in the *Doing Business* Report.

**Our main considerations:** Construction quality is a comprehensive requirement for safety, economy, environmental protection and other characteristics of engineering projects, among which safety directly affects the stable operation of the business venue. The original building quality control index has been relatively mature, and we suggest continuing to include it in this topic.

### C. Utility Connections

1. Split “Electricity Connections”, “Water Connections” and “Internet Connections” into three separate topics.

**Our main considerations:** First, electricity is the premise of other utility connections, without stable and reliable electricity supply, water, the Internet and the other public utility infrastructures are not able to guarantee their services. Therefore, it is inappropriate to evaluate electricity with water and the Internet within one topic. Second, different economies and sectors have different demands for water, the Internet and other utility services. If they have been combined together as one topic, it is not comparable among economies and not easy to evaluate in a fair and objective way. Third, electricity, water, and the Internet have different physical features, which are hard to evaluate scientifically with one single model, and it is difficult to assure the accuracy and objectivity of the evaluation results.

2. Delete the “e-waste management” in the “Regulatory framework for electricity, water, and internet connections” in the first pillar.

**Our main considerations:** The management of e-waste is not relevant to utility connection services.

3. Delete the “percentage of water receiving chemical treatment for water services” in the “quality, reliability, and sustainability of utility supply” in the second pillar “Utility performance and transparency of utility services”.

**Our main considerations:** The adequate quality of water can meet the requirements of enterprises’ daily operation, and the percentage of water receiving chemical treatment is uncorrelated with the business environment, or the reliability and stability of water supply.

4. Add relevant content of the network coverage and mobile network coverage, such as the number of 5G base stations per square kilometer and the number of 5G terminal users in the second pillar “Utility performance and transparency of utility services” - “Monitoring of key performance indicators on the quality, reliability, and sustainability of utility supply”.

**Our main considerations:** Network coverage is an important indicator to measure the convenience of enterprise users to obtain the network, which is universal to all economies.

5. Revise “the existence of a national infrastructure database and geographic information system” to “the existence of a municipal public infrastructure database and geographic information system”, which is mentioned in the second pillar “Utility performance and transparency of utility services” - “Interoperability of utility services”.

**Our main considerations:** Internationally speaking, water supply is generally regarded as a local jurisdiction. The establishment of local (urban) level water supply and the other infrastructure databases and geographic information systems should be encouraged.

## **D. Labor**

1. Continue to present Labor as an observation topic, and the assessment standards should be formulated in accordance with the relevant standards of the International Labour Organization.

**Our main considerations:** The evaluation of Labor topic should be made in accordance with the relevant standards of the International Labour Organization rather than just focusing on the economic benefits, so as to avoid the tendency of blindly establishing labor security system that is not commensurate with the economic development level and leading to lowering the existing level of protection of workers’ rights. The evaluation should only cover the international labor conventions ratified by an economy, and the conventions not ratified by an economy should not be included in scoring or ranking.

2. Revise “workers’ right to organize trade union and collective bargaining” to “workers’ right to organize or participate trade union and the right to collective

bargaining or collective consultations.”

**Our main considerations:** The indicator should be more inclusive, taking into consideration of different trade union systems and collective bargaining mechanisms in different countries.

3. Add “provide convenience for the parties to protect their rights through the Internet” to “individual labor dispute resolution”.

**Our main considerations:** Due to the impact of COVID-19 pandemic and the revolution of information technology, platform employment is growing. This leads to an increasing demand for e-services to safeguard workers’ legitimate rights, in which area the public services need to be further extended and improved.

4. Delete “age and national origin” under “workers’ protection” in the regulatory framework.

**Our main considerations:** Usually skills, experiences and psychological conditions of most workers change with age. Accordingly, their ideal jobs or expectations may change over time. Meanwhile, employers’ demand on employees’ attributes such as age differ dramatically for different tasks and different labor intensity. Therefore, it seems inappropriate to use age as an indicator for reviewing recruitment flexibility. Moreover, it is an international practice to issue working permits to foreign workers for administrative purpose, therefore, it is not appropriate to be used to evaluate workers’ protection or equal opportunities.

## **E. Financial Services**

1. Expand the scope of the referable legal framework and good practices in the “legal framework for green financing supervision”. The legal framework referred to when formulating regulations over sustainable finance should not be confined to the ICMA’s *Sustainability Bond Guidelines*. It is recommended to add other internationally recognized guidelines such as the *Principles for Responsible Banking* formulated under the leadership of UNEP. For good practices related to green bonds issuance, it is recommended to refer to the *Common Ground Taxonomy: Climate Change Mitigation* jointly issued by China and the EU.

**Our main considerations:** Better connecting the evaluation standards to the international norms can help the WBG to deliver more comprehensive and objective assessment over regulatory framework for green financing of economies.

2. Delete “transparency of fees, terms, and conditions” in “electronic payments”, or modify it to “whether the regulatory framework clarifies the payment service providers are obliged to disclose fee standards to clients”.

**Our main considerations:** The concept of this indicator is not clearly defined, because fees, terms and conditions might include a lot of matters with low correlation, and are quite subjective.

3. Delete “availability of solid recourse and dispute resolution mechanism” in “electronic payments”, or modify it to “whether the regulatory framework clarifies that the payment service providers should open channels for recourse and dispute resolution to clients”.

**Our main considerations:** The recourse and dispute resolution about e-payment are market behaviors between payment service providers and clients, which are applicable to normal business dispute resolution mechanism. So there is no need to establish a mechanism specially to e-payment that would incur extra administrative costs.

4. Delete the evaluation on the data exchanges between different credit reporting service providers (CRSPs).

**Our main considerations:** Collecting data and maintaining data heterogeneity and complementarity by CRSPs individually are the foundation to ensure competitiveness and vitality of the credit market. And data exchange between CRSPs is often an independent commercial activity based on business interests. Any measure that intentionally guide data exchange is against market competition principles. Meanwhile, international good practices laid out in the WBG’s *General Principles for Credit Reporting* and *Credit Reporting: Knowledge Guide* do not include data exchange between different CRSPs.

5. Revise the evaluation content of “time and cost required for a firm to obtain a loan.” First, change the time captured to obtain the loan application to “from formally applying for loans to the bank’s approval of loan applications”. Second, exclude the interest rate factor in the cost evaluation.

**Our main considerations:** In terms of the time, the approvals of loans for different types and entities vary a lot, so are the internal evaluation and approval processes in different banks. It is difficult for the regulatory authority to set a unified time limit over the evaluation of loan application. Therefore, it is not fair enough to evaluate how long it takes to obtain a loan. As for the cost, it is recommended that the WBG should specify that the assessment of cost to obtain a loan excludes the factor of loan interest rate, because different countries have different macro-economic environments and market interest rates. With some countries introducing zero interest rate while some adopting negative rate, there is no baseline for the evaluation on interest rate for loans.

## **F. International Trade**

1. Add relevant content of the support for e-commerce and the encouragement for regulatory practice in the “Good regulatory practices enabling e-commerce”. Such as whether to implement special supervision systems (including simple declaration approach, expedited processing rates of low-risk commodities and high-credit enterprises, and interaction platform between government and enterprise, etc.).

**Our main considerations:** The “Good regulatory practices enabling e-commerce” mentioned in the Pre-Concept Note only assesses the restrictive policies of safety and

reliability environment for e-commerce, it is lack of comprehensiveness.

2. Delete the relevant content of “establishing Border Carbon Adjustments (BCAs)”.

**Our main considerations:** Considering that the Border Carbon Adjustments (BCAs) do not comply with the principle of common but differentiated responsibilities established by the *United Nations Framework Convention on Climate Change* and *The Paris Agreement*, its essence is a unilateral measure implemented in the name of addressing climate change, which should be eliminated. If it is included in the evaluation, it should be taken as a negative deduction item to prevent some economies from undermining global climate governance rules and fair trade with unilateral measures.

3. Delete the relevant content of “time and cost related to trade finance” in the assessment of “time and cost to comply with export requirements” and “time and cost to comply with import requirements”.

**Our main considerations:** The time and cost to comply with import/export requirements are set to measure the efficiency of an economy’s regulatory framework and public services, while the trade finance is a market-oriented behavior between import/export enterprises and banks or third-party financial institutions, which is not related to the governments’ administrative behaviors.

4. Delete the relevant content of “the time for a merchant to receive online payments into its merchant account” in the assessment of “Time and cost to engage in e-commerce”.

**Our main considerations:** The time of online payments in the international trade is determined by both of the initiator and receiver of the payment. Due to the great differences in the construction, application and marketization of online payment systems in different economies, the time required to complete online payment is different when trading with different economies.

5. Fully consider the specific transportation modes for the import and export trade of sample cities in all economies. Evaluate and rank different types of transportation separately such as water transportation, land transportation (road and railway) as well as air transportation, rather than evaluating and ranking without distinction.

**Our main considerations:** Discriminatory content should be avoided in the evaluation. In the original *Doing Business* reports, the scores of economies based on seaport crossing are mostly lower than those based on land border crossing.

## **G. Taxation**

1. Delete the relevant evaluation of “ruling cases” to avoid the different outcome due to different legal systems.

**Our main considerations:** The taxation topic mentions whether adjudicate cases are



made public, so as to guide enterprises to better comply with relevant policies and regulations. But this only applies to countries with Case Law such as Britain and the United States, whereas China and the civil law countries in Europe, following Continental Law, are put at a natural disadvantageous place.

2. Delete the evaluation of “clarity of tax regulations”. If it cannot be deleted, it is suggested to delete “whether there is public ruling”.

**Our main considerations:** Countries that follow Civil Law System pay more attention to the interpretation of legal provisions, and the guiding significance of precedents for enterprise compliance is weak.

3. Delete the evaluation of “stability of tax regulations”. If it cannot be deleted, it is suggested to limit the stability evaluation to tax laws, excluding tax policies.

**Our main considerations:** In addition to the tax laws, the finance and taxation departments of some economies will formulate and issue normative documents to clarify the specific tax policies and implementation scope. The main purpose is to improve the transparency and operability of tax policies, and facilitate enterprises to better implement tax laws. So, it is not appropriate to take the stability of tax policies as the evaluation content.

4. Delete the evaluation of “transparency in the formulation of tax regulations”. If it cannot be deleted, it is suggested to limit the transparency evaluation to tax laws, excluding tax policies.

**Our main considerations:** The finance and taxation departments will formulate and issue normative documents according to the tax law to clarify the specific tax policies and the scope of implementation. When formulating normative documents, it is more important to listen to the opinions of relevant enterprises, rather than widely solicit the opinions of various market entities and the public. Therefore, when conducting transparency assessment, some irrelevant market entities may not be aware of the solicitation of comments on some tax policies.

5. Clarify the environmental taxation as the tax policy related to environmental protection.

**Our main considerations:** In addition to the environmental protection tax, many economies also have a series of other related tax policies that support ecological and environmental protection, such as value-added tax (VAT), corporate income tax and consumption tax. The evaluation is not comprehensive, if only the environmental protection tax is considered.

6. Evaluate formal cases of audit investigation for “risk-based audits”.

**Our main considerations:** Countries generally have tax risk analysis and response systems, however, they are not all called tax audits. Besides, countries have varied risk

response methods according to different sizes of taxpayers, and different levels of tax risks. Whether these risk responses are recognized as tax audits is also different, which leads to weak comparability. Therefore, we suggest that tax audits should be defined only as formal cases of audit investigation.

7. Delete the “total tax and contribution rate”.

**Our main considerations:** The pursuit of a lower total tax rate may lead to “race to the bottom” problem, which will reduce the tax revenue below the social operation level, lower the quantity and quality of public services provided by the government, and worsen the business environment. In order to prevent the tax base erosion and profit shifting, international tax cooperation system, represented by the “two-pillar scheme”, have been established around the world. And the unreasonably low tax rate will have a negative impact on the operation of the international tax cooperation system. If it cannot be deleted, it is suggested to further optimize the “total tax and contribution rate” or take it as an observation indicator. First, VAT should be excluded because the VAT bearer is the final consumer. Moreover, 31 economies in the world still do not levy VAT, which is unfair to other economies if VAT is included. Second, increase the proportion of small and medium-sized enterprises (SMEs) and focus on measuring the tax burden of these enterprises to better reflect the role of the new approach in promoting the development of SMEs.

## H. Dispute Resolution

1. Delete the relevant content of “Obstacles to justice” in the third pillar “Ease of resolving a commercial dispute”. If it cannot be deleted, it is suggested to lay out the details about potential obstacles in the questionnaires. For example, it is recommended to evaluate objective standards on the acceptance of verdict, such as the rate for both parties not to lodge an appeal or apply for a retrial after a verdict of the first trial or the second trial. Furthermore, it is recommended that data collected from expert consultations should be added.

**Our main considerations:** The winning party and the losing party tend to have polarized opinions on obstacles to justice. Therefore, such an indicator is difficult to be evaluated. A third-party or objective standards are warranted if such an evaluation is to be conducted.

2. Exclude the relevant content of “administrative proceedings filed by enterprises against a public agency” in the assessment of “those (disputes) against a public agency” in the third pillar.

**Our main considerations:** The object of “Dispute Resolution” should be commercial disputes.

3. It is suggested to revise the “presence of small claim courts” to “presence of small claim courts or small claim litigation procedures” in the assessment of “Institutional

framework” in the second pillar.

**Our main considerations:** Different economies use different litigation mechanisms to solve small claims, some with designated courts, some with special litigation procedures.

4. Delete the relevant content of “whether judgments are well-reasoned” in the assessment of “Institutional framework” in the second pillar. If it cannot be deleted, it is recommended to measure the “rate of first trial judgements amended or remanded” and the “rate of flawed judgements amended by retrials” (the share of cases whose retrial judgements reckon flaws in the effective original judgements).

**Our main considerations:** It is too subjective to evaluate “whether judgments are well-reasoned”. If such content is to be retained, it is suggested to apply the above-mentioned objective standards.

5. Add the relevant content of “subject to the concerned party’s consent” to the assessment of “Court automation and e-services” in the second pillar.

**Our main considerations:** A party’s right to choose to file a lawsuit online or offline shall be respected.

## **I. Market Competition**

1. Delete the relevant content of “the extent of its (the competition authority) independence” in the assessment of “Institutional framework and quality of enforcement of competition regulations” in the second pillar.

**Our main considerations:** Globally, there are significant differences in institutional settings of competition authorities due to the different regimes and legal systems. In some countries, competition authorities are part of governments. For example, the United States Department of Justice, the German Federal Cartel Office (Bundeskartellamt) and the Japanese Fair Trade Commission are all affiliates of the Cabinet of the corresponding countries, and the non-independent institutional setting does not affect the efficiency and effectiveness of their competition law enforcement.

2. The government procurement mentioned should be limited to the assessment of domestically registered enterprises.

**Our main considerations:** Only 48 countries have acceded to the *WTO Agreement on Government Procurement* (GPA), and in most countries, the government procurement markets are only open to the registered domestic enterprises.

3. Use case studies based on the case of goods and services procurement when evaluating the government procurement under the Market Competition topic.

**Our main considerations:** Using case studies can ensure a fair and reasonable evaluation result. The government procurement of goods and services account for a relatively higher proportion in terms of the number and frequency of procurement

items, and various types of suppliers, including domestic and foreign enterprises, participate more widely in bidding for the goods and services procurement. Therefore, it is more representative.

4. The data collection sources of government procurement should be expanded to the municipal level, not limited to the central level.

**Our main considerations:** Enhance the representativeness of data.

5. Add the relevant content of “whether there are procurement policies to support SMEs” in the assessment of “Quality of regulations for bidding for public contracts” in the first pillar.

**Our main considerations:** The risk tolerance of SMEs is relatively weak, so that enhancing their competitiveness is an important goal to optimize the business environment.

6. The “expert consultations” regarding the government procurement should not be limited to the WBG public procurement experts, and the domestic government procurement experts and parties should be included as well.

**Our main considerations:** Domestic government procurement experts and parties have a better understanding of the domestic government procurement.

7. The “Transparency and transactional features in electronic procurement platforms” in the second pillar should evaluate the accessibility, stability and reliability of the electronic procurement platforms.

**Our main considerations:** To further refine the content of the indicator, and enhance the comparability.

8. The relevant expression of government procurement methods (i.e., tendering) should be revised to “procurement”.

**Our main considerations:** Government procurement can adopt both tendering and non-tendering methods, therefore a more inclusive expression should be used.

## **J. Business insolvency**

Delete “Environmental Supervision”.

**Our main considerations:** In practice, the environmental supervision is irrelevant to and rarely involved in the business insolvency, thus, it is of little significance to add this content for optimizing the business environment. The priority of environmental liabilities in business insolvency is not in line with the concept that obligations in public law are inferior to those in private law in the modern insolvency law. The international community has not reached a consensus on whether such a priority shall be granted yet.

**Appendix. The evaluation content needs further clarification or refinement in the Pre-Concept Note**

Serial Number	Pre-Concept Note paragraph	Key content	Suggestions for clarification or refinement
<b>A. Business entry</b>			
1	A.2	Data collection	Expand the scope of expert consultations, by increasing professional institutions such as commercial registration intermediaries, on top of lawyers, notaries, accountants and tax advisors, so as to objectively reflect the evaluation results.
<b>B. Business location</b>			
1	B.2.a	Urban planning	Refine the “urban planning” into three components: “The relevant regulatory framework on urban planning is clear and accessible”, “Transparency of the relevant planning permit information such as plot ratio, planning requirements”, and “The procedures, time and cost of dealing with the planning permits (including applying for digital planning permits and the interoperability of e-systems)”.
2	B.2.a & c	Building regulations, convenience, etc.	Clarify building plans, environmental licensing requirements as well as regulatory standards specified in green building energy codes, the constructions with moderate environmental risk, and assessment content from the pre-approval process to the submission of applications to local authorities.
3	B.2.c.(1)	Efficiency in purchasing immovable property	Refine the efficiency of purchasing a property as “the procedures, time and cost of purchasing a property”.
<b>C. Utility connections</b>			
1	C.2.c	Samples of the firm-level surveys	The samples for firm-level surveys should be identified as the enterprises that have field experience in the evaluation cycle, and the interviewees should be the managers who actually know about the specific procedures and time of utility connections, including managers from large intermediary institutions, industrial zones, and enterprises.
<b>D. Labor</b>			

Serial Number	Pre-Concept Note paragraph	Key content	Suggestions for clarification or refinement
1	D.2.a.(1)	Family leave	Refine “the right to annual leave and family leave” to “the right to annual leave and family leave, including paid and unpaid leave for caring for family members”.
2	D.2.a.(2)	Employment restrictions	Clarify the evaluation standards on working hours and premiums for work, cost on dismissals, and to make sure the indicators will not lead to the derogation of workers’ rights.
<b>F. International trade</b>			
1	F.2.b.(1)	The frequency of consultations between the government and the trading community	Clarify the definition of “consultations between the government and the trading community”, and the way to collect and verify the data of consultation frequency. A too high nor too low frequency of consultation should not be regarded as a normal trade environment, it is suggested to clarify how consultation frequency should be assessed to obtain a fair evaluation result.
2	F.2.b.(3)	Assess the availability and features of an integrated risk management system	Since the risk management system is an internal government system, and the parameter setting and standards are confidential information, it is recommended to clarify the data collection method of this indicator, and the accurate evaluation method when the data is limited.
3	F.2.b.(6)	Trade infrastructure	Clarify whether air transportation is included in the assessment of “Trade Infrastructure”, and what content that is not covered by the WBG’s Logistics Performance Index (LPI) but included in the evaluation.
4	F.2.c.(3) & (4)	Time and cost to comply with export/import requirements	Clarify the differences from the “time and cost of border compliance” in the <i>Doing Business</i> report.
<b>G. Taxation</b>			
1	G.2.a & c	Environmental protection tax	Clearly define the environmental protection tax as the tax policy related to environmental protection. Since in addition to the environmental protection tax, many economies also have a series of other related tax policies that support ecological and environmental protection, such as VAT, corporate income tax and consumption tax. The evaluation is not complete and comprehensive, if only the environmental protection tax is considered.

Serial Number	Pre-Concept Note paragraph	Key content	Suggestions for clarification or refinement
2	G.2.b.(2)	Risk-based tax audit	Define the tax audits only as formal cases of audit investigation. Countries generally have tax risk analysis and response systems, however, they are not all called tax audits. Besides, countries have varied risk response methods according to different sizes of taxpayers, and different levels of tax risks. Whether these risk responses are recognized as tax audits is also different which leads to weak comparability.
<b>I. Market competition</b>			
1	I.2	Government procurement	Clarify the scope of the purchasers in government procurement and the definition of the relevant government procurement methods (e.g., open tendering, restricted tendering).
2	I.2.a.(2)	Legal certainty	Clarify the definition of “legal certainty”.
3	I.2.a & b	Collect data as applied to the three largest purchasers of the federal/  central government	Clarify the main purpose of collecting the data of the three largest purchasers of the central government.
<b>J. Business insolvency</b>			
1	J.2.b.(3)	Measure the implementation of an integrated database	Clarify whether the database refers to the national level or the city level. In addition, given that data collection by such a database is contradictory to information protection, it is recommended to clarify the type of information.

Comments from the office of the WBG Executive  
Director representing Costa Rica, El Salvador,  
Guatemala, Honduras, Mexico, Nicaragua, and Spain



**Office of the Executive Director (EDS18)**  
**Central America, Mexico, and Spain**

**Business Enabling Environment (BEE)**  
**Pre-Concept Note**  
**Comments and Suggestions**

As requested by the Director of Development Economics, Global Indicators Group (DECIG), this document consolidates specific inputs and comments received from some of our governments regarding BEE Pre-Concept Note.

With the spirit of better reflecting the different contributions, these are included below as they were received, which implies that some comments or suggestions may be similar.

**Costa Rica**

Costa Rica has made significant efforts to execute strategic actions that materialize in the improvement of the business environment, and therefore in the country's competitiveness. In these processes, the "Doing Business" has been one of the reference frameworks for identifying these substantive improvements.

Regarding the "Pre-Concept Note Business Enabling Environment (BEE)", the following comments or suggestions are made based on the experience acquired by the Ministry of Economy (Department of Institutional Support, Directorate for Regulatory Improvement) in this matter:

- It is pertinent that for each indicator there is representativeness of professionals and companies, as well as that in each country experts on each topic are consulted, avoiding, for example, that a legal professional responds on an indicator related to the steps to obtain a construction permit.
- A registry or an open database could be created so that other experts who are interested can register.
- For the analysis of cases, it is important to specify the level of risk of the business economic activities (low impact or low risk, for example), with the aim that the respondents respond from the standard case and not from their experience with large companies, whose procedure would be more complex.
- It is important to incorporate a "sub-indicator" for companies that are located in special regimes, given that this is where foreign investment settles in a country.
- In relation to the topic of "International Trade", it is important to analyze the weights of the deadlines and requirements between maritime, air and land trade, so as not to leave countries where there is no free transit of land goods at a disadvantage.
- Compared to the Doing Business for the measurement of "steps", it is recommended to analyze if a step is simultaneous or parallel, or if it is carried out in the same period or in a time less than a day, with the aim of unify them in just one step and not affect the measurement.

- Regarding the use of digital platforms, it is recommended to assess their weight in the measurement (since they can be considered as a restriction for small entrepreneurs) or to weigh the answers. The recognition of a technological platform would not occur if the required percentage were not reached (given the resistance to change), despite the certainty that it is expeditious and efficient. On the other hand, there are times when it is not possible to make the use of a digital platform mandatory, given the right of citizens to present the written request physically. Therefore, the modification of percentage parameters or the like could be considered.
- Given the particularities of the constitutional structure and institutional autonomy of each country, the legal frameworks are not the same. Therefore, it is important to consider which questions could be open or more flexible, even if these are of type cases.
- Adapt the language of the surveys to the official language of each country, to avoid confusion or that professionals who do not have command of the English language are not excluded.
- Consider carrying out activities virtually to present the contents of each case, both to members of the Government and to possible respondents. For instance, the holding of a regional workshop for Central America.
- Evaluate the possibility of not duplicating payments or differentiating between payments and taxes, avoiding repetition between indicators.
- Regarding the measurement of public services quality, the specific and detailed definition of the variables is considered important, to reduce subjectivity on the part of the respondents.
- Collection of information (data, surveys, expert interviews) should be more balanced, considering both private companies and government entities. This is because there are occasions where the methodology is not known in depth, causing significant deviations or biases that affect the measurement.

## **Mexico**

### **Ministry of Finance**

#### **I. Summary**

On September 16, 2021, the World Bank Group decided to discontinue the Doing Business (DB) report and data and also announced that the WBG would work on a new approach for assessing the business and investment climate. The new approach would improve on its predecessor and be informed by advice from experts in the WBG, as well as the recommendations from qualified academics and practitioners outside the institution, the working title of the new project is Business Enabling Environment (BEE). The objective of this benchmarking exercise is to provide a quantitative assessment of the business environment for private sector development.

To differentiate the BEE benchmarking exercise from other well-established international measures, the proposal is to concentrate on the regulatory framework and public service

provision at the microeconomic level. BEE's approach may be best understood in contrast to DB:

- BEE will evaluate the business environment not only from the perspective of an individual firm's ease of doing business but also from the standpoint of private sector development as a whole.
- BEE will not only look at the regulatory burden but also at the provision of public services key for functioning markets.
- BEE will improve by collecting information directly derived from firm-level surveys.
- BEE will try to achieve a balance between data comparability across countries and data representativeness in a given economy.

The specific topics of analysis covered by BEE are currently under development. The main topics under consideration include business entry, business location, utility connections, labor, financial services, international trade, taxation, dispute resolution, market competition and business insolvency. Within each topic, BEE will analyze a number of specific indicators based on the following components and criteria:

- Regulatory framework: will consider the quality of regulations.
- Public services: will consider the institutional setup, infrastructure, and programs that allow governments to provide public services.
- Overall efficiency: will measure the efficiency with which the goals of each topic are obtained in practice as experienced by the private sector.

How these indicators will be grouped to produce aggregate scores, by topic or even by economy, is yet to be decided. Either way, the hype around aggregate rankings will be avoided. BEE will explore different ways of presenting summary information for maximizing public interest and motivating reforms.

## **II. Institutional Opinion**

At the Mexican Ministry of Finance, we applaud this initiative. We recognize that this new approach allows policy makers to better understand the business environment across countries in a better way. As it is well mentioned, "there is a tension between the cost to individual firms and the benefits to the whole economy", this work provides a more concrete balance, unlike the previous methodology.

In the same sense, the collection of information constitutes an impressive improvement we acknowledge: it includes firm-level surveys, as well as the new transparency measures, which we believe will provide a serious and consistent analysis of the economic reality.

## **III. General Comments**

### **About the frequency of the report**

Although we understand the resource constraints, we consider that an annual update for all the indicators is important. There are two reasons for this. First, these types of reports are often subject to high attention, especially in the media. If the report is not presented on an annual basis, it will leave room for inappropriate comparisons due to comparability issues. Second, as in any market economy, there is a dynamic of closing and opening of companies. If a long time elapses between one survey and the next, the initial sample may not hold up.

### **About the firm-level surveys**

At this point it would be useful to know not only the perspectives of formal companies, but also the informal companies, whose experience may be more revealing in terms of the difficulties to formalize.

### **About Scoring**

We have concerns over the methodology for indicators aggregation. We welcome the possibility of no aggregation in general, but we would like to stress that if it was decided upon the need of a single aggregated score, we think it would be indispensable for the methodology to be completely transparent and predictable, i.e. either weights on the different indicators should not change or their changes should be determinable in advance by others. We also welcome your aversion to ranking hype.

### **A living score**

Given the uncertainty of these times, the score must take it into account and adapt to changes or make extraordinary revisions. For example, although the current panorama of the conflict between Russia and Ukraine was somewhat unforeseeable, it will have an effect on the investors' portfolios, so it would be necessary to update the criteria accordingly.

## **IV. Specific Comments**

### **Section I, pp. 4, paragraph 2: F. Data Integrity and Transparency.**

- **“public availability of granular data, and replicability of results”.**
- We suggest to publish replicability of results by country/region. With this, the annual report of the Special Program for Productivity and Competitiveness published by the MoF could include more international (and hopefully subnational) comparisons of previous indicators.

### **Section I, pp. 5, paragraph 3: H. Cross-cutting Themes.**

- **“BEE will look at two crosscutting themes relevant across topics. They are the adoption of digital technologies and environmental sustainability.”**
- We suggest, as a cross-cutting theme, adding training practices to employees / entrepreneurs / owners for the creation of the business.

**Section I, pp. 7, Table 1: Trade-offs Faced by the BEE Project, Solutions to Entrants vs. incumbent firms**

- **“For topics where entry and exit barriers could be potentially underestimated by incumbent companies (i.e., business entry, business insolvency), BEE will mainly collect data through expert consultations.”**
- We understand the obstacles in data collection to attend this crucial topic. To this end, we agree on data collection through expert consultations and offer you the possibility of using percentage methodologies of the estimation based on firms' surveys. For instance, the WB report of productivity for Mexico applies its own methodology to estimate the rate of entrance and exit of firms from the markets. We suggest to intensify communication between the units that carry out said methodology among countries to integrate comparable data.

**Section II, pp. 9, paragraph 1: 1. Motivation**

- **“Digital public services can address the concerns of entrepreneurs by reducing the compliance cost of interacting with government authorities.”**
- It is important to look for measures so that companies see more benefits from becoming formal than those found in the informal sector. The aforementioned indicators may have a dual purpose: to serve the government for investment analysis and to encourage the creation of new companies.

**Section II, pp. 9, paragraph 3: 2. Indicators in the area of business entry**

- **“The quality of regulations for business entry is the first new area—measuring the good practices for business start-ups and the restrictions for business entry. [...]”**
- These new issues will serve deeply in the current analysis of the country. We will appreciate it if the indicator adds properties: to have an indicator for the complete sample of firms, another for the sample of domestic firms and a third one for the sample of foreign firms in domestic land.

**Section II, pp. 10, paragraph 3: (1) Good practices in the regulatory framework for business incorporation**

- **“Allowing entrepreneurs to file registry-provided standard incorporation documents electronically with the business registry can facilitate automatic information validation and reduce costs.”**
- Although automation of procedures to register new companies reduces costs, it is important that controlling institutions are immersed in the process to guarantee the protection of information, as well as avoidance of document falsification.

**Section II, pp. 11, paragraph 1: (2) Restrictions in the regulatory framework for business entry**

- **“Restrictions for domestic private firms can either be general or specific. [...]”**
- We suggest to include restrictions in capital formation to start a business, such as a limit for a firm to get access to private equity from private/personal investors and from credit (banking).

**Section II, pp. 11, paragraph 5:**

- **“(1) Availability of online services for business incorporation and beginning of operations”.**
- Within this indicator, we suggest adding the availability of support toolkits or manuals for each type of procedure identified.

**Section II, pp. 15, paragraph 3: (2) Interoperability of services for property transactions**

- **“For instance, linking or unifying the land registry with the cadastral system has significant advantages.”**
- The linking of property information with cadastral information helps not only in security issues but also to consolidate a database that allows identifying economic convergence and identifying the areas of the country that need more attention.

**Section II, pp. 16, paragraph 1:**

- **“c. Efficiency of key services in getting a business location”**
- This set of indicators is in line with our constant measures of time to open a business. We appreciate the indicator related to the time to build a warehouse to be continued for our measurement purposes.

**Section II, pp. 18, paragraph 4:**

- **“(1) Regulatory framework for electricity, water, and internet connections”**
- We recommend to consider the nature of the property for the provision of the service: public or private. We have observed that its efficiency is correlated with the nature of the property. For some countries, all of them may be provided by the government, and in others they may be provided by a combination of both.

**Section II, pp. 25, paragraph 1:**

- **“c. Ease of employing labor”**
- In addition to the indicators of this section, we suggest to include hiring barriers not only related with the legal framework but with the labor market itself (for instance, education/training quality of the potential employees).

**Section II, pp. 26, paragraph 2: E. Financial services**

- **“Access to finance depends on several factors such as the macroeconomic conditions and the level of development of the financial markets and infrastructure. The regulatory”.**
- Although the regulatory framework and the availability of information services are an important part of encouraging or discouraging financing, the limited variety of credit facilities means that companies cannot access it or that they do not even try.

**Section II, pp. 29, paragraph 2:**

- **“b. Quality of credit reporting framework”**
- To this set, we invite you to consider the government access to credit data for analysis and scoring. In some countries, the credit data collectors are private, in others public,

and in any case, this ownership and administration can affect firms evaluating process to credit access.

**Section II, pp. 30, paragraph 2:**

- **“c. Ease of receiving financial services”**
- To complement the evaluation of the ease of receiving financial services, we suggest measuring independently 2 types of financing tools that a firm/entrepreneur can have:
  1. Private equity and/or venture capital for firms (especially high tech). It is interesting to know the information dissemination of this sort of financing tool to start a business, as well as the pool of supply provisioners that could be in the market (who is offering it and how easy it is to access).
  2. Government participation in the financing support programs to firms. Evaluate the time/cost of its provision vs banking provision, their scoring and selection process or limitations, etc.

**Section II, pp. 39, paragraph 4:**

- **“(4) Transparency of tax administration”**
- It is our opinion that the speed of dissemination of information to companies about changes in tax policy or future modifications is important for the company to implement the necessary changes, although speed does not always accompany clarity. Therefore, we propose adding in the evaluation of this set of indicators the clarity with which companies receive tax information and the time/cost they must incur so that the changes/announcements are properly adopted. An example is the Micro and small companies that in their firms may not have an accountant hired to fully translate the tax modifications that apply to them.

**Section II, pp. 51, paragraph 6:**

- **“(4) Market dynamism and competitive behaviors”**
- As an additional indicator, we suggest adding the time/cost that companies face in the investigation process for some procedures (either to declare and assert the lack of market competition or as an externality of said investigation to a company not directly related to that market) and the time/cost for them to report unfair competition.

**Section II, pp. 53, paragraph 3: J. Business insolvency**

- **“Despite the crucial role played by efficient insolvency regimes, large-scale and updated comparable data is scarce.”**
- It is important to measure the impact (on companies and their workers) of the stimuli that have been implemented during economic crises. In this way, there is a precedent of the form, amount and execution of the supports that could give us an accurate image of the execution of public spending.

**Ministry of Economy**

Concerning the new Business Enabling Environment (BEE) approach to assess the business and investment climate in economies worldwide, the following comments are provided as an attempt to contribute on the development of the project.

It is important to note that our comments focus on our previous experience with Doing Business (DB), since the Secretariat of Economy had been in charge to coordinate the analysis, data collection and information provided to the World Bank concerning Mexico's evaluation. We have included also a few points from the pre-concept note that we consider should be clarified.

- **Scope and coverage of BEE.** In the case of Mexico, the DB report considered two cities in its evaluation: Mexico City and Monterrey, with a weighting according to each city's population (83% and 17%, respectively). The BEE pre-concept note mentions that there will be some considerations about subnational differences, indicating that the coverage within each country will depend on the various topics and whether the applicable regulations are national or local but it isn't clear how this would be implemented. In this sense, we would need more information on the coverage and scope at the subnational level of BEE, so we can plan all future coordination and collaboration with the agencies that will be involved in the development of the new BEE project.
- Regarding the **information submission** and coordination for obtaining information from the public sector, we would like to know what the process will be like and the channels that will be used for the new BEE information collection cycle. From our experience in the DB project, if the different agencies are provided with a contact point to solve questions, work with all the different officials to answer on the questionnaires for the different topics this could improve the information received by the World Bank team.
- According to the pre-concept note, in several indicators **administrative data** from agencies involved in the procedures evaluated **could be considered to corroborate data collection**. However, more detail should be provided in terms of the requirements for data and mechanisms available to solve differences in the results offered by data collected by the BEE team and administrative data from the local authorities.
- The pre-concept note for the BEE project refers to **firm-level surveys** as a source of information that might be used for indicators measuring de facto implementation of public regulations and services during the operational stages of the business. In this sense, we would recommend that the World Bank partner with national statistical authorities, to facilitate the design and application of these surveys. For Mexico, if this suggestion is considered, INEGI should be involved in the process.
- **Selection of experts.** the pre-concept note for the BEE project indicates that local experts (who will be consulted as a source of information) can be identified through desk research, peer referrals, and DECIG's online Contributor Engagement and Expert Nomination Portal. In this sense, we consider that agencies in charge of procedures and regulation considered in the project should also be allowed to refer experts who have experience on the different topics evaluated. It would be of great help of the BEE



team can provide additional information regarding the selection process of experts and their nomination channel.

- **World Bank missions.** For the DB project, the World Bank Team used to carry out data collection missions in the economies evaluated. Mexico received its last mission on 2016, in which two officials from the DB team visited Monterrey and Mexico City. We understand that 5 years earlier, a mission had also been carried out. From our experience this is a great opportunity for the officials to have a deeper understanding on the procedures, talk with the actual staff in charge of them and get a better understanding of how the topics evaluated perform. The BEE pre-concept note does not mention if the World Bank is planning to carry out missions in the future for this project, but we would strongly recommend to consider it, and, if so, to include Mexico in future plans.

### **Additional Comments**

It is important to be clear about the subnational scope of the study, although there are some mentions in the preliminary concept note, it is important to know to what extent local regulations will be considered and whether the DB criterion will prevail, in which economies with more than 100 million inhabitants were those that considered more than one city in the evaluation.

One of the sources mentioned in the preliminary concept note are local experts in the various indicators, so it is considered necessary to have clarity on how their selection process will be and the options for nominating experts. Another source considered as a source of information are company-level surveys, so it is necessary to know the specific methodology for their selection. And, where appropriate, the relevance of considering specific indicators on the aspects evaluated by BEE developed by national statistical authorities should be analysed, when the economies evaluated have independent institutions and adequate capacities. And even the possibility that the BEE team could collaborate directly with these authorities should be considered.

Finally, although it is not an element mentioned in the preliminary concept note, for DB, missions were carried out by officials from the DB team to the evaluated cities, in which interviews and visits were made to officials involved in the evaluated procedures and to key actors of the private sector involved, so this option could be considered for continuity in BEE.

### **Spain**

On September 16, 2021, World Bank Group decided to discontinue the Doing Business (DB) report and data and also announced that the Bank would work on a new approach for assessing the business and investment climate. It should be stressed that the new approach will take into consideration the advice from experts in the World Bank, as well as the recommendations from qualified academics and practitioners outside the Bank. In

particular, the Business Enabling Environment (BEE) will improve the analysis of business environment around the world based on the following measures:

- It will concentrate on the regulatory framework and public service provision at the microeconomic level (as other topics such as macroeconomic conditions, corruption or gender equality will be covered on complementary resources that will be found in the BEE website).
- It will have a wider focus (including issues that affect the efficiency and sustainability of the general private sector)
- It will also cover de facto aspects (for example, information directly provided by formal firms through enterprise surveys).
- It will consider not only regulatory burden but also the quality of regulations, including transparency, clarity, and predictability.

Taking into account the Pre-Concept Note: Business Enabling Environment (BEE), the following comments are made to contribute to the definition of the new approach that will measure the business climate and will therefore replace the DB:

- Business Enabling Environment will be focused on microeconomic reforms. Deeper reforms take time and their effects appear over time. Therefore, it is desirable to increase the periodicity of the report one **every three or five years**, instead of every year, or, at least, the proposed **staggered report, where a fraction of the dataset is renewed every year. It would make more sense since it values more behavioral changes than changes in laws and procedures**. Thus, countries can carry out a more detailed analysis, considering not only the reforms implemented in a year, but also some of their effects. Therefore, increasing the periodicity could solve one important problem: in many cases **although reforms were implemented, there was no recognition in the DB**; consequently, the indicator was not properly reflecting the regulatory framework. Moreover, having more time to collect data can encourage private sector participation, increasing representativeness. Another reason why we think it would be better if the BEE is launched every three or five years is that it is important that public administrations pay attention to the **data collection** in order to learn good practices and in order to know what kind of reforms should be communicated to the WB. However, this requires checking all the questionnaires every year. This demands a very detailed work and the coordination of many human resources, which is hard to achieve on a yearly basis.
- Regarding indicator improvements, the inclusion of three **indicators of digital public services and transparency of information** for business start-ups is a step in the right direction, as the DB did not include growing trends like digital technologies or automatization that can reduce time for business registration and minimize asymmetries of information.
- Regarding the lack of **representativeness of the private sector**, it is vital to create incentives for updating their answers in order to have complete information for each indicator. At the same time, it would be a good practice to contrast the different sources

of information as, in some cases, the information provided by the private sector experts is not consistent with the one provided by the public sector. In this case, it should be established how to proceed.

- To preserve the anonymity of contributors, secure their participation, and promote their accountability, a fee-based approach is proposed to encourage experts' contribution. However, it may generate a distortion among contributors. Besides, it would be desirable to detail the criteria that will be used to guide the choice of experts.
- It would be desirable to take into account the simultaneity regarding procedures, as **simultaneous procedures de facto reduce the total time** of each indicator, but it is not considered in the BEE. Since they could be done at the same time, only the longest one should be considered.
- Generally, **the DB report was biased towards a Common law model of business regulation** in contrast to the continental one. This matter should be taken into consideration in the BEE, in particular regarding the indicator "Good practices in the regulatory framework for business incorporation" (with regard to the specific characteristics of notaries in the Spanish system).
- The Independent Evaluation of the World Bank Group on Doing Business states that the DB ranking encouraged reforms. In this sense, it would not be desirable to remove the **ranking** from the BEE report, since the report itself would not be as useful fostering reforms. However, reforms should not only seek to improve the ranking's position, but also (and especially), increase countries' competitiveness.
- Despite the fact that including a Market Competition indicator is a positive aspect, we recommend to split the assessment between "Public Procurement" and "Market Competition" since both depend on very different variables. It would be recommended to build two different categories or indicators differentiating between "**Market competition**" composed of sub-indicators a)1 (Quality of competition regulations); b)1 (Institutional framework and quality of enforcement of competition regulations); c)1 (Effective implementation of the simplified merger review) and c)4 (Market dynamism and competitive behaviors) and "**Public procurement**" composed of sub-indicators a)2 (Quality of regulations for bidding for public contracts); b)2 (Transparency and transactional features in electronic procurement platforms); c)2 (Time to award a public contract) and c)3 (Time to pay government contractors) in the new BEE. Besides, objective and measurable criteria should be clearly defined.
- Indicators in the area of **business insolvency** seem to improve the approach of Doing Business, as they do not focus on a specific case and cover more aspects of insolvency. Notwithstanding this positive assessment, the analysis focus mainly on insolvency procedures. Although there is a reference to pre-insolvency procedures in paragraph 2.a).(1), we would suggest to address at least some of the features of these procedures. We extend the same comment to second chance procedures. Although there is a reference in paragraph 2.a).(6) to these procedures, we would suggest to

address at least some of its features. Regarding paragraph 2.a).(4) on creditor participation, maybe it could be added that in addition to examine if creditors can participate in the appointment of the insolvency representative, it could be examined if they can object to the appointment. Finally, regarding paragraph 2.a).(5), on insolvency administrator's expertise, the designation process for each insolvency procedure could also be analyzed.

- When the BEE document refers to the six principles it will evaluate in relation to electronic payments, a specific reference to innovation would be desirable. Perhaps a reference to innovation can be included in principle (vi), as follows: “and **promotion of innovation** and competition among service providers, instruments, products, business models and channels.”
- We view the reporting obligations regarding financial services favorably. However, in some cases they may be difficult to fit in. For example, given the proposed document, we do not see clearly how to reflect our national regulation for the promotion of financing to SMEs (Law 5/2015, of April 27, on the promotion of business financing) which contemplates a number of obligations for financial institutions, specifically aimed at improving information to SMEs regarding the financing they have granted. These obligations, which, from the point of view of the SME are unwaivable rights, consist of:
  - (i) a mandatory advance notice by the financing entity to the SME upon termination or decrease in the flow of financing to the SME
  - (ii) the subsequent elaboration (within ten days) of a free piece of information called "SME-Financial Information" on data, credit history and risk rating of the SME.

This piece of information can be requested by any SME, against payment, to its financial institution, in cases other than termination or decrease in the flow of financing.

- Regarding Green Financing, we find it very interesting and we have useful and positive information to provide. However, the link on page 28 that should lead to sustainable finance regulation following the framework developed by the UNEP Inquiry and the Green Finance Platform, is broken and we cannot find it. It would be useful to have access to it, although we should not have any difficulties since the European framework for sustainable finance is one of the strictest in the world.

Comments from the office of the WBG Executive Director representing Denmark, Estonia, Finland, Iceland, Latvia, Lithuania, Norway and Sweden

## **Views of the Swedish Authorities on Pre-Concept Note for Business Enabling Environment**

### **General comments**

**Several areas seem to have improved in relation to DB.** However, it could become a challenge for the BEE team to put together all indicators in an effective way without the data collection becoming too burdensome for respondents.

Some of the broader factors that the Bank want to keep out of this ranking (**e.g., corruption and gender equality**) could be incorporated in some way in the ranking as well.

### **Labour indicator**

**The section on “Labour” should take into account Sweden's (and some other countries') labour market model**, where large parts of the labour market are covered by collective agreements. For example, parts of Swedish labour law are dispositive, and it is important that the result conveyed in BEE assessment is fair in relation to such legislation.

## **Views of the Latvian Authorities on Pre-Concept Note for Business Enabling Environment**

### **General comments**

**Overall, we support the proposed approach and objective of the Note.** We welcome that it envisages to assess not only speed and ease of service delivery, but also to take into account availability of online services and sustainability considerations.

**We support covering both *de jure* and *de facto* aspects.** However, we would like to reiterate that in the event of differing views, the data provided by the respondents should, as a minimum, be cross-checked against the centralized data gathered by respective authorities in order to complement the report with higher quality and more reliable data.

**It is crucial to involve a sufficiently broad range of experts and companies**, and to assess whether the particular expert or company is able to answer the questions of interest. This will help to avoid interviewing experts or companies that may not have been involved in the particular process. Also, a wider range of respondents allows more reasonable generalizations to be made.

**A clear, detailed and comprehensible methodology for each indicator, which is also publicly available, would also be a key element in the success of the report.** The existence and public availability of such a methodology is an important factor in the comparability of data and the reliability of the assessment.

### **Business Location (Building-related Permits)**

**We welcome that the indicators will cover environmental concerns in the areas of green building regulations and environmental clearances. This will certainly have a positive effect on environmental protection and sustainable development, saving time and money.**

To achieve the objective of ensuring the reliability of the data and the transparency of the process of data collection and to improve the methodology, **the following proposals regarding issuance of building permits have been submitted for consideration:**

- To assess the level of digitalization of building process, availability and use of e-services (both at a separate stage and throughout the process), an additional indicator on implementation of digital process should be introduced. This indicator would ensure reliability and transparency of information, as well as a more expeditious exchange of information among the construction participants involved.

- To take into account the actual data by interviewing active construction specialists and construction companies who are practically involved in the construction process and are helping construction initiators to perform the necessary activities, from the development of the plan and project to the issuance of a building permit. The time should be measured from the moment client registers the application with the Construction Board until the construction works are permitted (a note is included in the construction permit on fulfilment of conditions for commencement of construction works).
- To take into account that due to the digitalization of the construction process, the processes can be carried out in parallel, thus shortening the total step time of the process. For example, a draft for harmonization can be sent to all publishers of technical regulations and a parallel harmonization process is ensured.

### **International Trade**

**We would like to propose that the future reports could look into how the regulatory framework provides efficient functioning of rail freight traffic, especially for import, export and transit shipments that concern two or more jurisdictions.** Administrative and regulatory measures can make rail transport less attractive or in some cases even impossible to be carried out on the desired routes which leads to operators and clients looking for different means of transport or using less effective routes. Hence not only physical infrastructure (e.g., capacity, interoperability) describes its efficiency, but also applicable administrative and regulatory frameworks (legal acts, bilateral and multilateral agreements, decisions, etc.). Independent observations and recommendations in respect of such obstacles would be very beneficial for strengthening of the business environment.

**We would also like to propose that the future reports could look into the perspective of business development from the point of view of resilience and the ability to adapt to changing conditions.** For example, changes in the railroad sector are slow and often lack alignment. A lack of coordination in the implementation of changes may harm the effectiveness of this mode of transport.

### **Taxation**

**The Note does not mention how the BEE project will promote fairness and progressivity of the taxation system.** If the taxation system is perceived as fair and progressive, it will generate revenues to the benefit of public resources. In this respect, BEE project should not promote tax havens.

**We expect that the methodology of the BEE will explicitly refer to measuring tax fairness and progressivity and not promote low tax regimes that undermine the tax base and faith in the fairness of the overall tax system.** The 'Taxation' indicator must be aligned with the Bank's approach on domestic resource mobilization secured in the GRID, IDA20, and DRM Strategy papers.

### **Market Competition**

The Note does not specify the questions that will be asked or the indicators that will be measured within the BEE project. **It may be necessary to indicate in the project description the specific indicators and the survey topics to allow the involved parties to comment and make suggestions on them, thus creating more transparency in the process.** This is important, as it might show the differences between economies during project development phase and allow the necessary changes to be made.

For example, it is mentioned that the time taken to deal with a market assessment process may be an important factor influencing the willingness of market participants to merge, as it may increase the burden on smaller companies and require a larger financial amount for the company. In this context, it would be worthwhile for the BEE to include objective indicators that reflect the time taken to process the merger report (for example, the average time (in days) for which the competition authority reviews merger reports). In addition, it may be useful to include information on whether the competition authority offers additional opportunities that could significantly reduce the burden on merging parties and that it is easily obtainable by them (e.g., pre-merger consultations).

## **Business Insolvency**

**Overall, we agree with the proposed indicators and especially would like to commend how adoption of digital technologies is integrated within the indicators,** since it enhances transparency of the proceedings, as well as efficiency of certain processes.

Many countries, Latvia included, have de-centralized the supervision of insolvency proceedings as also foreseen by the international best-practices related to court involvement. Many questions and issues relating to an insolvency proceeding are revised without the involvement of the court. **We consider that the Note does not sufficiently address the importance of supervision of insolvency proceedings.** Therefore, we suggest complementing the proposed methodology for the indicator “Quality of Institutional and Operational Infrastructure for Insolvency Processes” by including an additional criterion. Namely, to add an additional indicator which would reflect on the overall quality of infrastructure, measuring how public authorities are involved in insolvency resolution mechanisms<sup>1</sup>, available supervisory measures to persons affected by the insolvency proceedings etc.

**We urge to reconsider the proposed data collecting methodology by collecting data not only from expert consultations, but also from the public sector.** Clearly indicating central statistical institutions or similar sources as the primary sources would enhance the overall data quality. It could also help boost the transparency and reliability of data included in the evaluation. Information obtained from experts comparable to statistics, such as the length of time required for the judicial review of the case in question, should be based on statistical information, since it covers a wider range of cases in a particular field. It is reiterated that the opinion expressed on the basis of specific experience provided by the expert will be a subjective assessment, contrary, for example, to the situation where information from national information systems is obtained. Information from national information systems, if the information is collected, will be comprehensive. Successively, this may lead to a misalignment of the data and a misrepresentation of the result, as there is a difference in whether it is a respondent's assessment or whether it is statistical information.

**We would also like to emphasize the importance of the experts and their knowledgeability and trustworthiness.** While we agree that remunerating respondents can help preserve their anonymity and ensure the quality of responses, the Note does not address the overall issue of ensuring expert's knowledgeability and trustworthiness. The data was collected in a similar manner for the Doing Business report, that caused a certain lack of transparency and credibility. While the data provided by the experts should be included in a manner, that prevents combining particular answers with particular experts, the expert list in each given report should be an integral and open part of it. Such an approach would undoubtedly increase the transparency of the report.

Section III A states that the team can use two corroborating mechanisms for the data collected through expert consultations on regulations and public services: desk research and official data. However, it does not give rise to certainty when it comes to dispute resolution, as indicated in Section H “Dispute resolution”. Similarly, **if the data collected for the Business Insolvency are verified by administrative data, such arrangements should also be provided for dispute resolution** (Desk research and administrative data collected by courts can be used to corroborate the data collected).

As regards sub-section b. of Section J on Business Insolvency, there is **no understandable indication that data will be collected through the courts.** It is reiterated that there is no rational justification for

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<sup>1</sup> To reduce the functions to be performed by the court under an insolvency law, but at the same time provide the necessary checks and balances, an insolvency law can assign specific functions to other participants, such as the insolvency representative and creditors, or to some other authority, such as an insolvency or corporate regulator. UNCITRAL Legislative Guide on Insolvency Law, p. 34. Available: [https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/05-80722\\_ebook.pdf](https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/05-80722_ebook.pdf)



the court to collect data in consultation with experts. Such a task cannot be understood by the court. The main function of the court is to judge the court, rather than to gather data from specific content in cooperation with experts.

## **Views of the Lithuanian Authorities on Pre-Concept Note for Business Enabling Environment**

### **General comments**

We support the suggested approach and the overall direction presented in the BEE Pre-Concept note. We welcome the proposed improvements in certain areas in comparison to the Doing Business report which also echo some of the comments and suggestions that we proposed. Taking the opportunity, we would like to reiterate and complement some of our previously made comments.

Even though the BEE Pre-Concept note indicates that the product will concentrate on the regulatory framework and will not include certain conditions (e.g., macroeconomic stability, human capital) that are covered by other well-established international measures, we think that including some of such indicators (e.g., corruption level, gender equality) could incentivize governments to implement reforms in the relevant areas.

### **Additional indicator on job security**

It would be useful to have an additional indicator on job security (Occupational health & safety). We propose to assess the effectiveness of the implementation of labour regulation and employee protection system based on result indicators such as number of occupational deaths/severe injuries/occupational diseases per capita. Even though it is planned to measure how efficiently labour regulations are implemented in practice by measuring the frequency of labour inspections, the frequency of inspections does not show how effectively the regulation of employment relations is implemented, but rather reflects the burden of checks on businesses.

### **Taxation**

When calculating the tax burden on labour, the employee's social security contributions were not assessed (because they were assumed to be paid by the employee). For the employer, however, the overall cost per employee is the most important factor. Therefore, we believe it is important to measure such indicator (including the cost per employee, net pay and tax wedge under different wage regimes such as minimum wage, average wage, etc.)

A similar problem exists with regards to the taxation of dividends, which has so far been assessed only in terms of corporate taxation, but without an assessment of the relationship between corporate tax, income tax and dividends, which has not led to a particularly good comparison between the tax burden for the income generated by the dividends.

We suggest that the assessment of the tax burden (paying taxes) should take into account not only whether a country has the possibility to declare taxes online, but also the maturity of digitalised solutions. The electronic declaration form, which is identical to the paper declaration form, should not be considered as advanced as automated solutions which significantly facilitate the declaration process.

### **Additional indicator on environmental impact**

We suggest assessing the possibility of including an indicator on regulations related to environmental impacts (e.g., emission permits, CO2 reduction measures). Also, potentially assessing the share of renewable energy sources in a country's energy mix.

### **Additional indicator on innovation**

We also suggest assessing the possibility of including innovation as an indicator to measure the innovation level as well as public and private expenditure for R&D.

### **Rankings**

Finally, even though it is yet to be decided whether and how indicators will be grouped to produce aggregate scores, we would like to underline the benefits of maintaining country rankings. Country ranking allows to easily compare the business environment of several countries, assess the country's competitiveness and identify the main areas for improvement. This comparison becomes an additional motivating factor to encourage public authorities to implement positive changes in the business environment. Of course, the transparency of the methodology and data is crucial in this regard. Also, the rating nature of the report also serves as a marketing tool not only for the country but also for the product itself - reports that include rankings tend to gain more publicity and impact than reports that do not rank countries.

Comments from the office of the WBG Executive  
Director representing Albania, Greece, Italy, Malta,  
Portugal, San Marino, and Timor-Leste

## Business Enabling Environment (BEE) Pre-Concept Note - March 15, 2022

### Italy's written comments

#### General comments

- **Topics covered.** The widening of the topics covered in the benchmarking exercise in comparison to DB both in terms of including new topics (e.g. procurement) and in widening the scope of some of the DB indicators (e.g. utility connections) is welcome; it will help provide a more comprehensive assessment of the business environment in each country. The inclusion of sub-indicators looking at the adoption of digital technologies and environmental sustainability in the various thematic areas is also welcome given the relevance of these topics to ensure sustainable growth.
- **Balancing between regulatory burden and public services provision.** The proposed inclusion in each thematic area of sub-indicators measuring the quality and the extent of public service provision is welcome. It increases the relevance of these aspects in comparison with DB and provides a better balance between the former and the associated regulatory burden when assessing the quality of the business environment.
- **Scoring and aggregation.** The objective of avoiding the “hype on rankings” is commendable. It is important that this does not come at the expense of reducing the informative content of the benchmarking exercise; the publication of granular data by economy and topic must be ensured.
- **Case studies.** Although having precisely defined case studies may come at the cost of less generality of the results, this type of approach might help gain a certain level of objectivity when experts respond to the BEE survey, thus reducing potential interpretation bias. The use of case-studies compared to DB is significantly reduced (both for de facto and de jure sub-indicators), which could lead to a substantial loss in the degree of comparability of the data across countries.
- **Firm surveys and perceptions.** In the spirit of the previous comment, it would be of utmost importance that BEE avoids perception-based questions when conducting firm surveys, in order to guarantee the highest degree of comparability across countries. Moreover, whenever possible the data collected through the survey should be complemented by hard data (e.g. official statistics).
- **Review and accountability.** Even though the subject was mentioned as a crucial part of the new BEE, the pre-concept note barely lays out specifics about the transparency of the process, the accountability mechanisms and the internal review process.

#### Comments on specific indicators.

- *D. Labor* – It is unclear whether indicators D.b.1 and/or D.b.2 will include income support measures that extend beyond unemployment benefits but relate to active employment policies.
- *E. Financial services* – The definition of access to finance in the pre-concept note seems somewhat limited since it includes only bank credit. It might also be interesting to measure the degree to which firms have access to non-bank intermediated financing, such as the equity and bond markets. This would also allow to have a more comprehensive framework for the inclusion of the module on green financing.
- *G. Taxation* – The formulation of the tax burden questions remains an incomplete topic as it was in the DB. The indicator does not seem to ensure that the results on countries' tax burdens are adequately balanced with the public services offered in exchange for the taxes paid. If this balance is not achieved, it seems preferable to exclude the total tax burden from the indicator on taxation.
- *I. Market Competition* – We welcome the addition of a section analyzing both the strength of pro-competition legislation and enforcement, as well as the quality of public procurement procedures. However, as will be discussed below, we believe that the two elements should be considered separately, given that they pursue distinct objectives.

Indicator I.a.1 aims at measuring the overall quality of competition enforcement by focusing on certain aspects of antitrust law enforcement. However, it excludes some important areas, such as all measures enabling contestability of formerly government-regulated monopolies. Including the latter might be important, particularly when one is interested in analyzing the progress made by a country in fostering competition, for instance through the implementation of pro-competitive reforms (e.g. in network industries formerly state monopolies, all reforms fostering entry of new operators or separation between networks and service provision). Furthermore, measures of price controls and state ownership, where still prevalent, could also add further depth to the indicator.

Indicator I.a.2 will assign high value to regulations that promote entry and competition in public procurement, from a *de jure* perspective. In recent years, the trend has been to privilege less competitive procedures, possibly reducing times and costs. While efficiency aspects are partly captured by indicator I.c.2, focusing solely on competition when assessing the quality of procurement regulation reflects a narrow view of the procurement system, as its main goal is that of maximizing public purchase efficiency not necessarily that of promoting competition.

Concerning indicator I.c.2, it will be important to consider whether to extend the awarding length to the moment of definitive awarding. There are pros and cons to this choice. Appeals by losing bidders occur after the contract is first awarded but may lead to the repetition or even the repeal of the tender. Delays of this kind may reflect issues in the structure of the tender, or irregularities in the original awarding. However, not all factors leading to delays of this nature can be attributed to a malfunctioning in

the procurement system as, in principle the firm may take advantage of the ease of appeal strategically.

Furthermore, it is important to guarantee that indicator I.c.3 carefully assesses the definition of “late payment” case by case. Late payment with respect to initial plans may be due to delayed execution by the contractor.

Indicator I.c.4 aims at providing an overall measure of market competition by considering a broad concept of market dynamics as a proxy for competitive behaviour. In particular, the evaluation is based on survey questions addressed directly to businesses regarding certain characteristics of their markets (market exit rates are mentioned), and their ability to compete without restraints from anticompetitive practices or government regulations. We find the indicator could be improved as a measure of market openness and competition by considering e.g. churn rates rather than exit rates. Moreover, whenever possible, it would be highly recommended to base the evaluation on hard data on market share distribution and firms’ demographics (generally available from national statistics institutes) rather than on surveys, given the high risk of bias this type of questions potentially involves.

- *J. Insolvency* – The note refers to “insolvency regulations applicable to judicial liquidation and reorganization procedures”. It might be clarified to what extent the “judicial” label applies. Many countries have semi-judicial or hybrid procedures, mainly aimed at restructuring. These involve some degree of intervention by judges or by court-appointed experts. This is also relevant to the inclusion of pre-insolvency procedures, as suggested by the description of indicator J.a.1.

### **Greece written comments**

The goal of BEE work is to improve the operating environment for local businesses (especially small & medium-sized ones), help countries attract foreign investment (especially poor or troubled ones), and help them draft regulations that make sure this economic activity will reduce corruption, promote equality and protect the environment.

The World Bank Group (WBG) – Global Indicators Group in the Development Economics Vice-presidency (DECIG) – is formulating a new approach to assessing the business and investment climate in economies worldwide following the discontinuation of the “*Doing Business project*”. The intended flagship data and report – working title **Business Enabling Environment (BEE)** – will be designed, piloted, and implemented taking into consideration the views of subject experts and potential users in government, the private sector, and civil society.

Nevertheless, it is important to understand the meaning of BEE before we can evaluate the overall progress and its usefulness so far. BEE concerns a set of policies, institutions, regulations, support services and other conditions including infrastructure that collectively create or improve a general business setting where enterprises and business activities can start, develop and thrive. All the above that can create a business setting are not one size fits all. They are tailored to address needs and challenges of different private sectors and sizes. For

instance, what may work in a small or medium sized enterprise in the manufacturing sector in the region of Athens, may not work in the northern region of Greece.

The main objective of the BEE project is to provide **a quantitative assessment** of the business environment for private sector development, with regular annual frequency and for most economies worldwide. BEE's development purpose is to advocate for policy reform and to inform economic research and specific policy advice.

**As potential users in our department we reviewed the proposed new approach and consider it brings significant value to private sector development, economic reforms, and research in general.**

Primary objective of any consultation is to provide comments on project relevance and design adequacy. Regarding aforementioned Business Enabling Environment (BEE) project our key remarks are the following:

#### **BEE project's relevance**

BEE project's relevance is **considered of substantial importance**, because firstly, BEE will aim to promote economic reforms, opening the door for knowledge sharing and policy dialogue for governments, civil society (including the private sector), the WBG, and other development institutions, and secondly, will provide granular data that can be used for social and economic research and for specific policy advice where detailed information is required. Through its focus on private sector development, BEE will effectively contribute to meet the WBG twin goals of eliminating poverty and boosting shared prosperity. Ultimately, the BEE data and reports aim to be a global public good that is useful to institutions and individuals interested in social and economic development around the world.

**All the aforementioned rationale brings us strongly in favor of.**

#### **Design adequacy**

BEE project's design is **well constructed and covers substantially key issues in a holistic and analytic approach**. In this respect, indicators in BEE are seen as **good proxies** and not expected to be exhaustive, a mindset that brings us strongly in favor of. Consequently, Indicators will be seen as **a set of reasonable proxies** that span the most relevant areas of the business environment and the issues that are becoming increasingly important (e.g., the adoption of digital technologies and processes). They are not expected to be fully exhaustive or detailed as this would exceed the BEE team's resources and likely not be cost-efficient.

#### **New Approach Indicators**

The new approach alternative indicators correspond to **three stages** impacted by an economy's business environment namely: 1) **opening a business**, 2) **operating a business**, and 3) **closing a business**.

**"Opening a business"** indicators capture incorporation, registration, and initial infrastructure and services. They include indicators such as new business density (WBG Entrepreneurship Database) and the number of days to obtain construction-related permits (WBG Enterprise Surveys).

**"Operating a business"** indicators measure various aspects of the business environment that firms encounter in their day-to-day operations. They include indicators like the quality of electricity supply (World Economic Forum), tax policy risk (Economist Intelligence Unit), and Logistics Performance Index on trade logistics (WBG Logistics Performance Index).

**"Closing a business"** indicators capture liquidation options and opportunities for firm rehabilitation. They include those on the insolvency assessment on reorganization procedures (EBRD) and national loan enforcement frameworks (European Banking Authority).

**All above indicators are well constructed** in general and only minor modifications can be provided as a result of **specific analysis by subject experts**. For example, *in transparency of*

***tariffs and connection requirements (Area of Utility connections)*** the indicator serves as a proxy for the predictability of business environment, especially of firms' operational costs. The above component will cover data on transparency and tariffs as well as advance notification of tariff charges.

Because pricing constitutes a complex and dynamic procedure further analysis of such indicator in a later stage by National (country specific) Utility subject experts is required.

For example, ***in quality of regulations for secured transactions and e-payments***, initially the indicator set will measure the quality of above regulations. Specifically regarding electronic payments a sound regulatory framework will be based in a great extent to the principle of **transparency of fees terms and conditions**. Because the above issue is critical for setting more fair market conditions the data for this component should be collected not only from expert consultations (financial lawyers & commercial banks) but also from consumer associations & Consumer Ombudsman (National-Country specific).

In that direction, the design of indicators in the area of **Market competition** is considered of crucial importance and in the current note are adequately covered, especially the section ***“Quality of regulations that promote market competition”*** in which data will be collected by both expert consultations (Corporate Lawyers & WBG Public Procurement experts) as well as desk research. Additionally, will be useful such data on a national level to be provided by local Public Procurement Experts & Governing bodies/associations.

Another question that arises is who will be the body/ies involved in answering the relevant reports. This is important for the relevant responses whether the entity is government-owned or non-governmental. Special care should be taken in order to preserve the ***“Quality of regulations for business entry”***.

In the same context we should add that a number of economists have linked ***institutional quality*** as a remarkable determinant of the economic development and is considered much more crucial than the *speed of reforms* in sense that the second one should be studied not in exclusive but in a broader context in relation **to other indicators**. Improvements in the quality of contracting institutions, better legislation, increased protection of private property rights, reduction of bureaucracy, improved operation of financial markets, are all correlated with increased economic growth.

Apart from the above, it is mentioned in the current BEE report that for expert consultations, local experts can be identified by WBG through desk research, peer referrals, and DECIG's online Contributor Engagement and Expert Nomination Portal. Screening questions will be used to sort out qualified respondents, based on their regular contact with the local and national regulatory and administrative systems, and their recent experiences undertaking the public services under study. Also, remunerating respondents can help preserve their anonymity and ensure the quality of responses.

Two alternative approaches were considered: obtaining/building a sampling frame of experts (that is representative of all relevant experts) or creating a broad pool of experts (that does not aim to be representative) and draw randomly from either of them. While these alternative approaches can help reduce the risk of undue influence and status quo bias, it is probably not feasible to obtain/build such a sampling frame or create a broad pool of potential respondents in every economy, or it will be prohibitively expensive to do so.

**In our view, such implementation approach needs further investigation, analysis & evaluation at a later stage of the BEE project.**

With regard to the “Section II” in our opinion, special reference should be made to two important issues: the Export Credits and the e-commerce. The development of both of these



sectors has been significant in recent years of pandemic and is expected to seriously signal the forthcoming developments. Export insurance and export finance offer a significant way for businesses to release working capital specifically from overseas transactions. It allows business to grow and increases trade with large foreign multinational, since they offer loan guarantees and insurance to help domestic companies limit the risk of exporting goods and services in overseas markets. For this reason they are considered as *automatic stabilizers of income*. The second issue has to do with the considerable role which has taken recently the most popular option for business, the e-commerce and is directly linked to the business promotion. Making a business online is considered to be vital for business growth, as it combines specific advantages such as convenience, wide exposure, global customer, ease of operation, etc.

*To be more specific in relation to the Pre-concept Note for BEE, a brief sectoral analysis reveals the following issues regarding Greece.*

In the field of business, a key priority of government policy is the **extroversion of the Greek economy**. This option will make the Greek economy more competitive and government functions more efficient. To this end, a simple business start-up process is a critical factor for fostering formal entrepreneurship. Also, emphasis is given on actions to reduce bureaucracy, to improve the tax system and to the adoption of a more resilient social protection law.

In particular, regarding the issue of bureaucracy, the reduction will be feasible through the implementation of a number of reforms/actions and according to government estimates more than 270 million man-hours will be released on an annual basis. The result will be positive provided that, working hours that until today are spent in procedures related to the collection of supporting documents and approvals from administrative authorities will be saved.

Regarding the crucial issue of increasing the competitiveness of the Greek economy, we would include the significant change in the method of payment. Secure, efficient, competitive and innovative **e-payments** are crucial to making the most of the benefits of the Greek market for consumers, retailers and businesses alike, as e-commerce continues to grow. E-commerce is gaining more and more ground worldwide than traditional and, as already seen, will henceforth characterize the world economy. The way goods and services are bought in Greece, mainly the last two years, is changing radically. Electronic payments now characterize financial transactions and form the new established way of payment. Greece has taken important steps towards this field and based on its recent achievements has the potential to be an important player along with other countries in shaping the way in which payments will be made in the future, regardless they are card payments, payments via Internet, or by the use of mobile phones.

In particular, regarding the above strategy, four key axes could be distinguished:

- Promotion and facilitation of private investments which are vital for the recovery of the investment gap that still exists between Greece and the developed countries.
- Activating an inclusive and innovative business environment.
- Simplifying the regulatory framework and provide financial incentives to the private sector.

- Increasing productivity & competitiveness, as well as promoting the extroversion of the economy.

In the field of Utility connections and regarding the electricity (Getting Electricity), the reduction of necessary documents for the submission of an application for connection of electricity with Hellenic Electricity Distribution Network Operator (HEDNO) has already been implemented. At the same time, the simplification of supporting documents and interconnection with e-Permits is promoted, as well as the creation of an application for the electronic monitoring of the connection application and the modernization of the grievance mechanism.

With regard to public procurement, the introduction of an annual procurement plan, the rationalization of electronic payments and electronic invoices is foreseen, while regarding the connection with electricity (Public Power Corporation-PPC), the declaration of square meters to HEDNO is promoted digitally, as well as the introduction of electronic calculation of electricity costs.

In the important and promising field of the Internet, its connections are subject to certain aspects related to Internet security, cybersecurity in the form of data and communication protection and the Internet infrastructure itself. Providers operating in the Greek market have already begun the process of upgrading the network through the installation and use of fiber optics nationwide.

Last but not least, in terms of judicial system, the reforms that have been launched focus on the following fields:

- Digitization through e-Justice,
- Liquidation of accumulated volume of cases of the Civil Courts, speeding up the administration of justice,
- Publication of commercial cases in the Courts of First Instance and the Court of Appeals,
- Specialization and lifelong training of Judges

Overall and as a general result, in our view, the current pre-concept note develops a strict, high quality preliminary report in a constructive, transparent and responsible manner. In our opinion, it is a very broad and detailed text and there is always the temptation to limit it in order to make it more specific so that we can focus mainly on regulatory aspects to make the whole process simpler, more transparent and less expensive.

Comments from the office of the WBG Executive  
Director representing Azerbaijan, Kazakhstan, Kyrgyz  
Republic, Poland, Serbia, Switzerland, Tajikistan,  
Turkmenistan, and Uzbekistan

**PRE-CONCEPT NOTE: BUSINESS ENABLING ENVIRONMENT****WRITTEN CONSULTATIONS, 03.14.2022****I. Comments from Switzerland****1. Overall considerations**

**We welcome the Business Enabling Environment (BEE) Project as a new approach for assessing the business and investment climate worldwide.** Building on lessons learnt from the Doing Business Report, taking appropriate corrective measures to prevent similar issues in the future and taking into consideration the views of potential users in government, the private sector, and civil society through an open consultative process provides an adequate framework for an inclusive and sound establishment process of the new report. We welcome the close collaboration with the Group Internal Audit to improve the end-to-end process of data collection and reporting. *Could the WB provide more information regarding the coordination and governance within the World Bank Group on the BEE?*

**The intended output, development purpose, scope and approach are well defined.** Relevance, value addition and complementarity with existing indicators and reports are important criteria to choose the indicators. The continuation of the life cycle approach reflects the entire range of regulatory frameworks that impact a company. The clear set up of the regulatory and public services pillars and the reflection on how efficiently the two pillars are combined in practice provides for a good basis to the reports development purpose and to advocate for policy reform.

**We particularly welcome the balanced approach between de jure and de facto indicators within each topic that will provide for more robust results.** We recognize that a balance is equally sought for indicators focused on individual firms and indicators focused on the private sector as whole. We however miss further reflections on the presence and governance of state-owned enterprises. The presence of state-owned enterprises can lead to distortions in the competition and directly affect private companies' business operations. There are also industry-specific topics that are relevant for the private sector, such as financial market regulation. It should be examined whether such areas should also be included or how the absence of these impacts the BEE.

**Overall, it is important to find the right balance between referencing and integrating topics that are relevant for the overall goal of sustainable and inclusive private sector development.** We welcome the complementarity to other reports and a focus on value addition. At the same time, the BEE will stand on its own and has a potentially much larger reach and influence on shaping structural reforms than some of the theme-specific reports and datasets available. It therefore cannot afford to be reductive by simply referring to other reports and data sources on topics to its core goal.

**We support the integration of the two cross cutting themes (adoption of digital technologies and environmental sustainability).** We however suggest widening the green financing indicator or add an indicator to measure broader "sustainable financing" encompassing

social and governance aspects. The component could include the standards of the International Sustainability Standards Board (ISSB) or the EU Sustainable Finance Disclosure Regulation (SFDR). The adoption of digital technologies is important but needs to be accompanied by easy access to the authorities. In complex environments where standardized processes might not be sufficient to reflect corporate realities (e.g. corporate taxes, building permits), relying only on digital solutions might not be sufficient.

**Gender equality, as a key determinant of inclusive growth and equality, should be integrated.** Many well-known studies (among other from WEF, EY) have shown that gender equality leads to GDP growth. If legal frameworks, regulation and public services that affect female entrepreneurship and labour force participation are not considered, BEE misses a key dimension that facilitates or hinders 50% of the work force from contributing to private sector development. To avoid duplication, BEE could integrate relevant indicators on entrepreneurship, workplace etc. from the Women, Business and the Law report. Other indicators should, where applicable, be sex-disaggregated. This particularly applies to labour indicators that should capture de facto and de jure segmentation of the workforce by gender. It should be duly considered if starting a business (do property ownership regulations differ for men and women?) and access to financial services (do women entrepreneurs face higher barriers accessing capital?) is influenced by gender.

**Corruption is a defining element affecting the de facto business enabling environment, quality of implementation of regulatory frameworks and provision and accessibility of public services.** If access to government services or dispute resolution is costly and complicated, the de facto indicators need to reflect such practices. We encourage the World Bank to integrate this aspect and consider how relevant indicators from other sources could be integrated.

**The decision not to produce a ranking is understandable and we welcome further reflections on incentivizing structural reforms.** Providing incentives for meaningful reforms to attract more investments, more financing, more talents and to improve the overall competitiveness of economies should remain an important aspect of the BEE. Therefore, it is important that comparable aggregated data points continue to be available, at least at topic- and country-level. The way in which the planned benchmarking will be designed for sub-aspects is likely to be decisive for the informative value of the report in any case. *How does the WB intend to incentivize reforms in the future? How can it turn the hype around the BEE into something positive, including the broad media attention?* Two ideas worth considering would be tiers rather than rankings, and a stronger focus on relative aggregate trends in the BEE of countries.

**Noting that the Business Enabling Environment Project is a working title, we suggest considering alternatives for the title of the report.** There are several initiatives that refer to a business enabling environment and naming a new flagship report of the World Bank could create confusion.

## **2. Specific indicators**

**On infrastructure, we specifically welcome the inclusion of access to water as an important indicator.** Considering utilities beyond electricity will provide for a more comprehensive picture.

**We miss indicators on market entry barriers as they directly shape the possibilities of companies to conduct business.** Along with more comprehensive indicator sets on tariff and non-tariff barriers, we would welcome the inclusion of indicators regarding market entry barriers. These include for instance for the service sector rules regarding retail distribution (for instance limitations regarding the retail sales of medicines) or regulations regarding financial services or

professional services such as lawyers, architects or accountants. For product markets they include market access due to regulations in the production, transmission and distribution of natural gas and electricity, the access to mobile and fixed e-communication services or the market access to transport of freight and passengers.

**On labour we regret that there is no indicator on the level of education and the availability of workers.** A well educated workforce and the availability of skilled workers is paramount to a productive business environment that allows for innovation. An educational system that builds on dual vocational approaches is an important pathway to build a well-trained workforce. We invite the World Bank to consult the Donor Committee for Dual Vocational Education and Training to explore possible options.

**On workers' protection we encourage to take into account all ILO core conventions and recommend including indicators on remuneration models that are not based on minimum wages.** The availability of a minimum wage is no assurance for decent work. Therefore other remuneration models that result in decent work should be accounted for. The ILO Decent Work Agenda refers to *adequate earnings*, which represents a wording that would be more appropriate. Moreover, we recall that the ILO core conventions are fundamental to decent work. They include the principles of non-discrimination and freedom of association, that are present in the pre-concept note, but also the elimination of forced labour and child labour, which are missing. Therefore, we recommend that all ILO core conventions are taken into account when addressing workers' protection. A possible indicator could be their ratification by the ILO Member States. The pre-concept proposes that questions about labour inspections will be addressed to firms. We would like to obtain further information on the type of companies that will be addressed and the questions that will be asked on labour inspections. Moreover, we would like to receive information about the reasons why the ILO Labour Inspection Convention, 1947 (n°81) was not taken into account for the evaluation of the labour inspection.

**On taxation we recommend to provide granular information on the burden of tax indicator.** The term Total Tax and Contribution Rate is used to describe the burden of various taxes (profit taxes, consumption taxes, and social taxes and contributions). However, the impact of these taxes varies greatly. For this reason, it would be desirable if not only the indicator itself, but also the details were presented by tax type. On the taxes indicator, it is not fully clear yet how the BEE will deal with the tension between the need to increase domestic resource mobilization notably in low-income countries, and a tax burden indicator incentivizing lower tax rates. *How will these contrasting objectives be considered in the design and methodology of the tax burden indicator?*

**We regret that there is no further reflection on the role of intellectual property and on the role of standards as well as the according infrastructure for implementation that are important in a business enabling environment.** Intellectual property regulations heavily influence a company's considerations for investment, which should be reflected. Whereas standards are mentioned in the chapter on international trade, further thought should be given on the role of the necessary infrastructure to measure and implement standards (e.g. laboratories).

**Data privacy or data integrity regulations are not mentioned in the document and should be considered in the indicator on international trade and e-commerce.** Data privacy has an impact on businesses as it is related to trade secrets, intellectual property and digital finance. In this context it would be important to advance the mutual recognition of electronic signatures, as this is often a prerequisite for the conclusion of digital contracts.

**We support decision not to weigh topics/indicators along the business life cycle but underline the need to include relative prices, where costs are measured.** We strongly encourage using purchasing power parities.

### **3. Implementation and Data collection**

**We reiterate the importance that the data collection process and production of the report are governed by the highest possible standards.** This includes sound, replicable and granular data that are publicly available, a transparent gathering processes, robust safeguards and clear approval protocols. Results should be replicable. *Could the WB provide more information on the “highest possible standards” that will govern data collection and reporting processes?*

**The involvement (or non-involvement) of government authorities in the data collection process is unclear.** It should be communicated publicly and to the national authorities how the data is collected in their country. In the process the anonymity of companies and experts should be safeguarded as necessary. *Could you clarify the role of national or regional governments in the data collection?*

**The added value of data collection at firm-level must be ensured and the administrative burden on firms caused by surveys should be minimized.** Questionnaires of the BEE should be combined with existing surveys to avoid excessive costs for the World Bank and firms and ensure review efficiency. Also, the WB should consider publishing the BEE only every two years to limit the administrative burden on the side of experts and national/sub-national Administration. *How does the WB ensure that there is no duplication of data collection? Does the WB foresee a consolidation of different data collections (e.g. BEE together with Enterprise Surveys Indicators Data)?*

**Expert consultations and firm-level surveys are good instruments to collect reliable data but need to be accompanied by very precise data collection manuals and instructions.** In order to achieve a high quality of data collection and ultimately the comparability of results, it is central to provide very precise instructions as to the type, format and content. This was unfortunately not always the case with the Doing Business Report. In expert consultations, we are looking forward to learn more on the requirements on education and quality of experts. Further information on the sourcing of experts and measures to ensure the adequate inclusion of female experts is warranted.

**The proposal to update the report in a staggered approach is interesting but needs to be accompanied by measures that ensure comparability.** We concur that firm-level surveys are cost-driving. *Has the World Bank also considered to publish the report every two years?*

**We welcome the expansion of the sample of business locations to mirror decentralized business environment regulation.** This will however add considerable complexity. In federal structures, this could result in a differentiated picture that will however be difficult to standardize. In implementation it will be important to clearly define which information on what level is provided by whom. For example, regulatory changes on local, regional or national level can differ considerably in decentralized and federal systems. We are looking forward to more information on this.

## II. Comments from Uzbekistan

- To ensure the reliability of the data (considering limitation related to the sufficient and correct coverage from surveys), are there any plans of cooperation between primary data producers in respective countries? Or do you have any plans to automatically acquire data from their databases? For example, in Uzbekistan Unified Information System "Single portal of interactive public services" (Government services available for citizens and the business community) is used. Also, "Transparent Construction" - a specialized IS for interaction and monitoring issues of obtaining permits in construction, "ELEKTR" - a specialized IS for interaction in the system of connecting to the electricity grid, "Single window" - customs clearance, etc are popular. We think that if there are big discrepancies in data between these information systems and BEE data, there might be different opinions on the effective use of BEE.
- Regarding client consultation: Our authorities welcome the discussion on the new BEE and overall agree with the direction. We have received the question whether the Bank will provide possibility for clients to organize videoconference on selected indicators to clarify and/or explain indicators in detail. Please update us on the plans in terms of client consultation and information.

## III. Comments from Poland

In general the approach proposed in the *Pre-Concept Note Business Enabling Environment* (BEE) seems to be well designed. The study will focus on the regulatory environment and business-related public services, but at the same time it will take into consideration the establishment and effective operation of high standards in e.g. safety, labour rights, new and green technologies. In doing so, the BEE will address the dynamically changing regulatory environment for businesses. We hope this will be a constructive publication, facilitating quality institutional reforms based on international best practices.

We take note of a very detailed and technical description of topics and indices. In this context, we are very hopeful on prioritization of indices to induce developmental effects, so as the business community could gain valuable insight into potential opportunities or obstacles awaiting prospective local entrepreneurs or new ventures abroad.

The methodology clearly aims at extending quantitative indicators, replicability and comparability of the results obtained, distinguishing between *de jure* and *de facto* states. However, as far as the data collection process is concerned, several issues remain unclear in our view:

- Whether/how indicators will be grouped to produce aggregate scores;
- Whether it has already been decided that the overall results (aggregate scores) will not be accompanied by a ranking (p. 60 – “*the hype around the rankings will be avoided*”);
- Considering the different components of the BEE, only in 3 areas a case study is planned, in 9 firm-level surveys and in 28 expert consultation. Data updating will be annual for indicators based on expert consultations and spread over time (e.g., in a 3 year cycle) for indicators obtained from firm-level surveys. The proposed research approach is very



complicated and it is difficult to imagine it being carried out in practice. There is a risk that the process of collecting and updating data will not be transparent;

- Expert consultation will have the greatest impact on the results of the study. While we understand the reasons why the World Bank chooses this method, concerns arise as to whether the data collected in this way will be objective, comparable and transparent. In this regard, in our view, it is crucial to avoid the controversy which Doing Business report generated. In DB report the World Bank focused on information from experts (e.g. law firms) prioritising it over the legal provisions in particular areas. This approach gave rise to misunderstandings and allegations that the report presented outdated and inaccurate data. Concerns was heightened by the fact that the sources of data were not disclosed making it difficult to argue with them (*more detailed comments of the Ministry of Justice on these aspects are to be found later in the document*).
- Apart from data collected by expert consultations, case study for green financing (e.g. regarding use of green bonds proceeds by firms in line with specific national/subnational/international regulations) should be provided as well.

Regarding taxation, we propose to add “*tax incentives for start-ups*” with two possible components: (a) Research and Development, and (b) others (e.g. exemptions on capital gains). In our view, public administration by offering tax incentives with appropriate limits may attract start-ups. A vast literature supports this argument. Moreover, we would like to note that the BEE report should contain crucial and basic information about tax systems in particular countries, including information about e.g. types of taxes, tax rates and tax incentives, especially bearing in mind the ambition to make the BEE as a „one-stop shop”. Alternatively, the report may refer to national sources for such information.

On business insolvency – it is an important enabler for start-ups, but rather reflecting their struggling for survival. What start-ups need is liquidity to safeguard their daily operations and then to develop their activities. Therefore, we also suggest to include business liquidity together with business insolvency. Business liquidity may reflect the start-ups’ cash flow position and access to short-term borrowing.

It is not clear why the issue of corruption was omitted from the BEE. It seems to be a very important issue when opening and running a business. It involves both regulatory aspects and public services. This aspect can also be a factor that significantly differentiates global economies.

It is not clear whether sub-indicator *Workers’ social protections* will cover the self-employed aspect (p. 24 – Adequacy of public services for the labor market). This area is worth considering, in particular the scale of “forced”/“involuntary self-employment” (working for one client only).

We also suggest to keep under consideration the regulations on personal data protection not only in the case of internet providers but also other entrepreneurs and/or institutions who collect data (p. 19 – Safety of utility connections).

We would also appreciate creating a process by which the pre-final version of the BEE report could be previewed/verified by a given country as regards the information on this particular country.

Finally, as we note that digitalization helps cross-check and cross-reference the data, we should also keep in mind that there is a large geographical area of the world economy deprived of the resources and technology to collect and process the data.

- Below please find more detailed comments from the Polish Ministry of Justice referring to legal aspects of the selected proposals.

The references in the note seem to indicate that the data will be mainly collected - as in the case of the DB report - through surveys in which respondents will assess the value of individual indicators. However, this may lead to discrepancies between the data by interviewers, based on their subjective feelings, and the data resulting from functioning indicators or collected official statistical data. Against this background, in the case of court activity, the introduction of indicators based on official statistical data would reflect the reality to a much better extent than surveys conducted among entrepreneurs.

On page 59 it is stated that *"the team can use two corroborating mechanisms for the data collected through expert consultations on regulations and public services: desk research (i.e. the reading of laws/regulations, checking of features on public websites) and official data (i.e. administrative statistics from registries, courts, and other agencies)."* It is not known which data will be finally considered as definitive, nor what scale of deviations of the data provided by experts on data from public statistics will be considered acceptable, and finally, in which cases the verification of experts will be needed.

Also the parameters of the indicators are not clearly specified, which makes it difficult to assess the reliability of future comparative studies. This is an important aspect for our future work given the reasons behind the decision to discontinue the DB report.

In terms of indicators in the area of *"Entering the market"* regarding point c: *"efficiency of entering the market"* (p.12), it is stated that *"This set of indicators measures the time and cost to complete the different steps that an entrepreneur must undergo to setup and formally operate a company - such as the company name verification, company registration, tax registration, VAT registration, employer and employee registration (...), data for this de facto set of indicators can be best collected through expert consultations, involving professionals who are familiar with the business incorporation process because they help many entrepreneurs go through the process (...). To collect data on time and cost, specific parameters on the company's legal type, size, ownership structure and sector of activity will be necessary to limit the scope of data collection and ensure comparability of data."* It should be pointed out here that in terms of the time of registration of the company in the National Court Register, objective statistical data provided by the courts in the MS-S20 KRS form, in section 8 *"Duration of the proceedings from the date of first registration of the case to the date of issuing the decision ending the proceedings in the case"* are available. On the basis of these data, it is possible to calculate the so-called weighted average, showing the average duration of registration proceedings, not only in general, but with a distinction between cases for the first entry in the register and changes, as well as regarding individual legal forms. Therefore, it seems that in terms of the duration of proceedings, the report should be based on

such official data, and only in countries where the data are not available, surveys among experts or entrepreneurs could be used.

As regards the area of *"Location"* on point b *"quality of public services and transparency of information (pillar of public services)"* expert consultations should also be conducted with country officials familiar with public registers collecting information on real estate, taking into account that this indicator aims to measure: (1) availability of online services and reliability of infrastructure for property transactions, (2) interoperability of servicees for property transactions, (3) availability of online information on immovable property.

In addition, point c *"Efficiency of key services in getting a business location "* (p. 16) states that the proposed indicator *"Time and cost of purchase of real estate"* will include *"the duration and monetary cost that property lawyers, notaries, or registry officials indicate is necessary to complete critical elements of the registration process (due diligence, signature and registration)."* As it seems that this indicator will also include the duration of land and mortgage register proceedings related to the purchase of real estate, it should be pointed out that since 2022 section 3.2 *"Duration of court proceedings from the date of first receipt to the court until the date of drawing the case in the Land and Mortgage Register Journal"* has been introduced in the MS-S20 KW statistical form.

In the *"Work"* area as regards the indicator *Individual labor dispute resolution*, it is stated that *"This will serve as a proxy for the quality and efficiency of public institutions, such as labor courts/tribunals and/or administrative bodies (i.e., labor commissions, inspectorates, departments of labor) that provide consultations, administrative guidance and settlement of labor disputes between employers and employees"* Yet, it is not clear what aspects the concept of *"court efficiency"* is to cover, but such data as the average duration of employee proceedings or the degree of control of influence are included in statistical reports on employee and insurance cases of courts at all levels, respectively in the sections on the duration of court proceedings and case records. Without denying the very concept of the indicator, it should be noted that in the context of the assessment of the functioning of common courts, this indicator should be calculated on the basis of reliable statistical data on the efficiency and duration of proceedings in matters of labor law. As these statistics should make it possible to assess - in the same way - the availability of public services for resolving individual labor disputes in all the countries covered by the survey.

In the area of *"Dispute resolution"* in the section *"Ease of resolving a commercial dispute"*, one of the indicators is *"Time and cost of resolving a commercial dispute"*. In terms of duration, it is stated that *"The time indicator will measure the time required for three main stages. 1) Trial at the court of first instance, including filing of a case, serving the complaint on the defendant, submitting a request for interim measures, preparing an expert testimony and delivering a judgment. 2) Trial at the appeal stage, which includes filing of an appeal, its review and issuance of a final ruling. 3) Enforcement of a judgment that will cover obtaining a copy of the final ruling, seizing the property and its sale through a public auction"*. It was indicated that the first stage is to include *"filing of a case"*, however it is not just literally filing a case, but preparing it (completing, preparing a lawsuit etc.). These particular activities should not be included in the stage of proceedings before the court, but should constitute a separate stage, as the lengthy preparations of the case and the application by the parties cannot burden the courts. The time of proceedings before the court of

first instance should be counted from bringing the case to court. It should also be pointed out here that the duration of court proceedings in commercial matters, as in register or employee cases, are recorded in statistical reports and it is on these reports that the data in the BEE should be based, and not on the surveys carried out. Meanwhile, the draft BEE methodology states that *"the data for the second and third indicators can be best collected through expert consultations. This is because local experts in litigation handle cases on a regular basis (whereas litigation can be a relatively rare event for firms), closely monitor changes in this area, and possess technical knowledge of various elements of the litigation process"*. In our opinion the actual data on the duration of proceedings before the court of the first and second instances have a greater cognitive value than the averages drawn from the surveys.

Further in this section, it is proposed that as regards this indicator a simple case study will be used in order to guide respondents and ensure comparability of data. Such a case study will only indicate the name of the city, specify the nature of the dispute, and set an approximate claim value. If - as it was the case of the DB report - Warsaw is chosen as a Polish city in which the case study is to take place, the duration of the proceedings will be significantly overestimated in relation to the national average. As an example, while in the first half of 2021 the average duration of proceedings in GC (economic litigation) cases for Poland was 20.5 months, for Warsaw it was 30.5 months. That is why in such a situation, the data in the report would refer only to a specific city where the study was held, and would not reflect the situation in the country as a whole. Consequently, they will be of no use to foreign investors who are considering a business in Poland outside the capital.

Another issue that raises doubts is the set of indicators for the area *Adequacy of public services in commercial disputes*, where it is indicated that *"The set of indicators will assess the adequacy of public services provided to resolve a commercial dispute. (...). More specifically, the effectiveness and fairness of dispute resolution can be impacted by the expertise and independence of judges, courts' transparency, and availability of e-services, among other factors"*. The authors do not specify the parameters of the indicators, how the expertise of judges will be assessed during the expert consultation and how they are going to define the transparency of the courts. In any event the expertise of judges cannot be assessed on the basis of questionnaires, as this would not be an objective and reliable assessment. It seems that such an assessment can be made on the basis of a thorough and detailed analysis of the sentences handed down by a judge and the number of times a judge's decisions have been upheld or overturned. The institutional framework indicator, which assesses the quality of institutions should also be changed. In this respect the authors do not specify its parameters either. It is indicated that *"Furthermore, judicial expertise, independence, impartiality, and transparency will be equally measured. The indicator will thus study whether the latest versions of the laws are made publicly available free of charge, whether commercial judgments get published in open sources, whether these judgments are well-reasoned, and so on."* Yet, it is not explained how the experts will examine these aspects objectively and what it means that they will be measured equally.

In the area *"Insolvency of the enterprise"* in the section *"Ease of resolution of insolvency court proceedings"* it is stated that *"this set of indicators will measure the time and cost of resolving judicial liquidation and reorganization proceedings"*. Here too, the data is to be collected through expert consultations with local bankruptcy experts and verified by means of research. As in other

cases, from our point of view, it is also recommended to use the data contained in statistical reports.

We have concerns as the provisions in the section on secured transactions. Firstly, the Note provides for the evaluation of the issue of real estate collateral and *"the identification of liabilities/debts that may be secured by such collateral"*. Second, it provides that: *"in the event of default by the debtor, the committee will assess which creditor would have priority to obtain all or part of the security if there are competing claims on the same asset outside the insolvency proceedings"*. These two proposals seem to go beyond the purpose of assessing whether a country's "regulatory environment" is conducive to investing and doing business in general. Instead, they may lead to imposing specific legal solutions, contrary to the procedures in place in a given country. Taking this into account we would like to ask for more detailed clarification of their meaning and purpose.

We also negatively assess introduction of *"analysis of the possibility of consenting to extrajudicial enforcement of the collateral and to both attachment and sale of the encumbered asset by public and/or private auction [...]"*.

- Below, please find additional more detailed comments on selected issues:

#### Note 1

Second, quality of the dispute resolution process matters too for private sector development. Claims should be considered with due care and by credible institutions. Well-reasoned judgment should be issued at the end of a trial. Research has shown that in countries where there is little confidence in the court system, firms are less willing to expand their businesses and look for alternative trade partners.<sup>147</sup> To attract investors, economies need to ensure that their judiciaries are not only fast, but also strong and reliable.<sup>148</sup> Limited enforceability of contracts leads to suboptimal distribution of resources, delayed arrival of new technologies, and greater macroeconomic volatility.<sup>149</sup> Finally, because inadequate commercial dispute

We propose to use a broader concept of "judicial system".

#### Note 2

## 2. Indicators in the area of dispute resolution

BEE uses three sets of indicators in the area of dispute resolution: (a) the quality of regulations for commercial dispute resolution (regulatory pillar); (b) the adequacy of public services in commercial litigation (public services pillar); and (c) the ease of resolving a commercial dispute (reflecting how the two pillars pertaining to the quality of regulations and adequacy of public services contribute in practice to effective and fair resolution of disputes).

These sets of indicators will focus on the resolution of commercial disputes – disputes that arise in the business context between private firms. Limited aspects of dispute resolution between a private party, on the one hand, and a public agency or state-owned enterprise, on the other hand, will also be measured. Throughout the topic, commercial disputes are not meant to include more specific types of litigation, such as corporate lawsuits or intellectual property cases. That said, certain parameters measured by the indicators (for example, quality of regulations, specialization of courts, digitization, etc.) may also incidentally benefit other areas of dispute resolution.

In contrast to the Enforcing Contracts topic of *Doing Business*, the BEE project will assess the efficiency and quality of commercial dispute resolution, without focusing on individual SMEs or on a specific case study scenario. Furthermore, the new sets of indicators will also incorporate international aspects of resolving disputes and cover both domestic and foreign enterprises. Other important additions, explained in more detail below, will include a larger focus on public services and collecting data on the ease of commercial dispute resolution directly from firms.

We would suggest to consider having an indicator (a) *the quality and efficiency of regulations* , given the fact that efficiency is measurable.

### Note 3

(2) *Alternative dispute resolution mechanisms* – The second indicator will measure the quality of regulations governing alternative dispute resolution mechanisms (arbitration and mediation). When supported by a strong legal framework, these mechanisms can be used by private parties to resolve their disputes more efficiently and flexibly. Well-functioning ADR mechanisms can help reduce court backlogs and improve the quality of resolving disputes by sharing knowledge and expertise.<sup>156</sup>

The second indicator should, in addition to *quality*, take into account whether the regulations are sufficient, and there are no gaps in a given range. Hence, the proposal "the quality and sufficiency".

### Note 4

With regards to mediation and conciliation services (including court-annexed ones), the indicator will measure requisites to attempt mediation or conciliation, existence of financial incentives to engage in these, as well as the enforcement regime for settlement agreements.

Mediation indicator could also be considered, as the percentage of cases referred to mediation in relation to cases in which it could have occurred (of course in relation to labor cases).

AUTHOR: MIROSLAV DELAPORTE, SENIOR ADVISOR  
DATE: MARCH 14, 2022

## **Feedback and suggestions of the Ministry of Economy on “Business Enabling Environment” report drafted by the World Bank Group**

- In September 2021, the World Bank Group Senior Management decided to discontinue the Doing Business report and announced that the WBG would work on a new approach for assessing the business and investment climate. The working title of the new project is “Business Enabling Environment (BEE)”. Compared to Doing Business, the BEE indicators will cover new issues and will have a broader scope, using three sets of indicators in the area of business entry, which are the quality of regulations for business entry, the digital services and transparency of information for business start-ups, and the efficiency of the process to open a business. Furthermore, in contrast to the previous “Dealing with Construction Permits and Registering Property” topic of Doing Business, “Business Location” topic of the BEE will not be limited to the experience of domestic SMEs, and BEE uses three sets of indicators in this field - the quality of regulations for immovable property lease, property ownership and urban planning, the quality of public services and transparency of information, and the efficiency of key services in getting a business location. Moreover, the indicators will also cover environmental concerns in the areas of green building regulations and environmental clearances.
- Compared to “Doing Business”, in BEE the assesment of most indicators is intended to be based on de facto information. Given the importance of new draft document, we propose the list of experts and companies, that will participate in the process of obtaining de facto information, to be agreed with the relevant state bodies and public organisations annually.

## ii. International Development/Financial Institutions



## Comments from European Bank for Reconstruction and Development

## COMMENTS

- We very much welcome the explicit focus on equality of opportunity and long-term sustainability of economic development.
- We welcome the increased use of firm-surveys as a tool to assess the business environment. But we were surprised to see no discussion of how this links to the Enterprise Surveys (also called Business Environment and Enterprise Performance, BEEPS survey). The intention of these surveys has always been exactly to do what the proposed BEE purports to do: measuring external business constraints to firms' development. To what extent (if at all) will the Enterprise Surveys be leveraged as input for the BEE? On page 46, the document says: "The data for this indicator can be best collected through firm-level surveys, using Enterprise Survey methods." On page 4, it mentions "firm-level surveys" but does not specify whether these are the ES. This suggests that the ES will **\*not\*** be used as input (but instead be partially replicated), which would seem inefficient?
- We welcome that the BEE will go beyond measuring firm-level constraints and will also look at more systemic issues, such as the role of the provision of public services. This change is to be welcomed, but for the measurement of constraints at the firm-level, the ES would still be very useful input.
- In the finance section, it is good to see a specific focus on "green finance", especially green bonds and the like. However, while green bonds can be a useful tool, they will likely remain a relatively small market compared to the amount of financing needed to finance the green transition. Much more important is the extent to which regular banks and investors in regular bonds and equities will be able to 'green' their loan portfolios and investments. That will require, inter alia, standardized and high-quality data on local companies' climate risks. It would be very useful therefore if the green-finance part of the BEE would (also) track, for example, how many banks in a country have signed up to the various sustainable principles that are out there (e.g. Carbon Principles, Climate Principles, Equator Principles, UN Principles for Responsible Banking, Collective Commitment to Climate Action), whether prudential supervision includes climate stress-tests, and what percentage of local firms adhere to climate-risk disclosure (e.g. following the recommendations of the soon-to-be established International Sustainability Standards Board).

## Comments from Asian Development Bank

**Comments on WBG Business Enabling Environment (BEE)  
– Pre-Concept Note and External Consultations**

**1. Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?**

- The World Bank Business Enabling Environment (BEE) Pre-Concept Note aims to quantitatively evaluate the quality of the business environment for private sector development (PSD). An enabling environment for PSD is characterized by the promotion of economic growth through innovation and entrepreneurship, equality of opportunities, and long-term sustainability of the economy. The BEE approach improves on the Doing Business (DB) in many ways, most notably on widening its coverage to comprise the regulatory framework and public service provision at the microeconomic level and combining *de jure* and *de facto* measurements as they provide a more balanced assessment of the indicators being measured.
- At the concept stage there are several unknowns in the implementation of the BEE, for example, how the indicators will be grouped to produce aggregate scores, how summary information will be presented, or how often the data will be gathered. What is definite is that BEE covers 10 areas of topics, from opening a business to operating a business to closing a business (page 5). In addition, BEE was developed with the twofold purpose of: (i) advocating for policy reform; and (ii) informing economic research. Both were also objectives of its predecessor, the DB.
- The pre-concept note mentions the intent to avoid the hype of rankings, but as long as some form of performance ordering of countries is maintained in the report, WBG may have little control over how that is portrayed in the media and social media. As such, coping with pressure from country authorities to view data more favorably may still need to be built into the governance structure of the report.

**2. Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

- The interaction of gender and BEE should be taken into serious consideration, for example, by including the gender of the head of the enterprises so that the data can be disaggregated by gender. Or for another example, by including gender as one cross-cutting indicator or sub-indicator.

An important issue that was explicitly left out of BEE was the interaction between gender and the regulatory framework (page 3), instead, referring to another WB flagship publication entitled Women, Business, and the Law (WBL).<sup>1</sup> Global fact is, there are very few countries in the world where women are equal to men in legal, social, and economic rights. WBL 2021 reported that despite progress across eight indicators comprising the WBL index, on average women have just 75% of the legal rights afforded to men and only ten economies scored 100 in the WBL Index.<sup>2</sup>

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<sup>1</sup> WBL looks at laws and regulations affecting women's economic inclusion in 190 economies. Information is provided through expert consultations of lawyers, judges, academics, civil society representatives and public officials.

<sup>2</sup> The index is consisted of eight indicators: mobility, workplace, pay, marriage, parenthood, entrepreneurship, assets, and pension. The countries are Belgium, Canada, Denmark, France, Iceland, Ireland, Latvia, Luxembourg, Portugal, and Sweden.

The manner in which WBL Index is developed does not shed light on the *de facto* implementation of laws impacting women in business nor does its assumptions reflect the situation of women in business, to wit:

*The Women, Business and the Law index relies on a series of assumptions to ensure comparability across economies. For example, the woman in question is assumed to reside in the main business city of her economy and to be employed in the formal sector. To remain actionable, the data set is also constructed using only laws and regulations in force. Unless they are codified, religious and customary laws are not considered. Finally, although it is critical to ensuring women's economic inclusion, implementation of laws is also not currently measured... Future Women, Business and the Law research will consider how to include de facto indicators to complement the set of de jure indicators developed and presented in this report. (page 3, WBL 2021).<sup>3</sup>*

For example, focusing on the entrepreneurship indicator in WBL, four data points were gathered, whether: (i) the law prohibits gender-based discrimination in access to credit; (ii) a woman can sign a contract the same way as a man; (iii) a woman can register a business the same way as a man; and (iv) a woman can open a bank account in the same way as a man. While the WBL indicators for taxation refer to subsidies and tax credits given to families and employers, these are not embodied in the taxation indicators proposed for BEE.<sup>4</sup>

Research shows that women face disproportionately more burden than men when it comes to starting and operating their own enterprises and accessing economic resources – with these burdens stemming from informal (tradition) and formal (legal) institutional environments. Typically, the rule of law is the first recourse in legal agreements. However, in most of the developing world, the rule of law is not as black-and-white. Customary law consisting of beliefs, tradition, religion, social norms, and taboos could be followed by the people in the same degree as *de jure* legislation. Thus, despite gender-neutral or even gender-affirmative regulations that empower females, informal institutions may still take primacy, excluding women from the economic opportunities. These include mobility restrictions, requirement of husband's approval to open a business, acquire loans, or apply for utilities.

The bottom line is, excluding gender in BEE may completely miss the issue on the binding constraint to private sector development. Similar to DB, there are critical gender-related dimensions of private sector development that BEE may fail to capture with its aggregate data scoring, summary presentation, and ranking.

- MSMEs and their perspective also do not seem to be adequately covered at this stage. For example, some regulations may benefit the economy while imposing costs on businesses. But large corporations may find it easier to deal with such costs and regulatory burdens than MSMEs, especially if they are just entering the market, creating barriers to entry. The only place in the Note where MSMEs are explicitly mentioned is in the business insolvency section in relation to simplified proceedings. This is a shortcoming that needs to be addressed.

### 3. Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?

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<sup>3</sup> Source: World Bank. 2021. Women, Business, and the Law.

[https://wbl.worldbank.org/content/dam/sites/wbl/documents/2021/02/WBL2021\\_ENG\\_v2.pdf](https://wbl.worldbank.org/content/dam/sites/wbl/documents/2021/02/WBL2021_ENG_v2.pdf) accessed 15 Feb 2022.

<sup>4</sup> Examples are offsetting childcare costs through tax credits and property tax for childcare centers.

- We understand why there is an intent to strike a balance between benefits for the private sector (some regulation is good) and the cost for individual firms (regulatory burden). But it is not clear how the policy scoring can be done in practice to achieve this objective. There is no well-established formula in place, and we struggle to see a suitable approach to find one, given that the aim is also to do cross-country comparisons. This is the key challenge of the project.
- Implicit in the BEE is advocacy for reform in the form of simplification and deregulation. This is by virtue of the measurement of efficiency indicators that were carried over from DB approach (see Appendix II). Similar to the DB approach, the BEE measures the **time and cost** entailed to start, operate, and close a business.<sup>5</sup> Care should be taken to avoid asserting the same message as DB: that deregulation of the business environment will stimulate innovation and entrepreneurship and increase equality of opportunities and that simplification of laws are easily implemented. It is important to remember that: (i) the most binding constraints to unleashing private sector growth is the search for optimal and not minimal, regulation; (ii) challenges to PSD may not lie on burdensome regulations or elements of the regulatory business environment but on other factors, particularly for economies with significant informal sector; and (iii) regulations have an important purpose.

#### 4. Does the BEE project get the balance right between *de jure* and *de facto* indicators?

- The combination of *de jure* and *de facto* indicators to strike a better balance in business environment assessment is most welcome. However, the weights to be accorded to the *de jure* and *de facto* data remains unknown. In least developed and developing economies, sophisticated laws nor public services may not be in place for the private sector and qualitative interviews may provide better insights into the quality of the business environment and public service provision (see related comment on gender). How the scoring will be impacted by the integration of quantitative measurements with the qualitative assessments remains to be clarified.

#### 5. Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?

- Three sub-indicators will be augmented with case studies (these are efficiency of business entry, quality of labor regulations, and tax burden and efficiency of tax systems).<sup>6</sup> Case studies, similar to the DB approach, involve creating hypothetical median sized firms in the 2–3 most dominant sectors of the economy. These case studies will be used as the basis for expert consultations. While case studies allow for broader comparability, averaging experiences tends to generalize salient features of the business environment and in doing so fail to capture the real situation on field. The same observation is made for the use of expert consultations and firm level surveys. *De jure* data will be enriched with additional information from expert consultation and firm level surveys – in some but not all – of the indicators. The selective use of data sources to substantiate some indicators – and not others – will raise issues of quality and comparability of the 10

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<sup>5</sup> These are the time and cost to acquire business entry, get a business location, get utilities connected, getting a loan, compliance with import and export requirements, compliance with tax regulations, resolving commercial disputes, award contracts, and resolving judicial proceedings.

<sup>6</sup> Note that Appendix II says case studies will be created for quality of labor regulations but page 23 says no case study will be used to collect same data. Note also that page 47 says that case studies will be used to measure the time and cost to resolve a commercial dispute but this is not mentioned in Appendix II.

indicators against each other because this added information is not available for all. The team is encouraged to find a balance on “burden of proof” for each indicator.

- Two cross cutting themes were included in the BEE approach: adoption of digital technologies (mostly on the availability of electronic systems) and environmental sustainability (mostly on licensing requirements and clearances).<sup>7</sup> These themes are important for the “new normal” post COVID-19 pandemic and for a more environmentally sustainable PSD. Along the vein of the comment on the important purpose of regulation, care needs to be taken in measuring the efficiency (time and cost) of obtaining environmental licenses and permits and the resulting reform recommendation. Licenses may take time to be granted because of check and control measures, particularly in the confirmation that environmental guidelines and standards are to be upheld by the business. The tradeoff between reforms aiming for efficiency and the value of the services needs to be carefully considered. One can even argue that the introduction of longer procedures and higher costs may be necessary to protect public goods and ensure sustainability.
- Service digitalization has been increasing for the past years – and boosted by the onslaught of the COVID-19 health crisis. While the availability of electronic services would facilitate business entry, operation, and closure, BEE should consider the digital divide that has manifested itself strongly since 2020. Unequal access to digital services between urban and rural areas, men and women, upper- and lower-income quintiles, older and younger, have widened the digital divide and without human capital investments, the gap would probably expand further. Instead of opportunities, digitalization may pose barriers to private sector development, hindering those who could not navigate the technology from formalization, operating businesses efficiently, and closing shop economically. In the developing world, women are less likely to use internet or own smartphones and without visionary gender-sensitive policies, women in business would be left out. In short, a single country figure may hide the gaps, between women and men, rural and urban.

#### *On utility connection*

- In addition to the cost to obtaining electricity, water, and internet connections, the cost per unit (kWh, bit, etc.) may be an important factor in the business environment. Certain economies may have prohibitive costs in utility overhead, thereby negatively impacting the private sector.

#### *On labor*

- How will the indicators on labor reflect the condition of industries where informal employment is significant, where workers have either limited or no access to social protection, employment services and recourse in case of labor disputes? Examples of these sectors are agriculture and tourism. Both sectors have high rates of informal employment involving women and youth and significant proportions of informal MSMEs. The indicated data collection approach for ease of employing labor is firm level surveys but there do not seem to be such surveys that checks on / compiles data on informal workers and firms on a regular and consistent basis. How will World Bank address this?

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<sup>7</sup> In business entry, business location, financial services, international trade, paying taxes, resolving commercial disputes, and market competition.

- In Appendix II, should “ease of employing labor” also include expert consultations? Components listed under this pillar could also be better differentiated from the other two pillars.

#### *On financial services*

- The DB index focused on the ease of getting credit, while BEE includes three measures under financial services: (i) quality of credit reporting framework; (ii) ease of receiving financial services; and (iii) quality of regulations for secured transactions, e-payments, and green financing. While the focus on e-payments and green financing is warranted, does BEE also intend to include quality of regulations for payments using cryptocurrencies or digital currencies, since some economies have adopted and/or are promoting the use of such?

#### *On international trade*

- Each of the international trade indicators proposed in the BEE framework will be relevant for several of our economic research focuses, such as regional integration, global value chain trade and participation, and free trade agreements. It might be valuable to consider other “behind-the-border” agencies (e.g., trade promotion agencies) and their programs (e.g., special economic zones, subsidies for export-oriented industries, trade-related technical assistance) in assessing quality of public services for the facilitation of international trade in goods.
- While it is commendable that the regulatory framework pillar for this topic considers e-commerce, there is no mention of e-commerce or digital infrastructure in the public services pillar, which focuses exclusively on goods. This may be worth considering because digital infrastructure, especially in information and communication technologies (ICT), is [highly relevant to digital trade and e-commerce](#).

#### *On market competition*

- One important aspect of innovation and market competition is intellectual property, which has been shown to [affect the rate of innovation of firms](#). An appropriate level of stringency in the intellectual property rights regime [fosters competition](#) because it ensures that firms’ novel technologies are protected. There is a clear digital aspect as well, such as the existence of an [online registration system](#), which may contribute to greater efficiency in filings.

### **6. Do you have any other general feedback?**

- Overall, the concept note represents a marked improvement over DB Indicators. BEE espouses a more rigorous methodology with a fair balance between *de jure* and *de facto* indicators, as well as between the quality of regulations and the provision of public services. Many of the criticisms leveled against DB are addressed in BEE, such as improving coverage from an economy’s main business city to wider in-country coverage. Additionally, expert consultations are supplemented with more rigorous firm-level surveys.
- At first glance, it looks like the scoring would be like the Global Findex Database. However, it is hard to grasp the outcome of the index, given that there are indicators that will be collected, based on case studies, while at the same time, the indicators would “focus less on scoring and ranking.”



### *On data consistency*

- There are two general approaches for collecting data for indicators being proposed: (i) firm-level surveys, (ii) expert consultations. It has been hinted that information for considerable number of indicators will come from expert consultations. While there is a general discussion provided towards the end of the pre-concept note on key considerations to facilitate comparability of data coming from expert consultations, moving forward, it is important to provide more detailed discussion how to ensure data from each indicator will be comparable. Furthermore, for instances wherein indicators whose data were supposed to be collected through firm surveys but for some reason such approach is not feasible for specific countries, will data come from expert consultations instead and if so, how do we ensure comparability? It may also be instructive to note the frequency of data updates for each indicator. Will indicators based on surveys be updated less frequently than indicators that will come from expert consultations and desk research? In addition, will there be an attempt to collect data for each indicator retrospectively or will it simply focus on compiling present data?
- Apart from comparability across countries, one needs to consider consistency of data definitions across time. Consultations with different expert pools year to year may result in such inconsistency. Our research is heavily reliant on time series data. We are grateful that some indicators would be available annually. It would be useful if the methodology for acquiring these data would remain as consistent as possible. If there would be some changes in methodology to compute scores, like in the DB indicators, hopefully it would be easy to map out the difference, and obtain data using the old methodology, and vice versa.

## Comments from ASEAN+3 Macroeconomic Research Office (AMRO)

## **ASEAN+3 Macroeconomic Research Office (AMRO) Staff Comments on Pre-Concept Note on Business Enabling Environment**

Thank you for inviting our feedback on the pre-concept note on the Business Enabling Environment (BEE). The issues in the BEE project are well articulated, and the overall design is more appealing than the Doing Business report, as the new exercise will consider the ease of doing business from the perspective of not only individual firms but also private sector development as a whole (i.e., growth, equality of opportunity, and sustainability of the economy in the longer term).

Given that the set of conditions defining the business environment can be very large, focusing on the regulatory framework and public service provision at the micro level is desirable to avoid duplication, while tapping into the benchmarking exercises of other established measures. However, while the BEE indicators identified under the specific topics are generally adequate and largely balanced, it remains unclear to us how the aggregate scores would be produced in an unbiased manner (either by topic or even by economy), while avoiding the hype of rankings.

### **Specific comments**

1. Some indicators for the provision of public services for certain topics (“Business Entry”, “Business Location”, “International Trade” and “Taxation”) appear to emphasize the availability of digital platforms, i.e., Internet/online services and information as a gauge of public service quality and information transparency. Such indicators could potentially over-emphasize the state of digitalization in a country when it comes to gauging the provision of quality public services and transparent information exchange, and potentially under-emphasize the government’s efforts in developing such enabling digital infrastructure for the private sector to access and benefit from it. The emphasis on the availability of digital platforms would put some countries (such as the Philippines, and other emerging markets with relatively low Internet penetration and/or slower pace of digitalization) at a disadvantage.
2. An important issue that the BEE project is not considering, which should be included within the context of private sector development, is the entry and participation of the firms serving the domestic market, not just firms engaged in international trade. For example, in the Philippines, the domestic economy and the service sector are more important in driving economic growth. Therefore, it is more important to gauge the ease with which private firms can enter the domestic market. This is not the same as business entry, which relates more to the setup of the business—i.e., it may be easy to set up the business, but it may not be easy to operate the business in the domestic market.
3. For the topic on “Labor,” it is unclear how the BEE indicators gauging the quality of labor regulations, namely “Workers’ Protection” and “Employment Restrictions” alone, would capture the segmentation arising from informality and its bearing on private sector developments. In the ASEAN+3 region, informal labor accounts for a large proportion of workers in Thailand, the Philippines and Vietnam, for example.

4. For the topic on “Financial Services,” there are indicators specifying the quality of regulations for e-payment and green finance, which are important for gauging the level of digitalization and greening of the economy. However, it is unclear how these indicators fit into the broader topic of a business enabling environment.
5. For the topic on “International Trade,” the three sets of indicators focus on trade in goods, but it is unclear what types of goods will be included in the assessment and case studies. Since each country has different key traded goods, it would be important to have a transparent framework for selecting the traded goods to be covered. For example, in Brunei Darussalam’s Doing Business (DB) index, the indicator for “trading across borders,” used goods such as chemicals and spare parts—which are not Brunei’s top traded products—in the export and import case studies, which resulted in a lower ranking for the country for this indicator.

Contributors: Andrew Tsang, Vanne Khut and Anthony Tan

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## Comments from International Monetary Fund

## Business Enabling Environment (BEE) – Pre-Concept Note

### IMF Consolidated Comments<sup>1</sup>

*Thank you for the opportunity to comment on this well-drafted Business Enabling Environment (BEE) Pre-Concept Note. We welcome the overall proposal, which broadens the scope of the exercise, reflects some of the advances of research regarding the micro and macroeconomic effects of policies and institutions, and also improves on its governance. The three-pillar approach proposed for each area is also useful. We feel that more attention and clarity is needed regarding the overarching objectives of the exercise, its validation process, the scoring system, and the nature and collection process of the underlying data—most of which relate to the key concerns that were raised regarding the discontinued Doing Business indicator. We also provide substantial comments to the specific areas of taxation and governance/corruption, as well as suggestions to further improve other BEE areas, including on financial services and international trade, among others.*

#### **General comments:**

**Overarching objective and trade-offs.** It is important to clarify upfront the nature of the exercise and its overarching objective. Is it a normative (higher scores unequivocally imply better policies and institutions) or positive exercise? (see below “scoring and interpretation”) If normative, is it aimed at maximizing income growth and convergence, or instead aimed at raising broader measures of social welfare (including e.g. the quality of the environment)? This is critical, for example, because some environmental regulations (such as in the area of international trade in the proposal, for example) can reduce income while benefitting the environment (so unless these environmental gains are properly priced, there is a trade-off), and yet other regulations can reduce income without improving social welfare (for example, greenhouse gas emission mitigation and BCAs by a small low-income country that makes a negligible contribution to global emissions will lower this country’s income without any global or local environmental benefits).

**Validation process.** While we welcome the effort made to improve the validation process, we feel it could be insufficient to address the concerns that led to the demise of DB. In particular, a stronger external—as opposed to primarily internal—validation process should be considered.

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<sup>1</sup> Contributors: Damien Capelle, Romain Duval, Taehoon Kim, Prachi Mishra, Chris Papageorgiou, Soledad Martinez Peria, Futoshi Narita, Cedric Okou and Robin Tietz (all RES); Tanai Khiaonarong, Mustafa Saiyid, Felix Vardy and Yizhi Xu (all MCM); Karim Badr and Sahra Sakha (all MCD); Nadine Aboukhaled Yazbeck, Thomas Alexander, Andrew Baer, Nombulelo Braiton, Imad Khanchaoui, and Naoto Osawa (all STA); Brendan Crowley, Jose Garrido, Nadia Rendak, Joel Turkewitz, Tina Burjaliani, Emmanuel Mathias, Kyung Kwak, Audrey Yiadom, Ke Chen, Gustavo Pinto, Audrey Yiadom (all LEG); Jan Loeprick, Doris Akol, Enriko Aav, and Tadatsugu Matsudaira (all FAD), and Leo Medina (SPR).

- It should be clarified how the external review panel members will be selected and how long they will serve. Relatedly, the selection of external audit firms to vet the integrity of BEE data and process should be further discussed, including possible rotation among the auditing firms to allow for different perspectives over time.
- Views of government officials and users. Having governments carefully review, discuss and vet the indicators is critical for the credibility of the exercise—for example, it has been the cornerstone of the OECD’s success in producing indicators of a comparable nature, such as in the areas of labor and product market regulations. It would also be useful to clarify at which stage in the BEE cycle, governments and users’ views will be collected and how these views will be integrated in the business climate assessment. This is particularly critical with respect of countries’ distance to frontier, to mitigate undue pressures and idiosyncratic data overrides. In cases where authorities strongly disagree with their country’s BEE scoring, the World Bank BEE team could consider publishing their own assessment along with an alternative score reflecting government officials’ views. The BEE team should then provide a clear explanation of the discrepancies. We would also encourage a side-by-side comparison of the BEE vs. DB production cycle, as in the table in Appendix I.

**Selection areas of interest:** The note includes new areas that enlarge the scope of the analysis, as compared with the Doing Business (DB) report. While we appreciate this ambition, we wonder if this means that more conventional topics will be left out entirely and worry that this would compromise the BEE’s usefulness as a comprehensive measure of a country’s business environment. In addition, it is not entirely clear why these new areas are selected and how they fit within the general analysis. This may give users of the report the impression that the selection of areas is not motivated by their importance, but by other factors, such as the willingness to promote certain reforms. For instance, the analysis of environmental issues in business insolvency seems forced. Section E.2. (p. 27) focuses on regulations for secured transactions, e-payments and green financing but does not cover any of the conventional, albeit important, topics such as regulations of banks and security markets (both seem important for creating a business enabling environment). At the same time, innovation is entirely missing—a concern given that three decades of theory and evidence have identified it as the primary driver of (endogenous) economic growth and development. Yet there is a lot to measure regarding the design and efficiency of regulations that relate to a country’s innovation system (patent system, scale and efficiency of allocation of public support to R&D, integration with higher-education institutions...etc). Some consideration could be given to adding this as a new area—over and above the welcome addition of the “market competition” area.

**Scoring and interpretation.** More thinking and clarity are required regarding the key issue of scores and their interpretation. Specifically:

- We note that there are important decisions yet to be made on the Business Enabling Environment (BEE) regarding the scoring (Annex I). We agree on the importance of avoiding “rankings” that may not be appropriate in reporting the business environment in different countries, as noted that “Hype around rankings will be avoided” (Annex I). Political motives to

use such rankings inappropriately were a pitfall of the DB indicators. However, “how” to avoid it is a tougher question, and more clarity on this issue is necessary. Also, we note that “whether/how indicators will be grouped to produce aggregate scores is yet to be decided” (Annex I), but we think that this is of first order importance as scoring is heavily reliant on the baseline aggregation method. These issues need to be particularly sorted out as a priority.

- Indicators: descriptive or normative. The report often uses a normative language to motivate and label the variables (e.g., “unfettered competition stimulates service quality, protects consumers”). It gives the impression that there is a consensus on the effect of each and every policy lever, but many of these normative claims are not fully supported by economic research. For example, there is evidence that too high competition can sometimes be harmful, or that overly weak and overly stringent labor regulations (e.g. unemployment benefits) should be avoided. The report should thus refrain from making these claims whenever they are debated, and (re)think the scoring system accordingly. One might even argue it would be better to refrain from using strong normative language and instead adopt a purely descriptive approach to labeling (as is typically the case, for example, with the OECD’s labor and product market regulation indicators, which are about the stringency of regulations that depart from a free market benchmark). At a minimum, replacing labels such as “good practices” and “quality of institutions” with an actual description of the underlying data would be more informative. Being impartial and science-based are crucial elements to the legitimacy of the BEE.
- De jure and de facto: The methodology of the new report seems to be based on the collection of de jure information (i.e., according to statutory laws and regulations) and also de facto measurements (page 3). However, in numerous parts of the report, the distinction between de facto and de jure analysis is not clear or is blurred (see for instance, credit information systems at page 29).
- De jure indicators through expert consultations and firm-level surveys. The proposal features extensive use of such indicators. Doesn’t that introduce a lot of room for expert judgement, and therefore for the kind of issues that affected DB? To mitigate such risks, BEE could consider only de facto indicators that collect objective quantitative information. Good examples in the current proposal include the questions about time and monetary cost of business entry in the business entry section. Bad examples include asking lawyers and practitioners more open questions about the « flexibility » of hiring and dismissal procedures or the « efficiency » of public employment services in the labor section. If such subjective and qualitative indicators were kept, how could well-known issues like incorrect beliefs, which bias international comparisons, be mitigated? (there can be heterogeneity in opinions and grading norms across different experts from different countries regarding a given policy setting, and experts’ views can reflect own priors and beliefs that could only be mitigated in large samples that are either unavailable or whose cost would be prohibitive).
- Cyclical variation in measures of efficient implementation in practice. The note emphasizes the ambition for the new Business Enabling Environment report to capture whether regulations are implemented efficiently and yield the desired outcomes. This effort is highly appropriate. However, throughout the report, we see a challenge in measuring the efficient implementation of regulations: how to disentangle cyclical from structural forces that might influence implementation outcomes at a given moment in time. For example, in Section E.2.C. (p. 30),



the note describes that BEE aims to capture the time and cost to obtain a loan, including the time and cost to secure any required collateral. These variables are known to exhibit cyclical fluctuations. This could introduce variations across countries within the BEE that is due to cyclical developments. A similar concern could be raised about the proposed measurements of the actual time and cost of bankruptcy proceedings (J.2.C, p. 56), e.g., if bankruptcies are clustered at certain points in the business cycle.

### **Use of statistics, data collection, reporting, frequency and comprehensiveness.**

- Statistical information. The note only considers statistics as “corroborating information” (page 57). In all areas, the report should be used to promote the collection of accurate statistical data by the authorities, and in general, statistics should be given preference over the other sources of information. Opinions of enterprises and experts may be biased by specific cases or experiences, whereas statistics offer a much more reliable source of information.
- Data collection and reporting. The note states (on page 1, para 2) that “the data collection and reporting process will be governed by the highest possible standards, including sound data gathering processes, robust data safeguards, clear approval protocols, transparency and public availability of granular data, and replicability of results.” However, what this means concretely should receive more attention in the note. When it comes to making data available, we suggest clarifying which parts of the data underlying the BEE will be released to the public. (Section III.C, p. 58, mentions “reporting” in its title but does not contain any information about it.) To maximize transparency (and therefore credibility), we recommend publishing as many of the inputs as possible, e.g., anonymized firm-panel surveys, as well as the procedure with which they are aggregated. This will not only add valuable information but also avoid future controversies about suspected interference in deriving any aggregate indicators.
- Backwards extension. There is merit to explore the possibility of a backward extension of the new BEE approach, using appropriate data available before the DB report was discontinued in 2021. In line with the stated attempt to pivot away from the “hype around rankings”, the backward extension would allow not only to have an historical perspective of countries efforts to improve their business climates, but also help researchers assess the robustness of previous studies that used the now discontinued DB data.
- Frequency. The note states that an annual frequency might not be feasible due to resource constraint (Section III.C, p. 58) and suggests a staggered updating scheme instead. We wonder if a staggered updating scheme might complicate the interpretation of any aggregate indicators and if the BEE’s prospective audience might prefer an annual frequency at the expense of a less comprehensive set of indicators. We suggest clarifying for the stakeholders what is the trade-off between update frequency and comprehensiveness of the BEE. The WBG could also inquire with the target audience about its preferences regarding this trade-off.
- Interaction. The BEE treats most indices as interdependent from each other. The BEE could usefully explore their interactions. For instance, how do indicators in the taxation area have a bearing on those in the area of business registration, bidding for public procurement or

international trade and how do these cross linkages hinder or galvanize private sector development. An analysis of these linkages /interdependencies would be a value add for the BEE.

- Overlap. We recommend evaluating for the list of Principal Indicators for Business and Trade Statistics created by the United Nations Committee of Experts on Business and Trade Statistics for potential overlap and possible alignment and potential to use for benchmarking results of the BEE.

### ***Specific comments:***

#### ***Taxation.***

- We welcome proposed changes that address longstanding concerns that the IMF and other development partners have raised on the doing business tax indicator (see International Tax Dialogue 2008). These include: (i) the decision to rely on a larger sample of firms to avoid the arbitrariness of the single standardized case study, (ii) the move towards firm level surveys to improve the consistency of measures, (iii) dropping the indicator on the number of payments, and (iv) adding indicators on the quality of tax administration and regulations.
- Eliminating aggregate rankings is also welcome, but we understand a decision on whether or not topical rankings will be presented has not yet been taken. Against this background we are concerned about the continued reliance on the Total Tax and Contribution Rate (TTCR) as an indicator of the burden of the tax system on businesses. The detailed calculation of a revised TTCR is still being determined. Irrespective of the outcome of this process, retention of the TTCR indicator implicitly sustains a message of less taxation being desirable. In the context of ongoing global efforts to counter pressures on governments to lower tax rates when competing for business activity and wider initiatives to increase domestic revenue mobilization, the best approach remains dropping the rate indicator from the index.
- Moreover, revisions in the scope and presentation of the TTCR in the concept note raise technical questions. The TTCR is presented as a measure of the burden of taxes on businesses. This burden is determined by the economic incidence of tax instruments, which the concept note argues cannot be reliably determined for the instruments covered. To remedy this problem, it is proposed to include both taxes levied on business as well as those collected and remitted by business on behalf of others. This misrepresents the actual tax burden businesses bear. In addition, the TTCR is presented as an indicator of tax system efficiency. Depending on the final approach taken for its calculation, it will be important to explicitly note its limitations. For instance, based on the discussion in the note, it seems likely that a reform that would reduce the rate of a CIT, which is designed as an efficient rent tax, and parallel increases of more distortionary tax instruments may be presented as efficiency enhancing in the TTCR assessment.
- The role of tax incentives to encourage private investment could receive more explicit attention in the design of the tax indicator, possibly as part of the proposed indicator on the quality of tax regulation. Here the governance of incentives could be assessed and scored

depending on whether processes are discretionary and case-specific or rely on objective rule-based criteria.

- The proposed approach for making the actual assessments (a combination of 'expert assessments' and firm-level surveys) is currently too vague to properly evaluate it. The DB also relied on 'expert assessments' who presumably were well familiar with a country's business and regulatory environment. Yet, it would appear to be quite complicated to 'quality assure' these experts for so many countries, and for such a broad scope of questions. The approach of using actual firm-level surveys, while better than the previous approach, is discussed in very general terms in the note. Reference to the fact that these surveys could be quite costly makes one doubt how much countries will actually be able to fund such surveys. Thus, the note's argument that the results will be comparable across countries is not entirely convincing.
- There does not seem to be any consideration for how different taxes entail different degrees of distortion (e.g corporate and labor taxes being more distortive than consumption taxes, and social security contributions to a defined contribution pension system being less distortive—because perceived as forced savings rather than a tax—than contributions to a flat/basic pension system, for example). It would be important for the indicators to reflect some of these considerations.
- Additionally, we include a table that includes observations comparing DB with BEE indicators:

Review Comments on the Business Enabling Environment (BEE) Indicators in the area of Taxation		
Doing Business	Business Enabling Environment Indicators	Observations
The approach to measurement focused on <i>de jure</i> regulations as indicators of performance	Measurement focuses on <i>de facto</i>	This is an improvement from the DB methodology. By focusing on <i>de facto</i> metrics, the indicators are more likely to be accurate representation of actual practices and not necessarily what the regulations state.
Paying Taxes methodology	Quality of Tax regulations <ul style="list-style-type: none"> <li>○ Clarity of tax provisions</li> <li>○ Stability of tax regulations</li> <li>○ Transparency in the formulations of tax regulations</li> </ul>	1. Data collection incorporates feedback from the private sector as they are directly affected by the tax system. Information from surveys and other forms of engagement with the public is more likely to be representative of how easy it is for businesses to comply with tax regulations. Yet, surveys can have their own challenges and more clarity is needed to assess their relevance/accuracy. 2. The propensity of a tax administration to issue public and private rulings may be indicative/used as a proxy for an administration's commitment to supporting voluntary compliance. This is valuable for private sector development. 3. The indicator promotes the value in stakeholder engagement and public consultation during the processes of amending tax legislation, which has hitherto been a

Review Comments on the Business Enabling Environment (BEE) Indicators in the area of Taxation		
Doing Business	Business Enabling Environment Indicators	Observations
		preserve of technocrats in Ministries of Finance and Legislatures.
Contracting with Government	Not included	<p>Consider for inclusion as it has an indirect connection with some of the taxation indicators. The relationship between public procurement and efficiency of tax administration systems is a strong one. In many countries, there is a requirement to obtain tax clearance certificates for a business to be eligible to participate in government contracts. Businesses may also be required to meet the VAT threshold in order to be able to participate in public procurements.</p> <p>The more efficient the tax administration is, the more likely it is that obtaining tax clearance certificates prior to bidding for a government contract will not be a hindrance to businesses. This is relevant to SMEs growth.</p>
<p>Total Tax and Contribution Rate (TTCR): The total tax payable as a share of profits. Includes taxes levied on business (based on statutory incidence): CIT, SSC/labor taxes paid by the employer, property (&amp;transfer) taxes, property transfer taxes, CG, and other small taxes.</p> <p>Calculated for case study single standardized hypothetical manufacturing firm (SME)</p> <p>In response to criticism of rewarding low tax jurisdictions, a percentile floor was introduced in 2015.</p>	<p>Expansion of scope for TTR calculation to also include taxes collected and remitted by businesses on behalf of workers (PIT) and customers (VAT). Justification is that incidence of different taxes cannot be determined, and prior focus based on statutory incidence problematic.</p> <p>Several case study firms of different size will be evaluated, sector of activity will depend on structure of economy in each country</p> <p>The percentile floor seems to have been dropped</p>	<p>While the original methodology will be tweaked, the problematic underlying principle remains: less taxes are better.</p> <p>Concept Note states TTCR will measure "burden" of taxes on businesses. Misleading to then capture taxes that are merely collected on behalf of others (For the collection effort associated compliance costs should be captured but not the tax remitted).</p> <p>Move to more differentiated case study companies is in line with ITD 2008 observations and desirable given the heterogeneity of relevant sectors of business activity across countries, but risks making comparability more challenging.</p>

Review Comments on the Business Enabling Environment (BEE) Indicators in the area of Taxation		
Doing Business	Business Enabling Environment Indicators	Observations
<p>Time: Number of hours per year to prepare, file returns, and pay taxes (CIT, VAT, payroll taxes and social contributions).</p> <p>Data collected based on assessment of 2-5 experts in each country – highly subjective.</p>	<p>Time to file CIT, VAT, time for obtain VAT refund, duration and frequency of audits. Number of environmental taxes and compliance costs and impact of environmentally damaging practice of informal firms.</p> <p>Data collection based on firm-level surveys</p>	<p>Covering VAT refunds and audit experience improves indicator and captures more relevant parts of compliance experience.</p> <p>Move to survey-based data collection reduces subjectivity and aligns with ITD 2008</p> <p>Intention for environmental tax agenda is unclear from description in CN.</p> <p>New indicator of complexity of record keeping and filing is more helpful in guiding interventions aimed at reducing the cost of compliance. Reforms such as simplification of tax forms / records and prefilled tax returns would all reduce the complexity of record keeping and filing.</p> <p>For LICs and emerging economies where informal sector businesses and SMEs are prevalent, this indicator is more inclusive as it is likely to accommodate informal sector businesses and SMEs, many of which are owned/run by women and youth. It is thus a welcome addition as it can incorporate the gender and tax thematic area.</p>
<p>Time: Number of hours per year to prepare, file returns, and pay taxes (CIT, VAT, payroll taxes and social contributions).</p> <p>Data collected based on assessment of 2-5 experts in each country – highly subjective.</p>	<p>Services provided by the Tax Administration</p> <ul style="list-style-type: none"> <li>○ Availability of electronic systems for tax filing and assessment</li> <li>○ Use of risk-based selection of cases for tax audit and verification</li> <li>○ Presence of effective and efficient dispute resolution</li> <li>○ Transparency of tax administration operations</li> </ul>	<p>These indicators appear to be built on the good international practices defined by the Tax Administration Diagnostic Assessment Tool (TADAT), a good link to make.</p> <p>Risk based audits will allow clear focus on the high-risk taxpayers. This would also have impact on faster refunds for low-risk taxpayers, a direct benefit to businesses/ private sector development, However BEE model could consider expanding the indicator to overall use of risk analysis for tax administration processes. Well-performing tax administrations build their processes and interactions with taxpayers on assessment of compliance risks, these are not limited to audit and verification only. This allows tax administration to tailor their activities in a way that burden on compliant business will be minimized while non-compliant entities will get more administrative attention resulting. As a result, level playing field for compliant businesses will improve.</p>

Review Comments on the Business Enabling Environment (BEE) Indicators in the area of Taxation		
Doing Business	Business Enabling Environment Indicators	Observations
		<p>Effective dispute resolution allows for correct taxes to be paid. Since the BEE recognizes the need for revenue mobilization, effective dispute resolution also allows for the quick collection of revenue as lengthy disputes lock up government revenue in judicial / quasi-judicial processes which the tax administration often has no control of.</p> <p>The measure on transparency on tax administration operations incorporates elements of staff integrity and annual reporting by the tax administration which were previously not covered under the Doing Business.</p>
Payments: Number of tax payments per year (CIT, VAT, labor taxes)	Dropped	The payments indicator made no sense (overlap with "time" indicator; importance of filing vs. payment and approach to e-filing)
Post filing Index: Number of hours to comply with VAT refund, number of weeks to obtain VAT refund, number of hours to comply with a corporate income tax correction, and number of weeks to complete a corporate income tax correction.	<p>Assessment of tax admin quality-based indicators resembling TADAT assessment: Use of digital systems, risk-based audit selection, effective dispute resolution, transparency of administration.</p> <p>Data collected through expert consultation.</p>	Seems useful and reliance on TADAT guidelines for collecting information is welcome. It is unclear, however, how differences in the assessment by the BEE team and TADAT assessors would be avoided/resolved.
NA	<p>New indicator on the quality of tax regulation seeks to capture clarity and stability of tax regulation as well complexity of filing obligations (CIT) and transparency of tax rule formulation.</p> <p>Data collection (# of documents required; possibility of electronic filing, rulings issuance, frequency of amendments) based on expert consultation</p>	<p>Legal traditions may drive observations on frequency of changes to primary legislation.</p> <p>Use of private rulings can create governance challenges.</p> <p>Indicator could be expanded capture process of granting tax incentives aimed at promoting private sector development</p> <p>IMF/OECD 2017 tax certainty report/approach might be a useful reference for development of indicator</p>

Review Comments on the Business Enabling Environment (BEE) Indicators in the area of Taxation		
Doing Business	Business Enabling Environment Indicators	Observations
NA	Environmental taxation indicators	BEE methodology incorporates new thematic areas. While it will have the benefit of creating the push factor towards uptake in the development of environmental taxation regimes, as countries invariably seek to become more competitive destinations for investment. However, it is not yet clear how the indicator this will be directly linked to Private Sector development.

**Governance and anti-corruption.** Fund staff has been using the DB report in the context of its assessment of countries' governance vulnerabilities. Accordingly, we are looking forward to the development of a new set of robust, credible and balanced indicators. This effort is very important given the hole left by the termination of the DB report. There remains a great need for a rigorous and balanced review at the country level of factors influencing the business environment. We appreciate the effort that has been taken to increase attention to de jure as well as de facto performance of relevant systems, and the effort to balance factors that influence individual businesses with those that influence the growth and dynamism of the private sector. This are all very positive changes.

Overall, building on experience with the DB indicator, we would strongly encourage giving more prominence to corruption when looking at the business environment. Corruption cannot be seen as a macroeconomic condition only (page 3 and table 1). Pervasive corruption actually affects all the microeconomic indicators considered in the BEE. While there is a welcome principle that the BEE will not only look at the regulatory burden but also at the provision of public services key for functioning markets (page 3), the references to corruption in the document continue to relate to a misleading view of "more regulations, more corruption", considering regulations or lack of transparency being the source of corruption (see page 9 "Cumbersome regulations for business start-ups are associated with high levels of corruption and informality", page 14 transparency in land administration help avoid corruption, page 36 transparency in taxation help avoid corruption). While transparency is important, most of the indicators have limited meaning in assessing the business environment when corruption is pervasive: What is the value added of an indicator on quality of tax regulations when discretionary power can carve out exceptions for special interests? What is the value added of an indicator on obstacles to justice when not explicitly considering judicial bribery or judicial capture?

We also note the following specific concerns from a corruption perspective:

- Assessments of the de jure challenges facing firms are premised on an assumption that firms are treated similarly, and that involved professionals have the knowledge needed to assess different features of the business environment. While this assumption may be valid in business environments with a high degree of formality and regularity, it breaks down in jurisdictions where corruption is prevalent. In these situations, the regulatory constraints faced by firms, or their access to financing, or real estate, etc – may be strongly shaped by their relative position to power and to dominant corruption networks. As corruption rises, so too does heterogeneity of experiences, and the conditions facing a potential entrepreneur from a traditionally disadvantaged groups may be vastly different from those faced by a member of the economic elite. Unfortunately, reliance on professional service providers for intelligence on operative business conditions may serve to hide this variation, as their clients are unlikely to be distributed across economic and social groups. Identifying ways to capture the heterogeneity of the business environment, or the level of corruption experienced by firms should be prioritized in the next phase of developing the methodology.
- As a specific example, the micro-economic dimension of corruption as a form of collusion between firms and public institutions, which imposes cost on the former to survive, is an important factor in assessing business enabling environment. Business Location, as a thematic area, factors corruption and bribery in two indicators (to the limited and ex-post extent noted above - efficiency of regulatory practices in land administration and quality of public services and transparency of information), while Dispute Resolution leaves corruption out highlighting “expertise and independence of judges, courts’ transparency, and availability of e-services” as important factors for effectiveness and fairness of dispute resolution system. This approach may limit the completeness and adequacy of assessment of dispute resolution system.
- As noted above, the proposed methodology for the assessment of indicators largely eschews official statistics as part of its data collection approaches. It uses two main approaches: expert consultations and firm-level surveys. According to the pre-concept note (p. 57), “Expert consultations refer to data collection from experts who regularly deal with the relevant legal arrangements, public services, and institutions providing those services. Firm-level surveys refer to data collection from a representative sample of actual, formal firms. Moreover, the team can use two corroborating mechanisms for the data collected through expert consultations on regulations and public services: desk research (i.e., the reading of laws/regulations, checking of features on public websites) and official data (i.e., administrative statistics from registries, courts, and other agencies).” Official data is very important in relation to certain indicators (Business Location, Dispute Resolution and Business Insolvency are among them) and lack of clear standards for using it may result in uneven approach to data collection and analysis.

### ***Business entry.***

- Availability of company information online and transparency of information. It would be helpful to check if privately owned firms are required by law to disclose the names of shareholders in all surveyed countries. If this is not the case in some countries, then this



indicator could be highly skewed. At the same time, it could help make a case for best practices and regulatory reforms on business information access (Bloom and Van Reenen 2007).

- Consider excluding VAT registration as an element of measuring efficiency in BEE assessment for business entry. While speed and cost of regular tax registration is a factor affecting business entry, VAT registration is not that straightforward. Overemphasizing the speed of VAT registration may lead to failure of integrity in VAT register. Fictional businesses may be granted VAT status and could be used for VAT fraud through generating bogus VAT credits that benefit businesses involved in the fraudulent practice. As a result, compliant business will be harmed, and tax revenues will be under collected. Using non-VAT tax registration should be sufficient for measuring speed of business entry.

**Business location.** It could be worth adding indicators measuring if firms are located in business clusters or free-trade zones (FTZ). This would allow to assess to what extent Business clusters and FTZ spur agglomeration benefits and boost firms' productivity in the formal and informal sectors (Amin and Okou 2020).

**Corporate law and starting a business.** In the starting a business indicator, there seems to be an old confusion carried over from DB. The note refers to "pay a specific minimum amount of capital" (page 11). Capital may represent a barrier to entry, but it is not an amount that is "paid" by entrepreneurs – capital represents the assets that the company has at its disposal to conduct its operations. The references to ownership restrictions are repeated in two separate paragraphs on page 11.

**Market competition.**

- While this new category is much welcome, one major practical issue is that even when entry costs are very low and market competition seems strong on the surface, entry and competition may be both undermined by other major distortions to competition, not least explicit or tacit support to SOEs or politically connected firms. Could the proposed indicators also look at market structure more specifically? (e.g. presence of incumbent SOE(s) in the market, whether that SOE is subject to level playing field or receives tacit or even explicit subsidies)
- In addition to regulations that promote fairer competition, it would be useful to include indicators on the innovative capacity of firms (Acs and Audretsch 1988, Cirera and Maloney 2017). Indicators on product quality upgrades and process innovations could shed new light on firms' ability to compete, grow and move up the value chain (Cusolito and Maloney 2018, Henn et al. 2020)

**Labor.**

- Unemployment insurance (UI) and public employment services (PES) seem to be unconditionally welcome and scored positively. Yet the literature is clear that while UI is

needed to address information asymmetries, moral hazard and cream-skimming that plague private insurance, too high and long-lasting unemployment benefits reduce employment and full income insurance cannot be optimal (for theory, see e.g. Blanchard-Tirole 2008). Therefore, “intermediate” levels of unemployment insurance are optimal, with the optimal replacement rate and duration being largely unsettled and conditional on a wide range of considerations including other institutions (for a more detailed discussion, see Duval and Loungani 2021). Therefore, it is highly unclear how to score UI in this context. Likewise, PES have proven to be helpful to enhance job matching and raise employment for disadvantaged groups if well-designed; more broadly, the literature on active labor market policies points to disappointing results, with many programs having been found to be wasteful (Crepon and van den Bergh, 2016; McKenzie, 2017). Again, how is this going to affect the scoring system? The same question holds regarding working hours flexibility: how much flexibility is optimal? (full flexibility is not, as working hours constraints alleviate non-cooperative equilibria, see e.g. Landers, Rebitzer and Taylor, 1996) How will the team score high but binding limits on daily or weekly hours vs low and non-binding limits but very large pay premium for extra hours?

- We also have concerns regarding the scoring of the employment protection legislation (EPL) part of the labor indicators. It is not just the asymmetry between EPL for temporary and permanent workers that matters, but also the sheer stance of EPL for permanent workers itself (which can encourage informality—another form of dualism—and reduce productivity, among other issues—for a discussion, see Duval and Loungani 2021). This does not seem to be reflected in the proposed indicators, which seem to focus primarily on asymmetry.

### ***Financial services.***

- Equity financing. While the three sets of proposed indicators, which relate largely to credit financing, are appropriate, there is scope to explicitly include some indicators for equity financing as well. These could cover, for instance, an assessment of the depth and availability of possible sources of public and private equity financing from non-bank financial institutions and listed and OTC market exchanges.
- Assessment of the quality of regulation for electronic payments (p.28). we strongly encourage the use of country-level data and information obtained from the World Bank’s Global Payment Systems Survey (GPSS). This would supplement the proposed data sources, which currently include expert consultations and reading of the law. Furthermore, public disclosure of annual country-level data (in addition to analysis at the regional and aggregate levels) by the World Bank would strengthen the timeliness and credibility of the indicators.
- De facto measure of green financing. Section E.a.3. on green financing is a useful add-on to the report. However, there is evidence of green-washing and that measures such as green bonds can be a poor indicator of the effectiveness of green finance. Looking at the cost of funds, and whether greener firms have access to better funding conditions, could be an alternative and more informative measure of green finance.
- Making an e-payment. The proposed indicators in this area would only capture B2B and P2B payments. Why not also capture B2G and P2G payments? The ability of firms to pay taxes

and public services seems an important dimension to capture. Moreover, given the rise of crypto assets and stablecoins and their potential use in payments, it would seem pertinent for the BEE indicators to consider payments using these vehicles as well. Relatedly, the indicator (p. 30) could be distinguished by the type of payment instrument with illustrations, including: (i) credit transfers, (ii) direct debit, (iii) card payments, (iv) and e-money payments. This would align with the Bank for International Settlement's statistical methodology for collecting payment statistics on cashless payments (excluding checks), which is also the approach adopted in the GPSS. This would replace the current four methods proposed in the note, including internet banking, mobile banking, e-money, and payment cards.

- Obtaining a loan. The note explains that as part of the information collected on this indicator the BEE will gather information on the source of financing. It would seem relevant here to ask firms to distinguish between domestic, foreign, and state-owned banks and between traditional banks, digital (or neo) banks, and fintech firms. As far as the collateral for the loan, it would seem useful to know not just whether collateral was used but also the type (movable or immovable) and percentage of the loan collateralized. Additionally, it would be helpful to comment on the impact of potential changes in financial sector regulation on indicators for assessing access to finance. For example, simplifying loan application procedures could weaken the quality of underwriting.
- Constraints informal firms face in accessing financing. It would be worth adding some indicators to measure the constraints that informal firms face to access financing. These informal firms typically lack the credit history and collateral needed to borrow from commercial banks (Nguimkeu 2014).

***Dispute resolution.*** This indicator, like the old "enforcing contracts" indicator, has direct implications for creditor rights.

- Quality of procedures: as the previous indicator in DB, the criteria for measuring the quality of procedures are very limited. For instance, the availability of preliminary measures and injunctions is not covered, and that is one of the main factors in the design of effective creditor rights enforcement.
- Methodology: the indicator will measure "judicial expertise, independence, impartiality, and transparency". The metrics and methodology for this assessment are not clear.
- Enforcement: this area does not include recent technological innovations, such as sale platforms or e-auctions, which are among the most promising developments in this area. The indicator assumes that the normal enforcement procedure is by public auction, which is not always the case. The indicator also assumes that enforcement is conducted through a full-fledged judicial enforcement procedure/litigation. It can be usefully clarified whether these indicators would take into account streamlined procedures, such as, e.g., "payment orders".
- Case study: the note suggest that a case study will still be used to measure time and cost of judicial procedures. If statistics are available, they should take precedence over case studies.

***International trade.***

- Multinational Firms. One aspect we think is missing is the regulatory framework for multinational firms and intra-firm trade. Intra-firm transactions are estimated to account for about one-third of international trade. We view that multinational firms and intra-firm trade deserve a separate treatment because the scope of regulatory framework governing them is much broader than typical international trade between firms. Some of the complexities include immigration issues for key executives, foreign investment restrictions, transfer pricing and cross-border taxes. We recommend that BEE contain a broad set of indicators to evaluate the regulatory environment specific to trade through multinational firms. These issues can also be discussed with connection to other domestic regulations, such as labor and business entry, outlined in the note.
- Software. While we understand the resource constraint to cover international trade in services, we encourage the authors to consider some aspects of it such as cross-border software purchases and subscription. The importance of international trade in software has increased substantially over the past decades due to the rise of on-demand cloud platforms and over-the-top (OTT) media. Software is also deeply connected to e-commerce. In many cases, e-commerce providers themselves offer software subscriptions. Unlike physical product transactions, cross-border software subscription is involved with much more complex issues such as copyright, country-specific licensing, and privacy protection. We view that the current framework can define e-commerce more broadly, so that the regulatory framework for e-commerce is evaluated not only on the facilitation of good transaction but also on the ease of cross-border software subscription.
- Cross-border Payments. Another issue we think deserves more attention is the facilitation of cross-border payment settlement. Cross-border payment is especially important for e-commerce because, in many developing countries, consumers have limited abilities to make online payment in foreign currency. Small and medium-sized businesses also have difficulties to set up a payment system for foreign consumers. In international trade, payment settlement poses great financial risk for business entities. We encourage the authors to include the relevant indicators as a part of evaluating the electronic systems or risk management in section b.
- Classification. We found that some of the indicator classifications outlined in the note may overlap one another. For example, "Implementation of border agency programs" looks conceptually identical to "Border agency programs" as both indicators evaluate the effectiveness of border agency. Similarly, "Risk management" and "Operationalization of risk management system" seem to overlap each other in many aspects. We encourage the authors to either merge these classifications or delineate more clearly the distinctions between them.
- Scope. While we welcome the efforts to improve the data collection methods, the scope of international trade should be clearly defined, notably on intra-customs union trade, import for transit, and trade in special economic zones (SEZ). BEE's representative-firm level survey needs clarification on what are the terms of representativeness. Furthermore, the BEE team should consider highlighting more "detected non-compliance" (something like DB2020 Question 4.9) and impact (e.g., sanctioned) around international trade. Highly compliant businesses often complain about competitors' non-compliance, which places them and new entrants in a

difficult position in the business environment and affects their trade and investment motivation.

- Quality of public services for the promotion of international trade in goods. We understand that the six components identified expand on the OECD Trade Facilitation Indicators. We wonder whether additional elements on procedures of exporting and 10 importing goods could be added. The six components broadly pertain to export/import procedures (e.g., customs/border agency programs) but it would be useful to further strengthen aspects relating export/import, in particular given that the next indicator “Efficiency of importing goods, exporting goods, and engaging in e-commerce” cover time and cost to comply with export requirements and import requirements.
- Services. We understand that BEE focuses on international trade in goods due to resources constraints. As acknowledged in the note, trade in services is an important component of international trade and we hope that indicators on international trade in services will be added at a later stage of the project.
- Additionally, we include a table that includes observations comparing DB with BEE indicators:

<b>Review Comments on the Business Enabling Environment (BEE) Indicators in the area of International Trade</b>		
<b>Doing Business – Trading across Borders</b>	<b>Business Enabling Environment Indicators – International Trade</b>	<b>Observations</b>
Trade indicator narrowly focused on the time and cost associated with the logistical process of exporting and importing goods.	<p>The trade indicator will be expanded, including an assessment whether trade regime promotes carbon footprint reduction (border carbon adjustments; tariffs on environmental goods)</p> <p>Trade indicator is supposed to capture restrictive or discriminatory measures affecting e-commerce, including taxation measures</p>	<p>No details on environmental scoring approach discussed, but main reference is Parry and others (2021) on carbon pricing.</p> <p>No details are provided, but could include rules for VAT (and customs duties) on small parcels and remotely delivered digital services as well as use of de minimis thresholds to facilitate trade. Tax and trade facilitation objectives are not necessarily aligned here.</p>
NA	Quality of regulations for international trade in goods and e-commerce (Good regulatory practices enabling international trade)	<p>This is new. And consistent with WTO Trade Facilitation Agreement (TFA). Referenced international standards should be a positive list for better accountability with wide sponsoring countries. From this perspective, regional organization’s standards may need careful examination.</p> <p>“Regulatory framework” should expand its scope to those regulating the performance of trade-</p>

Review Comments on the Business Enabling Environment (BEE) Indicators in the area of International Trade		
Doing Business – Trading across Borders	Business Enabling Environment Indicators – International Trade	Observations
		related logistic service providers (e.g., operational regulations, minimum/maximum fee policy, competition policy, service-market access, supply-demand adjustment, geographical service license, 24/7 service, etc.).
NA	<p>Quality of regulations for international trade in goods and e-commerce (Good regulatory practices enabling e-commerce)</p> <p>Quality of regulations for international trade in goods and e-commerce (Regulatory restrictions on e-commerce)</p> <p>Efficiency of importing goods (Time and cost to engage in e-commerce)</p>	Although listed under “International trade”, most of the indicators are not specific to international e-commerce trade. Also, no information is requested on low value shipment service providers’ availability and performance which may be of much relevance to e-commerce international trade.
NA	Quality of regulations for international trade in goods and e-commerce (Good regulatory practices enabling environmentally sustainable trade)	Consideration of green growth is supported, but there are no details on environmental scoring approach in BEE. “Border Carbon Adjustments” may be too premature to be an indicator as the design, implementation and effects have not been fully assessed. “Well-designed BCA” is mentioned in BEE, while what well-designed means has not yet been identified globally.
NA	Quality of regulations for international trade in goods and e-commerce (Regulatory restrictions on international trade)	Assessment of non-tariff measures (NTM) is okay but extremely difficult to measure objectively—it is difficult to measure what is “excessive”. Additionally, all NTMs have justification such as religious, moral, political concerns, human rights, animal welfare, price stabilization, competition policy, etc. BEE assessors may not be in the position to assess such justification.

<b>Review Comments on the Business Enabling Environment (BEE) Indicators in the area of International Trade</b>		
<b>Doing Business – Trading across Borders</b>	<b>Business Enabling Environment Indicators – International Trade</b>	<b>Observations</b>
NA	Quality of public services for the facilitation of international trade in goods (Transparency and availability of information)	This is new. Part of WTO TFA (Article 1).
NA (in the past DB, there was single window indicator)	Quality of public services for the facilitation of international trade in goods (Electronic systems and interoperability of services)	This is new (in the past DB, there was single window indicator, but not in DB2020.)  Usefulness of this will depend on the data type and the data source. Accessibility may be in terms of physical/ equipment/ infrastructure but also fees. It is not clear what are included in this indicator.
NA	Quality of public services for the facilitation of international trade in goods (Internal/External cooperation)	Part of WTO TFA (Article 8).
NA	Quality of public services for the facilitation of international trade in goods (Trade infrastructure)	The component will be built on LPI (quality of trade and transport infrastructure (Infrastructure)).
NA	Quality of public services for the facilitation of international trade in goods (Border agency programs)  Efficiency of importing goods (Implementation of border agency programs)	There is no information on low compliant traders who will demotivate compliant traders to do business or maintain good compliance record (DB2020 question 4.9 touches upon detected discrepancy, but no information on the consequence).
Export case study  (time and cost by workflow and by authority as well as total; number of documents, required time and cost; domestic transportation's time and cost)	Efficiency of importing goods (Time and cost to comply with export requirements)	DB scenario assures cross-countries coherence, but it may not represent exporting pattern in certain countries. Different countries have different trade patterns: change in the data collection method may present different results.

Review Comments on the Business Enabling Environment (BEE) Indicators in the area of International Trade		
Doing Business – Trading across Borders	Business Enabling Environment Indicators – International Trade	Observations
Import case study  (time and cost by workflow and by authority as well as total; number of documents, required time and cost; domestic transportation's time and cost)	Efficiency of importing goods (Time and cost to comply with import requirements)	As the External Panel Review's Report argues (pages 68-69), DB was criticized for its narrow scope of the logistic aspects relating to international trade, which is the source of majority of the cargo dwell time in the port and the trade transaction costs. Although BEE has the indicator "time and cost to comply with import/export requirements", it still appears weak on logistics in comparison to the WBG International Logistic Performance Index (LPI), which covers well issues of logistics (competence and quality of logistics services—trucking, forwarding, and customs brokerage ("Quality of logistics services") and other indicators). and BEE may be able to recycle the LPI structure and data not only on trade infrastructure (Page 35 (6)).

**Business insolvency.** In the conceptual framework (fig. 4, page 5), business insolvency is made equivalent to "closing a business". However, closing a business may include other procedures (such as voluntary liquidation and procedures before the tax authority and the commercial registry) and, conversely, business insolvency does not always result in the closure of the business. This should be recognized to avoid any confusion.

- Access to insolvency proceedings: The indicator repeats aspects of the "resolving insolvency" indicator. Regarding access, the indicator seems to analyze in detail whether debtors and creditors have access to liquidation and reorganization proceedings. The WB Principles refer to access to insolvency proceedings in general (Principle C.4.1) and the indicator does not measure how difficult it is in practice to apply for involuntary reorganization. On the other hand, the indicator does not consider relevant parts of the 6 commencement of insolvency proceedings, such as the documents, proof and standard required for commencement, and the possibility to adopt provisional measures before there is a decision on commencement.
- References to the standard: every aspect of the indicator should be anchored on specific sections of the standard, instead of using general references as in footnotes 182-184. As indicated in these comments, there are actually some discrepancies between the standard and the criteria used by the methodology to assess insolvency systems. Some points



included in the new indicator, such as “early warning systems” or the reference to “pre-insolvency procedures” do not seem anchored on the standard.

- MSEs: the report should refer to micro and small enterprises (MSEs) instead of referring to MSMEs (p. 54). The standards in this area are very clear in this regard (see WB Principle C18, see UNCITRAL guidance at [https://uncitral.un.org/sites/uncitral.un.org/files/mediadocuments/uncitral/en/part\\_5\\_en.pdf](https://uncitral.un.org/sites/uncitral.un.org/files/mediadocuments/uncitral/en/part_5_en.pdf)).
- Management of debtor’s assets: The examples probably omit inadvertently the issue of post-commencement finance, which is one of the most important points in this area. The indicator will measure “the debtor’s ability to discharge environmental liabilities, including asset retirement obligations”. Although the scope of analysis is not clear, it seems this issue is covered under the possibility of abandoning onerous property (which is connected with the discontinuation of contracts), but it is not clear whether the indicator is signaling some orientation in this area (for instance, clean-up obligations because of pollution). These issues are general environmental law issues, and the connection with the standard is not clear. It would be useful to clarify the analytical basis for the inclusion of environmental aspects in this indicator (this also applies to aspects of reorganization and ranking of claims discussed below).
- Scope of liquidation and reorganization proceedings: The title of this indicator is somewhat misleading, it should probably refer to the “operation” of reorganization and liquidation proceedings. As with the previous DB indicator, there is a reference to the participation of creditor in the sale of assets, but it is not clear whether that aspect has any foundation on the insolvency standard. As indicated in the previous point, the inclusion of environmental issues in reorganization and liquidation is more a matter of general environmental law. Most laws do not contemplate specific environmental requirements in their insolvency laws and the standard does not refer to them, as these may be unnecessary in the insolvency of most enterprises.
- Creditor participation: This indicator repeats issues that already existed in “Resolving insolvency”. Creditors’ participation in the appointment of the insolvency representative is just a possible solution under the standard, but by no means the only one. There are important aspects of the standard in this area that are not mentioned, such as creditor committees. Priorities of environmental claims can be justified but are not included in the insolvency standard.
- Insolvency administrator’s expertise: The regulation of insolvency administrators should be included in the institutional part, side by side with the analysis of the insolvency courts.
- Technological aspects: Some of the technological aspects need to be aligned with the resolving disputes indicator (for instance, electronic payment of court fees is contemplated in this indicator (page 56), but not in “resolving disputes”). The indicator does not cover developments such as remote hearings, electronic voting by creditors, platforms for the sale of businesses, etc. The reference to “interoperability of services for insolvency proceedings” is not clear (it seems to refer to insolvency registries).
- Resolving insolvency: The new index will focus only on time and cost to resolve insolvency. This leaves out the most important factor to assess the efficiency of insolvency procedures – the recovery rate for creditors. Admittedly, it is challenging to measure recovery, but it is

concerning that resolving insolvency would be measured only on the basis of time and cost. In addition, cost is measured as a percentage of debt of the company. From the point of view of the company, it is more appropriate to measure the cost as a percentage of the assets. For creditors, cost can be measured as a percentage of debt, but it is better to measure it as a percentage of recovery. The note states that there will be no standardized case for this analysis, but it is difficult to imagine the alternative, and it should be spelled out in the revised concept note.

- Intersection of labor law and insolvency: corporate reorganizations, including through the sale of business as a going concern, may require downsizing the company's work force. In these cases, it is important that adequate safeguards are put in place for employees who are made redundant. Having such rules, including as part of the insolvency framework, would facilitate business reorganizations, while ensuring adequate labor protection. Consider including this issue under one of the indicators in the labor section, e.g., the indicator on "Worker protection".
- Statistical information: The note could usefully emphasize the importance of collection of official data and statistics on insolvency and include this as an element of institutional quality. We have insisted on the importance of insolvency statistics (see <https://www.imf.org/-/media/Files/Publications/WP/2019/wp1927.ashx>). Mandating the collection of reliable data on various facets of the insolvency process should be considered "good practice" and should be encouraged, including through the BEE exercise. This also applies to the "resolving disputes" indicator. The note only refers to statistics as a corroboration mechanism (see pages 55 and 57). In general, statistics should be given preference over other sources of information. More broadly, further thought should be given to the weight given to countries official statistics in the various areas to be covered by the new BEE exercise in cases where such national official data is available. In particular, the note could usefully explain how situations would be handled where there is inconsistency in the outcomes based on the BEE methodology and those based on a country's official statistics/data.
- Indicators: The list of indicators relating to the infrastructure for insolvency processes (pp. 55-56), could usefully consider adding a fourth one, which would relate to government implicit guarantees for systemic or state-owned enterprises.

**Gender.** The note mentions on page 3 that the BEE will not cover "gender". Since the BEE will address labor issues and all genders are included in the labor-force, please clarify if this means it will not directly address gender inequality. Also, in the first paragraph of page 22, it notes that laws preventing discrimination in employment are important to ensure an inclusive environment. Will laws that prevent gender discrimination not be included as best practices? While we understand that there are other resources that focus on gender inequality, excluding it from this may create a gap.

## **Environment**

The addition is welcome, but should the dimension be restricted only to local pollution issues? If not, small/negligible greenhouse gas emitters be at least treated differently from large systemic ones?

#### ***Other comments:***

**The authors should consider discussing the challenges that might arise if indicators used to assess the business environment were also used as targets by the authorities.** As per Goodhart's law, a measure becomes less effective as soon as it starts being used as a target. The Doing Business Indicators suffered from this shortcoming and there is a risk that the "Business Enabling Environment" would go the same route. Goodhart's Law kicks in when governments want to improve their BEE scores and start targeting these proxies which then, potentially, cease to be good indicators of the actual BEE. This could be mitigated by thinking of ways to replace proxies over time.

**The note could benefit from expanding the discussion on "Data Integrity and Transparency" (page 4) in particular by elaborating on how the GIA recommendations would be updated and expanded.** The note highlights the importance of ensuring data integrity and transparency but does not sufficiently explain how this will be achieved other than stating that the GIA Recommendations will be updated and expanded. As the proposed BEE framework differs from the previous DB in several aspects (as specified in Appendix I.), it would be helpful to elaborate on how the GIA recommendations would apply to the proposed BEE. For instance, the proposed BEE framework entails a more structured approach to the components of each indicator and data collection methods, including expert consultations, firm-level surveys and case studies. The GIA report notes that under the DB framework the standards and processes for handling data were not comprehensively defined and documented which may have resulted in the production of DB reports inappropriately open to judgement. It would therefore be beneficial to establish tailored standards and processes for different types of data under the proposed BEE framework.

**On page 24, reference should be to "IMF staff" research.** The paper referenced in the paragraph (see footnote 73) is a Working Paper, and the views expressed in IMF Working Papers are those of the author(s) and do not necessarily represent the views of the IMF, its Executive Board, or IMF management. Likewise, in footnotes 117 and 123, please replace "IMF" with "IMF Working Paper WP/17/95." We suggest double check all references to ensure that IMF staff's views are not inadvertently presented as IMF's views.

#### ***Minor/Editorial comments:***

- Streamlining and clarifying section I.C.
  - The first and second paragraph are redundant.
  - It is unclear what Figure 1 shows and what the arrows and the circles mean. It could be removed.

- The paragraph states that there are two purposes to the report: a) advocate policy reform and b) inform specific policy advice. It is unclear what the difference between these two purposes is.
- Figure 2: it is unclear what the value-added of the figure is; in addition, the amount of information on the graph should be reduced, and the title should be shortened.
- Section I.E., “strike better balances” should be replaced with “strike a better balance.” The authors should also say *between* what and what.
- Table 1 misses several lines.
- The hyperlink at the bottom of page 28 is broken.

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## Comments from European Commission

Dear Albert,

Sorry for sending our feedback with a bit of delay, but here it is.

We are in general happy to see that your work is finding a new course (also happy for us, as we used several indicators in our analysis of MS policies for SMEs) and we support several of the changes proposed.

More in detail:

- We fully agree with the inclusion of **digitalisation and environmental sustainability** as cross-cutting themes. From our SME survey, we understand that *availability of support* for these two cross cutting topics is key alongside regulation.
- We also support the inclusion in certain topics of the existence and functioning of dispute resolution mechanisms.
- We support the new coverage (“preferably as wide as possible regarding country and within-country coverage”, not anymore limited to the main business city and in some cases the second largest business city).
- We support the use of firm-level surveys and we understand the need to only update them every three years. We wonder if it would make sense to keep one group of companies as a standing sample (surveyed every three years).
- We do understand the call of the expert panel to include indicators for a foreign-owned firm. Mind that for instance there are economic blocs where there is a concerted effort to smoothen the differences between the experience of a domestic firm and of a non-domestic (but from the bloc, in our case the EU) one. So, it might matter where the non-domestic firm comes from and also what is its size (the latter at least for the *de facto* experience). For the latter, language for instance can be a barrier as well as administrative barriers.
- **Business entry** - Availability of company information online and transparency of information: fees for access to information that is available in business registries should be included. We also suggest to include the possibility for a self-employed/entrepreneur to have access to social protection systems.
- **Business location - Efficiency of key services in getting a business location**: permits to renovate a building to make it more energy efficient or to install solar panels (or other renewables) could be singled out. In the EU the speed of those permits is considered key for the green transition.
- **Utility connections** – with a changed title it could usefully cover the availability of waste collection, recycling or treatment to re-enter in the economy and disposal (all of which need in principle a permit, at least in the EU). Full support for the inclusion of redress mechanisms as well as the transparency on tariffs. Ease of switching utility operators should be included.
- **Labour** – Fully agree with re-including **labour** in BEE topics. But the indicator as described now seem not well balanced between employer and worker (especially the unemployed part). Availability of the skills needed (covering also management), government facilitation in hiring (also through VISA rules), keeping (for instance overall taxation of benefits) and further developing the skills of human resources, possibility to provide flexibility that meets both the worker and the employer needs (such as teleworking, non-standard contracts), etc. are current priorities for SMEs. Of course there are also the more traditional labour regulations, but they are not the only piece of the puzzle (among those for instance we would include obligations on information and consultation of workers, and trade unions representation). We wonder whether covering public employment services is really effective, especially in developed countries where private alternatives are available. Instead, we would propose to focus the attention on the availability of skills, for instance on the existence of programs of

formal education providing job experience in firms, or of hiring contracts that cater for initial training periods, or taxation that supports the training of employees by firms. Regarding workers and self-employed social protection, a useful reference in the EU is this one [Access to social protection - Employment, Social Affairs & Inclusion - European Commission \(europa.eu\)](https://ec.europa.eu/economic-affairs/employment-social-affairs-inclusion/).

- **Financial services:** we support the inclusion of e-payments and especially the related aspects on (iii) transparency of fees, terms, and conditions and (iv) availability of solid recourse and dispute resolution mechanism as well as the de facto element of time and cost for the full transaction.
- **Taxation:** useful insights could come from EC [studies](#) on taxation and SMEs. For *de facto* total tax and contribution rate, the size of company can matter. Would the final score be a result of the weight of the different company size groups in a country?
- We support the assessment of “whether authorities conduct regulatory impact assessments and public consultation for all new regulations, including environmental taxation.” falls under this topic. Despite not clear why this falls under taxation, we would support the **explicit inclusion of assessment of the impacts on SMEs**.
- **Dispute resolution:** we fully support the inclusion of both in-court processes and alternative dispute resolution (ADR) mechanisms. On page 46 we find that “firms that have not had relevant experience (of the justice system) will be excluded from the sample”, while including a small sample of those would tell why they did not resort to it, which is an obstacle in itself. On page 47, we find that size and ownership matter in a litigation process, therefore assumptions should be made for the case study.
- **Market competition:**
  - we fully support the inclusion of this topic and its dual aspects of competition and bidding for public contracts. For the latter, we have doubts about restricting data collection to the three largest purchasers of the federal/central government, as it would likely not be representative of SME bidding, of how widespread is the use of e-procurement or of the time to award a public contract or to pay governments contractors. We would suggest instead to choose three types of procurement (works, goods, a non-work service -such as waste collection and treatment or an IT service, to keep with the two cross-cutting themes).
  - It is not clear if non-domestic companies will be included in the firm level survey.
  - We think that market competition should include indicators on **unfair B2B practices and -more general- on payment time in B2B transactions** (see our last bullet point below).
  - **Quality of regulations for bidding for public contracts** – there are important aspects that can influence the direct (economic thresholds, the possibility to participate in consortia, IT-related criteria such as e-invoicing or e-signature/identity) or indirect (possibility to subcontract and related conditions, also regarding payment timing) access of SMEs to public procurement. We can have an exchange on these aspects.
  - Indicator “**Time to award a public contract**” should include the time that bidders have at their disposal to challenge the awarding decision.
  - Administrative burden can be an element that prevent SMEs from bidding. Only considering “time” is incomplete. We would suggest to add an indicator on the administrative cost of bidding (only bidding).
  - Indicator “**Time to pay government contractors**”: we fully support the inclusion of this indicator. We support the use of firm-level surveys for this indicator, but it is not clear if it is linked to the three largest purchasers (see comments above).
  - We very much welcome the addition of the indicator “Operationalization of credit bureau” under “Quality of reporting framework”. This is also very important to assess the health of the payment environment and framework conditions that are conducive to prompt payment. We would emphasise however the need to assess the ease of access of businesses ( and especially SMEs) to this information.
- On the “Quality of regulations that promote market competition” and also on “Dispute resolutions” we would underline the need to monitor protection of **anonymity** (maybe also whistle blowing). This is very much needed to address the issue of unfair business practices and especially unfair payment practices in B2B.
- **Business insolvency** – we welcome the inclusion of new aspects of pre-insolvency proceedings, specialized proceedings for micro and small enterprises and availability of early warning tools.
- Other aspects that are missing or could be better exploited:



- **Fairness for SMEs in B2B relations** (in the EU we have for instance the late payment directive, the platform to business regulation, the unfair trading practices in the agri food supply chain, recent data act proposal, etc.). As the expert panel review recommend to bring in indicators that not only look at domestic SMEs but also at more “international” firms, this is also an aspect that matters for MNEs.
- **Frequency and cost of controls** to check that a company complies with some specific legislative obligations and possibility for the firm to lower that frequency (if it holds a private certification with third party audit, if last checks have been positive, etc.). We find it in the taxation topic, but not in others.

We hope this is useful.

Michela, Antonella and colleagues from the SME Unit

### iii. Think Tanks

## Comments from Center for Economic and Social Development (CESD)

1. Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?

It can be noted that these are the widely acknowledged procedures employed by the World Bank and can be well applied to the analysis with high level of adequacy. On the other hand, certain criteria out of all can be applied to certain countries. Cultural factors can be taken into account as business culture are different in countries. Super functioning systems can not applied directly to developing countries since they are in formulation stage in some aspects and can not assimilate directly the already developed models.

2. Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?

On the other hand, certain criteria out of all can be applied to certain countries. Cultural factors can be taken into account as business culture are different in countries. Super functioning systems can not applied directly to developing countries since they are in formulation stage in some aspects and can not assimilate directly the already developed models.

3. Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development

The right balance is followed between the quality of regulations and the provision of public services. The same approach should be followed in other aspects so that no any criteria prevails over another

4.Does the BEE project get the balance right between *de jure* and *de facto* indicators

The right balance is followed between *de jure* and *de facto* indicators.

5. Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?6.Do you have any other general feedback?

In addition, it can be told that cultural, institutional, geographical, regional, developmental variety among the countries need to be taken into account as business profitability can be affected by different factor in different regions under different circumstances.

## Comments from Asociación de Investigación y Estudios Sociales (ASIES)

1. Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?

I think they are adequate. Perhaps it would be useful expanding on the differences between "basic" aspects and those that may be considered "advanced changes", considering advanced changes are only obtained after the basic pillars are archived.

The first ("basic") priorities should include the rule of law and rule compliance, as well as its abstract, general and impersonal characteristics. This could enhance the usefulness of the diagnosis as a tool to structure public policy reforms.

Considero que son adecuados. Quizá se podría explicar y hacer una separación entre los aspectos "básicos" y aquellos que puedan considerarse "cambios avanzados"; siendo estos últimos los que se alcanzan solo cuando ya se cuenta con los pilares básicos principales.

El concepto de cumplimiento de la ley y la generalidad, abstracción e impersonalidad de esta, por ejemplo, deberían ser las prioridades iniciales. Esto podría robustecer la utilidad del diagnóstico en su sentido de servir como herramienta para estructurar cambios, reformas y políticas públicas.

2. Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?

Although the document says that democratic institutions is a topic addressed in indices other than the BEE, it is still relevant to consider within the BEE the relation that exists between institutions -particularly congress and political parties- and the likelihood of establishing the stated public policy reforms.

Further emphasis should be made on the processes of implementing policy changes. This would help analysts of the report to internalize the difficulties of successfully establishing public policy reforms.

Aunque el documento lo menciona como un asunto que se trata en análisis distintos al BEE, sería relevante mencionar la relación de las instituciones democráticas, en especial el Congreso y los partidos políticos, con la posibilidad de que se logren cambios o políticas públicas como las que se señalarán en el informe.

A su vez, sería útil que se mencione la relevancia de la forma y proceso de implementación de las recomendaciones y cambios. Esto para que los distintos grupos que vean el estudio tomen mayor conciencia del peso que tiene el proceso de puesta en marcha en el éxito de una reforma o política pública.

3. Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?

Although the document says that human capital topics are treated upon in other studies, the BEE should still consider and identify the priorities in human capital, such as public health -and, in Guatemala's case, malnutrition and stunted growth-.

Aunque el documento también señala que la parte de capital humano se trata en otros estudios, no puede dejar de mencionarse aspectos clave de salud (para el caso de GT, sin duda, la malnutrición)

4. Does the BEE project get the balance right between *de jure* and *de facto* indicators?

I think the balance is adequate. However, mentioning the struggle many counties have to face in order to obtain reliable public data, would be valuable for many southern countries. The section for *de facto* indicators is very important. It could also include reports on the quantity and quality of available -and useful- information in each country, in order to evidence and emphasize if more government and private efforts are needed in this area.

Considero que sí. A su vez, para el caso de muchos países sería valioso que el documento aborde la dificultad de obtener data pública confiable. El apartado de indicadores *de facto* será muy importante. Aquí también se podría reportar sobre la cantidad y calidad de la información que se encuentra por país, para así ayudar a evidenciar con mayor precisión si en este aspecto también se necesitan mayores esfuerzos del gobierno y del sector privado local.

5. Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?



1. en "*Indicators in the area of financial services*" se plantean algunos indicadores importantes; sin embargo, se quedan dentro de la esfera de la banca formal. Sería importante incorporar algo sobre Shadow banking, que en el caso de Guatemala, implicaría evaluar temas de acceso a recursos de otro tipo como el de otros proveedores de recursos, incluyendo agiotistas y usureros.

Several important indicators are identified in "*Indicators in the area of financial services*". However, they remain within the formal banking system; in that regard, it would be useful mentioning shadow banking indicators, for in Guatemala's case they involves access to alternative money resources and a set of different credit providers (like moneylenders, loaners and usurers).

2. otro aspecto importante que no se toma en cuenta es la dificultad de muchas empresas informales para volverse formales, por carecer de una contabilidad. En ese sentido sería importante tener un indicador que pudiera medir la dificultad de que una empresa pueda implementar un sistema básico de contabilidad.

Another important aspect that may be missing from this document is the struggles informal enterprises face to enter legality, particularly for lacking proper accounting information. An indicator that measures the difficulties an enterprise faces to implement a basic functional accounting system may be useful.

## 6. Do you have any other general feedback?

The section on quality of regulatory systems is very positive. Evaluating in more detail the set of rules and regulations that affect an enterprise and the scope they affect should be a valuable addition to the analysis. It would allow think tanks and other groups in society to support their contributions and to evaluate the viability of their proposals.

Llama positivamente la atención el agregado general de la calidad del sistema regulatorio. Hablar con profundidad del set de reglas que afectan la vida de una empresa y entender el alcance de esta afectación será un

aporte valioso. Esto permitirá a los centros de pensamiento y a diversos grupos de la sociedad para respaldar sus aportes y propuestas.

Comments from Centre for Public Policy PROVIDUS

Page in the draft	Topic/issue	Providus' suggestion
14	Good regulatory practices for building regulations (safety)	It is very important to assess the quality of construction works not only in the preparation phase (when the construction has not yet started), but also while construction process is ongoing. In particular, it is important to mandate that construction supervisors should be independent and qualified, as well to ensure that supervision/monitoring is conducted effectively, not pro forma. In Latvia historically "Doing business" index was used as a justification to not impose such kind of supervision (as quality supervision over building process might lengthen the process of construction and increase costs).
15	Availability of online services for building permits	It's important not only have an online building permit system, but to ensure that it is functional, easy to use and contain all the relevant information (such as the construction stage of a building – changes in the construction project, its scale, etc). Otherwise, sometimes, and Latvia is a good example in this matter – online database might make the building system LESS transparent rather than more transparent. To be sure that online services achieves their objective, Providus suggests to assess the quality of IT solutions by some indicators : 1) the usability of IT solutions - is IT systems user friendly and easy usable, is it easy to find information on issued building permits, is it easy to understand the phase of ongoing construction process, etc , 2)the effectiveness of IT system - what kind of information is available for public use and registered user, is it possible to obtain information regarding changes in main documents - changes in the extent of construction works, changes in construction plans, etc.
13-16	Public engagement in zoning and construction decisions	<p>Currently nothing is said about the public engagement in construction process. To ensure the quality of construction process and to avoid or to reduce risks that building permission is appealed in the court and the construction process is suspended, it is very important to assess the quality of public participation in construction process. Providus suggest adding provided indicators with additional indicator "The level of public participation".</p> <p><b>The level of public participation</b> - this indicator assess the effectiveness and quality of public participation. It is important to involve public (neighbors, wider society, non-governmental organizations) in discussion on</p>

		<p>construction works in an early stage of the decision-making process, therefore it is important to measure if there are any legal requirements on cases when it's mandatory to organize public discussion on building permits, what are requirements for public participation. In addition, it would assess the participatory methods that can be used to involve public in decision-making process (interviews, events, surveys, meetings, workshops) and the degree of participation (participation with no involvement, active involvement to propose changes, etc.). It would also assess tasks and responsibilities of main stakeholders to organize public participation process.</p>
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For further information about these suggestions, please contact Agnese Fridenberga, senior researcher of Centre for Public Policy PROVIDUS.  
Agnese.fridenberga@providus.lv

Comments from Institute of World Economics,  
Centre for Economic and Regional Studies

## Opinions on the Pre-Concept Note: Business Enabling Environment (BEE)

by

*research staff of the Institute of World Economics, Centre for Economic and Regional Studies,  
Hungary*

We believe that it is very laudable that the newly proposed Business Enabling Environment Project aims to be more ESG-friendly than the defunct Doing Business Index. This way, the countries monitored will be better prompted to follow the Sustainable Development Goals. The real issue is if the authors wish to re-create a composite index with a ranking of countries. Our fear is that in that case it will re-establish the unhealthy competitive spirit created by the Doing Business rankings.

- In replacement of the Doing Business Units, Government will establish their 'Business Enabling Environment Units' that will develop work plans to outcompete others and move up the ladder, instead of prioritizing the most salient development needs that do not figure or not prominently in the new index.
- There may also be major countries that put pressure on the gatekeepers of the index to show them in a better light than in the reality (just as China did in the last period of Doing Business).

Alas we do not have a ready-made counterproposal for another, better system; perhaps an inventory of 'best practices' and bonuses for major reforms. In any case, the harmful competitive spiral coded in the Doing Business index should not be re-created.

A few further observations to the overall approach and the indicators:

Page 3 - Regulatory framework and business services are good as a basis. (However, the excluded elements, e.g., macroeconomic conditions, corruption etc.) may be very important, sometimes even more important than these two pillars. Furthermore, the two pillars are not independent of the macroeconomic conditions.

Page 3 - Change in the approach is welcome, especially paying attention to not only de jure but also de facto data. Enforcement is a basic issue here.

Page 6 - "Indicators should be quantifiable, based on primary data, and actionable" This approach is correct, however, the Doing Business index demonstrated, how countries could "hack" these indicators through targeted action. This should be considered when the indicators are selected.

Page 9 - In case of "2. Indicators in the area of business entry", (b) "the digital services and transparency of information for business start-ups (public services pillar)" - what about countries, where the level of digitalisation is low? There, having a high level of digital services or having just or mainly digital services

without in-person services may be counterproductive, thus the digitalisation pillar should be assessed in the light of the overall level of use and spread of digitalisation in the given economy (and this goes for the various pillars/indicators as well).

Page 16 - From Doing Business index, one element, which could be “hacked” by governments is Time and cost to obtain building-related permits – this can be reduced substantially through targeted action, while other elements of the business environment may remain deterrent for private business; similar can be the case for Time and cost to obtain environment-related permits (and here, corruption may play a role as well)

Page 21 - We are glad to see that "Time & Cost to obtain electricity, water, and internet connections" is supplemented by "Reliability of electricity, water, and internet services" Here, as regards internet connection, even other measures could be used, such as the lower than promised internet signals.

Page 30 - Obtaining a loan may be influenced by the interest rate policy/macroeconomic environment of the country in question.

Page 36 - Taxation – introduction of the global minimum tax and its consequences should be taken into account (in spite of the fact that it affects mainly large businesses).

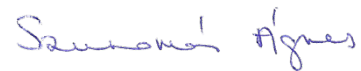
Page 40 - We consider the use of effective tax rates as a good choice.

Page 51 - Another relevant de facto indicator could be: public procurements with one participant.



Magdolna Sass

director, IWE CERS



Agnes Szunomar

head of Research Group on Development Economics



## Comments from African Center for Economic Transformation (ACET)

## **ACET feedback on Pre-Concept Note for the World Bank - Business Enabling Environment (BEE)**

Overall, the proposed BEE looks robust and has retained most of the strengths of DB which is excellent. It is more objective since a lot of the indicators are based on quantifiable indicators. It takes into consideration the environmental issues affecting private sector development as a whole and prioritizes the provision of public services. This helps to distinguish BEE from other indices such as WEF's World Competitiveness Report. BEE also minimizes the use of case studies, and the application of broad indicators provides a more representative assessment of the business environment.

A few points for consideration:

### **a. Data collection approach:**

- a. With regards the expert consultations, how will the experts be selected? How will expert feedback be weighed against firm level surveys?
- b. Page 60 notes that indicators based on expert consultations will be updated annually but those based on firm level will be staggered for example, every 3 years. How will this affect annual aggregations and possible rankings since by implication not every indicator will be available or included in the annual published data.
- c. Ease of entry and exit is key for businesses but the proposed approach of relying on expert consultations and case studies risks undermining the quality of data seen in DB. Both approaches are more prone to bias. Under the "Business Entry – Efficiency of business entry" –such an indicator could easily be incorporated in the firm level survey for a more robust indicator. It could target firms in the sample that are less than a year old. The broader question however is, what informed the choice of data collection approach for each indicator?
- d. The sampling approach for firm-level surveys should have ownership further disaggregated by age and sex. The business environment faced by young entrepreneurs (18-25 and 26-35) is often different and necessary to be captured.

### **b. Aggregation of scores:**

- a. There is no indication of how the scores will be aggregated. There is a need to find an approach that minimizes distortions (e.g., mean vs median, arithmetic vs geometric mean).
- b. On using quantifiable indicators, a major concern will be the lack of data or incomplete data especially in developing countries. What happens in such cases? E.g., in the case of incomplete data, will there be data interpolation?
- c. It is not clear how defacto and de jure data will be weighted – for transparency this should be made clearer.

### **c. Indicators worth considering:**

- a. The exclusion of gender disaggregated data will weaken BEE given its critical importance to private sector development in most MICs and LMICs. A gender-neutral approach will undermine the robustness and effectiveness of BEE
- b. Business support services – for small businesses, this indicator could look at the availability of services for startups and MSMEs including: (a) Research & Development i.e. technical expertise for prototyping, manufacturing, scientific research, etc; (b) business commercialization; and (c) market research and data

- c. Intellectual property -companies developing new products may be concerned about the robustness of a country's IP regime
- d. **Ranking of countries:** The survey talks about country comparisons – but it is not clear if the ranking will be retained or not. More clarification needed on what they mean by “Hype around rankings will be avoided - Page 60”.
- e. **Comparison with DB:** It will be useful to have a matrix that gives clarity on what the DB was doing and how the BEE builds on it.

## Comments from Botswana Institute for Development Policy Analysis (BIDP)

Botswana Institute for Development Policy Analysis  
Feedback on the Business Enabling Environment Pre-Concept Note

**Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?**

- The concept note is silent on issues of productivity and human capital and/or education; which are some of the main factors that influence private sector development. A thematic area on Human Capital could be included to cover such, with indicators on the quality of regulations for college/course accreditations and issues of skills mismatch. The topic could also measure quality of public services in relation to availability of information (online courses, short term business training).
- Interplay of International Trade thematic area with Domestic Market Access; with possible indicators on Quality of regulatory frameworks on public procurement etc.
- Given that some countries rely on imported inputs for production, perhaps the international trade thematic area could also make emphasis on access to raw materials or inputs especially under the indicator of public services for facilitating international trade (import tariffs) as well as efficiency of importing.
- Include Quality of ICT infrastructure as one of the measures of Quality of Public Services for facilitation of e-commerce.
- Also include Access to and Usage of ICTs as a measure of efficiency of e-commerce (especially important for developing countries).
- Under Financial Services, it is pertinent to highlight (in addition to green financing) regulatory indicators for obtaining general business financing. Some countries are still developing and obtaining a simple business loan is still a challenge for their firms. Regulations in place could ease access to such services.

## Comments from the Economist Intelligence Unit

## Consultation for the Business Enabling Environment Project

Information: <https://www.worldbank.org/en/programs/business-enabling-environment>

Submission link: <https://consultations.worldbank.org/form/business-enabling-environment-co>

### ***Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?***

We are pleased to see the addition of more structural information around the topics/themes, including the cross-cutting themes of environmental sustainability and adoption of digital technologies, both of which have clear relevance to understanding the business environment today, and its trajectory over time. Discussion around these two cross-cutting themes, however, should be explicit in that they are a lens for categorising the relevant BEE topics (e.g. labour and taxation) and may not necessarily comprise an exhaustive framework of indicators to understand environmentally sustainable private sector development, for example, which may require additional indicators to those included in the BEE framework.

### ***Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?***

The topic areas covered in the BEE project broadly cover the different components of the enabling environment relevant for private sector development. While the pre-concept note states that macroeconomic data/factors will not be taken into account, without some indicators that provide context on politics and the macroeconomy, it may be hard to get a complete picture of a country's business environment, as these factors both directly and indirectly impact the operating environment for the private sector. If not included directly in the BEE, it would be beneficial to consider these types of metrics and the impact they have on the business environment (as measured through the BEE indicators) in the annual report and related products.

### ***Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?***

The detailed list of preliminary BEE topics and indicators in Appendix II presents a good balance between the quality of regulations and the provision of public services. Each topic area contains a balance of regulatory assessment, services provision and overall efficiency, which presents a well-rounded picture of each theme. In the final data product, it would be useful to researchers to be able to filter or disaggregate by regulatory quality vs public services provision to better understand the potential strengths and gaps within each country.

### ***Does the BEE project get the balance right between de jure and de facto indicators?***

The detailed list of preliminary BEE topics and indicators in Appendix II presents a good balance between de jure and de facto indicators. We are pleased to see the inclusion of firm-level surveys for each topic in the 'operating a business' stage, as this will provide useful information to understand how the regulatory environment does or does not contribute to a positive business environment for firms directly. The distinction between de jure and de facto indicators in the framework will help to identify the effective policy levers countries can use to foster a positive business environment and where there are gaps in the translation of regulations and policy to the actual business environment firms experience.

***Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?***

See above.

***Do you have any other general feedback?***

Section III offers a balanced discussion about the tradeoffs in using expert consultations alongside firm-level surveys, and there is valuable information to be gleaned from both forms of input. It would be both a huge nod to transparency and a significant value-add to researchers if the final scores could be labelled or disaggregated by source of input, i.e. surveys versus expert consultation.

As a means to improve transparency, replicability and credibility of the future BEE indicators, we would recommend that individual indicators leverage a binary (or similarly clear) scoring approach to the extent possible. Binary scoring (Yes/No) produces less subjective scores compared to other forms of qualitative scoring (e.g. Likert scale questions), and makes the data more easily interpretable for the end-user. Straightforward scoring of indicators also allows for clearer pathways to provide policy advice and advocacy: it allows countries to identify the clear, incremental steps they can take to implement new regulations or provide public services that would have a relevant impact on the overall business environment. Relatedly, this type of approach would also allow for a clearer understanding of which indicators are directly measuring critical elements, and which serve as proxies. Absolute clarity on that makes it easier for researchers to utilise and interpret the indicators.



## Comments from Pacific Islands Forum Secretariat

## **Pre-Concept on the Business Enabling Environment**

Preliminary commentary from the Pacific Islands Forum Secretariat

March 2022

Responses and commentary are based on the guiding questions below:

*A. Are the issues included in the BEE project relevant for private sector development and is the overall design adequate?*

1. The issues covered in the BEE project are most definitely relevant for private sector development and contextualising from both individual firm (level) and as a private sector collective is indeed most welcome. BEE focusing on quality of the regulations for international trade in goods, e-commerce and environmentally sustainable trade, etc. and the measurement of the impact of such indicators, and the combination of the other aspects (quality of regulations, etc.) would allow for better identification of bottle necks and necessary reforms. The pre-concept with the criteria and indicators as explained are sound.

2. Whilst the scope expands or is refined in some instances on those previously covered in the *Doing Business*, the introduction of market competition indicators is a welcome addition, and that of the cross-cutting themes - digital technologies and environmental sustainability. Private sector has faced the brunt of the pandemic and trying to remain open by shifting their business interface online. This has forced a greater uptake and adoption of digitalization and doing business online and ecommerce but supporting regulatory frameworks and infrastructure have not quite kept up at the same pace.

3. For the Pacific these two are significant focus areas in our regional policies, and particularly so in the *2050 Strategy for the Blue Pacific Continent*, the *Framework for Resilient Development in the Pacific*, and the *Pacific Aid for Trade Strategy*.

4. Fundamental for businesses, is keeping costs down but these remain challenging given that Pacific countries generally ranked poorly in the (former) *Doing Business* rankings. Whilst this may not be a perfect barometer it did highlight and remind the region of the fragility and the interconnectedness of the Pacific's small markets and remoteness. Further, it highlighted the toll and impact on the public finances of the Pacific from climate induced disasters and other crises (such as the pandemic). The indicators on financial services and e-payments and green financing clearly supporting this.

5. As the Pacific embarks on developing its Regional Private Sector Strategy, the BEE and compilations to come will be of great resource to support and complement the Strategy development and implementation. Leveraging off e-commerce means overcoming distance and cost and provides a cost-effective platform for Pacific businesses to expand their global market reach and realise the untapped potential. E-commerce is a priority for the region under the Pacific Aid for Trade Strategy, noting its potential to narrow distances and trade costs, and to promote diversification of Pacific economies. In this COVID-19 era, digital trade has become even more important, given its ability to sustain economic activity whilst preserving social distancing.

6. The overall design has captured multiple levels of checks and balances and the references for safeguarding data, protocols clearly reaffirm the credibility of the BEE. This wide and extensive consultation and the transparent nature of it exemplifies the innovative and inclusive approach that ultimately is needed to impact and influence policy reforms so that SMEs and the broader private sector can grow and thrive.

*B. Are there any important issues that the BEE project is not considering which should be included within the context of private sector development?*

7. The best practice approach to extend the use of case studies (a strong feature of DB which will remain in some part) to enhance comparability of data is encouraging and practical way forward and particularly so for small economies/small island developing states.

8. A great part of this is also hinged on the *de jure* and *de facto* indicators. Perfect and agreeable policies can be developed and endorsed but the realities and practicalities when comes to implementation & practice, resourcing and compliance can be stumbling blocks particularly so for MSMEs. The latter must be consulted from the beginning of all the process of development any regulatory framework.

9. Businesses will welcome the business surveys which are essential to triangulate *de jure* and *de facto* data and findings as private sector appreciate consistency and predictability. Therefore, consistent timing for deployment of such surveys and timeliness of results is key.

*C. Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development?*

10. No doubt quality of regulations and the provision of public services for private sector development are entwined and the *de jure* and *de facto* indicators are critical. Again, reflecting on the complementarity and adequate resourcing to support the quality regulations with public service infrastructure – the latter encompassing capacities and capabilities, technology, ability to support compliance at the pace of business.

*D. Does the BEE project get the balance right between de jure and de facto indicators?*

11. Refer to question B above.

*E. Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)?*

12. **Business locations:** the pandemic has thrust employers to look at business models and the changing place of work (for example remote working, flexi arrangements) and this is a timely analysis and set of indicators to intrinsically look at location in a supply chain and value chain *modus operandi*. This potentially linking to the indicators on labour and workplace issues.

13. This indicator has to also strike that balance between the quality of regulations and the provision of public services for private sector development because while in these instances the best practice may point to more electronic means and delivery, the reality on the ground (especially in developing countries) can be very different and instead of bridging the gap, this can potentially “leave people behind.”

14. Location specifics and ownership issues is mentioned but no specifics around land tenures, and land policies and legislation and impacts to business.

15. **Utilities:** *Doing Business* only captured electricity, so the inclusion of water and internet is very welcomed. That internet utilities expand to cover ICTs in general (including telephony and mobile telephony to remain) so that costs associated to hardware, software and broad spectrum of ICT services and paraphernalia are captured. Utilising and investing in “internet” covers access, and other costs.

16. Being mindful that consideration of the utilities sector also involve States Own Enterprises as opposed to truly private operators and other modalities, and particularly so in very small markets. Or how does this link and or support indicators promoted in market competition to promote business competitiveness; or to empower private sector in such traditional public service delivery areas.

17. **Labour:** firms/private sector views in this area as employers is key, those of labour entities (and service standard) and the attention to employees and social protection efforts.

18. **Consideration** for productivity: noting that low productivity is one of the root causes of the “working poor” phenomenon as people who work long hours, often in the informal economy or in subsistence agriculture for instance.

19. Re-investing, process innovations, plant and equipment improvements (how affects labour), and measures to enhance the skills and improve the work environment of the workforce. How can productivity gains be equitably shared between business owners and investors and workers (higher wages and better working conditions) and policies to support/promote this?

20. Other considerations: (i) labour mobility and (ii) gender/women at the workplace.

21. **Financial Services:** Indicators noted are those critical to the private sector – e-payments, financing (including green financing) and ease of receiving financial services (e.g. loans).

22. For private sector that there are serious challenges in sustaining financial services along supply chains, and moreso when trying to access commercial finance. Legal and regulatory framework remains relatively under-developed and so insurance scheme for private sector, leasing are either unavailable or not sufficient and still affects MSMEs abilities to access finance.

23. Stakeholders to be included as experts - Valuers or their industry body (Valuation Associations)?

24. **International Trade:** Considerations for the inclusion of quality infrastructure (standards, quality promotion, testing, conformity assessment metrology, etc.) and its impacts on private sector development.

25. Trade liberalisation in particular, can cause inequality in the private sector, so adaptation measures are required and must be accounted for to ensure that the liberalised sectors/technologies can take advantage of the potential that trade presents.

26. Consideration for measurement to incorporate the relevant indicators so that it can assess and analyse the sustainability in both intra and extra-regional trade and regional economic integration. The performance of trade agreements that also reviews whether the agreements have been designed in a more inclusive manner which contribute private sector and that the latter has been involved in the table of negotiation.

*F. Do you have any other general feedback?*

27. Need to ensure that in-country institutional capacity for the BEE is strengthened, supported. For example provide training to the relevant organisations to ensure the submission of data to regularly update BEE system, or contribute to this work. Also supports data collection efforts, maintenance, and development of national statistical offices in countries,

28. How to adopt a realistic and adequate design (in reporting perhaps) on outcomes and impact noting the realities and stages of private sector (diversity and characteristics – from informal, micro, SME, large corporations, SOEs etc.) in countries (and stages of development).

End

## iv. Experts



Bayreuth, 06 March 2022

**Comments on the section on Business Insolvency**  
in the  
**Word Bank Group Pre-Concept Note**  
**Business Enabling Environment (BEE)**

**1. Motivation**

The motivation summarises the importance and role of an efficient insolvency framework very well.

**2. Indicators in the area of Business Insolvency**

The breakdown into different pillars is appropriate to structure the assessment. The three pillars chosen (quality of regulations, quality of institutional and operational infrastructure, ease to resolve an insolvency judicial proceeding) are suitable.

As regards the various indicators, I would like to comment in particular on the following points with respect to the pillar “(a) quality of regulations for insolvency proceedings”:

- *Indicator (3): scope of liquidation and reorganization proceedings*

The pre-concept note sets out that this indicator will also measure “whether the reorganization plan and liquidation proceedings must address environmental issues and ensure compliance with environmental law.”

On the one hand, one may raise the question whether this can and should really be deemed to be a characteristic of efficient insolvency proceedings. Naturally, any insolvency proceedings must comply with any relevant rules and regulations (including environmental law). However, protecting the environment is not the genuine purpose of insolvency law, but of environmental law.

On the other hand, if one would like to define the purpose of insolvency law in broader terms, one would have to ask why indicator (3) is limited to environmental issues and does not extend also to other ESG aspects.

- *Indicator (4): creditor participation*

The pre-concept note specifies that this indicator will include “any possible priorities of environmental claims”. Again, one may question whether this emphasis on environmental issues is appropriate (see comment on indicator (3) above).

At any rate, I recommend specifically mentioning the priority of public claims in the context of priorities. This is generally a very important aspect, which is also hotly debated among academics and practitioners.

- *further indicators*

I recommend including the following two additional indicators:

- (i) *insolvency/restructuring of groups of companies*


When insolvency or reorganisation proceedings concern a group of companies, a number of special problems arise. The insolvency of one group member may lead to a kind of “domino effect”, ultimately dragging the entire group headlong into the “abyss” of insolvency. If more than one group member is insolvent, the question arises whether, how and to what extent the generally separate insolvency proceedings can be coordinated or even consolidated into one single proceeding.

Efficient regulations for insolvency proceedings should address these issues in a suitable manner.

- (ii) *cross-border proceedings*

Nowadays, insolvency and restructuring proceedings and their effects are typically not limited to one country but pertain to multiple jurisdictions. This raises issues of international jurisdiction, recognition and applicable law.

Efficient regulations for insolvency proceedings should also provide a suitable framework addressing these issues.

 Digitally signed by Dr. Jessica Schmidt  
Reason: I am the author of this document  
Location: Bayreuth (Germany)  
Date: 2022.03.06 11:48:46 +01'00'  
Adobe Acrobat version: 2019.021.20049

Prof. Dr. Jessica Schmidt, LL.M.



**Dr. Aurelio Gurrea-Martínez**  
JSM (Stanford), MSc Law and Finance (Oxford)  
Assistant Professor of Law and Head of the Singapore Global Restructuring Initiative  
Singapore Management University – Yong Pung How School of Law  
Email: [aureliogm@smu.edu.sg](mailto:aureliogm@smu.edu.sg)

23 March 2022

Dear Mr. Koch-Saldarriaga,

Thank you for the opportunity to provide feedback to the business insolvency section of the “Business Enabling Environment” project developed by the World Bank Group. It is an honor to be part of the group of stakeholders commenting the pre-concept note of this exciting project.

In case it can be useful, please find enclosed some comments – they have been included as an Annex. They focus on the first and second pillars, that is, insolvency regulations and infrastructure of the insolvency system.

Please do not hesitate to let me know if you need any clarification. I will be delighted to provide any further comments or assistance.

Thank you again for the invitation to provide feedback to this exciting project, and congratulations to the whole team of the World Bank Group involved in this important initiative.

Best wishes,



Aurelio Gurrea-Martínez

## **Annex**

Overall, I think the proposed methodology represents a significant improvement of the insolvency resolution index of the World Bank's Doing Business Report. Yet, I have some comments and concerns about the variables comprising the first and second pillars.

### **First Pillar: Quality of insolvency regulations and comparison with internationally recognized good practices**

While a well-functioning insolvency system should perform similar economic functions (e.g. effective reorganization of viable firms, quick liquidation of non-viable firms, maximization of the returns to creditors, etc.), the most desirable strategy to pursue those goals may differ across jurisdictions. Therefore, the use of 'internationally recognized good practices' as a benchmark for the assessment of insolvency systems can lead to the adoption of inefficient or ineffective insolvency responses. For example, when it comes to directors' duties in the zone of insolvency, the imposition of a duty to initiate insolvency proceeding will be less desirable in countries with inefficient insolvency proceedings. In these jurisdictions, initiating an insolvency proceeding will probably do more harm than good for debtors and creditors. Also, wrongful trading provisions mainly relying on an *ex post* judicial assessment of the conduct of corporate directors in the zone of insolvency might not be desirable in countries with unsophisticated or unreliable insolvency courts. Similarly, while the appointment of an insolvency practitioner can often be beneficial for debtors and creditors, not all jurisdictions have a sophisticated body of IPs. In the absence of independent and highly qualified IPs, the mandatory appointment of an IP can often reduce the pie available for the creditors without adding any value to the process. Therefore, the adoption of a debtor-in-possession model, accompanied by the empowerment of creditors to appoint an IP, will be more desirable than the mandatory appointment of an IP. Similar examples can be provided for almost any other insolvency responses. Therefore, it is important to bear in mind that the desirability of a particular insolvency response depends on a variety of country-specific (and firm-specific) factors. As a result, if the index directly or indirectly favors the adoption of some 'good practices', it should mention the legal, economic and institutional factors making those practices more or less desirable. Thus, instead of suggesting some 'universal' or one-size-fits-all 'good' insolvency practices, it would suggest some good insolvency practices depending on different legal, economic and institutional environments.

Additionally, the Doing Business Report used to assume that having various avenues for the initiation of insolvency proceedings is a desirable practice. I do not think that is necessarily the case. In many situations, having various avenues for the initiation of insolvency proceedings can exacerbate certain problems undermining the efficiency of an insolvency system (e.g. non-viable debtors can use reorganization procedures opportunistically), while a single avenue—for example, facilitating 'auctions' potentially leading to reorganization or liquidation—can often provide a superior outcome. In my view, the question is not whether debtors/creditors should have various avenues but (1) whether, through a single-entry point or various points of entry, the insolvency system facilitates the most efficient allocation of the debtor's assets (that is, depending on the particular case, reorganization, liquidation, going concern sale); and (2) whether, regardless of the number of procedures, the insolvency system effectively prevents opportunistic behavior by debtors and creditors.

The comment above applies to many other aspects of the insolvency framework, including avoidance actions, special insolvency proceedings for MSMEs, special provisions for executory contracts, and availability of DIP financing. The question is not whether these aspects are regulated but *how*. To answer that question, the understanding of a particular context will be essential. For example, in countries without sophisticated and reliable judicial

systems, the involvement of courts in insolvency proceedings should be minimized. Therefore, many decisions often made by courts (e.g. approval of asset sales, DIP financing and reorganization plans) should be made by the creditors instead.

Regarding the expertise of IPs, this aspect seems to fit best in the section on the infrastructure of the insolvency system (second pillar). In any case, it depends on how the 'infrastructure' of the insolvency system is ultimately defined.

### **Second Pillar: Infrastructure of the insolvency system**

This pillar does not seem to cover many important aspects of the institutional environment (e.g. adherence to the rule of law, independence of the judiciary, level of corruption). In addition, it seems to assume that having specialized insolvency courts is always better. Unfortunately, that is not necessarily the case. In many countries, 'specialized insolvency courts' might not have judges with the legal, commercial and financial expertise needed to handle complex insolvency disputes. Even if they do, the lack of an independent, efficient and reliable judiciary can often undermine the credibility of the judicial system. Unfortunately, this latter problem is observed in many countries –especially in emerging economies. By contrast, many jurisdictions without formal 'insolvency courts' may have highly sophisticated insolvency judges. A clear example is Singapore. Even though insolvency proceedings are managed by the High Court instead of a separate court exclusively dealing with insolvency proceedings, the judges in charge of handling insolvency proceedings in Singapore are some of the most sophisticated insolvency judges in the world.

Therefore, the existence of 'specialized insolvency courts' is not always better. Moreover, the expertise of the judges handling insolvency proceedings is only one of the many factors contributing to the success of the infrastructure supporting the insolvency system. Aspects contributing to the credibility and expertise of the judges in charge of handling insolvency proceedings include the system for the appointment of judges as well as the quality of the institutional environment (e.g. adherence to the rule of law, independence of the judiciary, level of corruption). These aspects do not seem to be captured by the index.

## **Business Location – comments and names of topic experts that requested to be published.**

Global Land Alliance (GLA)

### **Comments on World Bank Business Enabling Environment Pre-Concept Note - Business Location Indicators**

#### **General comments**

1. While we understand that the BEE focus is on the regulatory framework applicable to private sector development (not limited to SMEs) and as a consequence has to be selective, the approach proposed to “business location” could be somewhat enlarged to cover some issues specifically related to key potential uses of land/buildings by entrepreneurs.

a. For some businesses, the land/buildings are not only a matter of location but the key productive factor (for instance, agribusiness and real estate). Therefore, issues of land availability and productivity could be reviewed around the applicable rules of land planning/zoning as well as their effective enforcement. Similarly relevant, the possibility of land/building subdivision and minimal land exploitation surface may deserve some benchmarking by BEE.

b. As noted in the proposal, in the evaluation of good practices for land administration, a most critical area is the integration between legal and geographical records (registry-cadaster) that ensures the full protection for property rights and facilitate the operation of efficient markets. The proposed BEE rightly emphasizes the interoperability among different institutions, but this key aspect could be complemented by assessing separately the operation of cadasters (largely the responsibility of municipal authorities) vis-à-vis that of the registries (more commonly in charge on national or state offices) a challenge that is consistent with the new BEE nation-wide approach.

c. In addition to the typical sale/lease transactions on land/buildings the security of property rights is closely associated with how events of life can affect tenure (marriages/divorces, deaths) and the wide availability of user-friendly and low-cost procedures to affect the transfers of rights in those cases so as to prevent the property transaction from falling outside the formal system. Although most modern entrepreneurs may have a firm structure, in emerging economies the sole proprietorship arrangement remains common and for this type of ownership the impact of these events on property should be considered. Even if the entrepreneur is a corporate body, the acquisition of property will require a careful review of previous transactions that may be affected by personal/family issues.

d. The matter of land taxation is also quite relevant but could be expanded beyond the traditional property taxes that are relatively predictable into special levies or surcharges in connection with neighboring public works or services. In the case of buildings, the practices about condo/coop fees and the procedures to determine and collect special-purpose assessment are also quite relevant.

e. The land/building immovable collateral (mortgage) remains a key element for access to long-term financing and lower cost so we suggest including it explicitly among the matters BEE will trace. Criteria related to electronic filing and quality of registry/cadaster information would equally apply to mortgages.

2. The quality of regulations/regulator for leases/property/planning cannot be fully tracked by a *de jure* indicator in which information is collected from lawyers, notaries, architects, engineers or Government officials but a mixed *de jure* and *de facto* indicator may be more effective to gather the lessons from experience of developers and private owners through surveys (the new method proposed by BEE). In our view, this would be a major progress for BEE to overcome some of the constraints of Doing Business. Most developing countries feature a large gap between what the law/regulations say and how they are applied in practice because of weaknesses in the institutions in charge of registries/cadasters. The *de facto* sets (quality of public services/efficiency of key services) have also a *de jure* dimension that BEE may wish to explore.

a. The quality of the regulatory framework, and the quality and transparency of information indicators could be combined. Both are closely inter-connected and the data collection of the second set cannot be limited to the administrative records of registries and municipalities that in emerging economies often are not adequately kept. The opinion of leading developers, real estate brokers and building management companies gathered through surveys is critical to really know what's happening on the ground.

b. The emphasis on online services could be qualified. Most registries and cadasters in emerging economies claim that they avail of electronic storage and share that information online but is still limited to property certificates and online transactions remain a rarity. The use of technology is a priority for large urban areas with a significant number of daily transactions but in rural areas where land mobilization is slower it may be enough to have a good manual record-keeping provided the legal/georeferenced information is integrated.

3. Finally, the indicators about the efficiency of key services in getting a business location continue highly dependent of the expert opinion of lawyers/notaries that may have good inputs to provide on the *de jure* dimension but are also interest groups that benefit from the fees charged to entrepreneurs, so the survey views of developers, brokers and managers should also be welcome, and may clearly diverge from the other group both in terms of cost and time.

a. In this area specific taxes applicable to property transactions could be explored, such as stamp, withholding and registry taxes that are not assessed on the basis of the services provided but on the value of the property.

b. Similarly, the notary services in some countries are appraised as an ad-valorem fee in addition to standard cost-recovery fees (paper, copies, etc.) and may generate an incentive for informality that deserves tracking.

### Specific comments

- Objective of BEE is to ‘increases equality of opportunities among market participants.’ To do so, the BEE benchmark needs to consider different classes of businesses, ranging from very small to large businesses and rural to urban businesses. Without benchmarking the business enabling environment for each of these classes of businesses the BEE indicator will skew results toward one class of business. *Note: throughout the entire BEE document there seems to be a bias toward larger businesses (including a focus on foreign investors, which may tend toward larger businesses). This focus seems to ignore (or deemphasize) the small domestic entrepreneur and the small rural entrepreneur.* Pg 1.

- Likewise, the BEE seeks to advocate for “policy reform”, but to be effective for all classes of business, in line with its objective, the BEE needs to consider how policy affects each class of business and whether the policy favors one class of business over another. Pg 2.

- *“Third, BEE will not only collect de jure information (i.e., according to statutory laws and regulations) but also de facto measurements (i.e., reflecting practical implementation). DB also tried to obtain de jure and de facto data; however, BEE will improve by collecting 8 Appendix I provides a comparison of DB and BEE key features. 4 information directly derived from firm-level surveys.”* This is very important factor and will provide a significant reality check on the policy and regulatory enabling environment, which was not present in the DB indicator. Pg 3.

- *De jure indicators will analyze the business environment based on statutory regulations, laws, and jurisprudence, whereas de facto indicators will analyze how regulations and government services are implemented in practice as experienced by the private sector. Each BEE topic will combine de jure and de facto indicators in order to provide a more comprehensive assessment of the business environment.* The balancing of de jure and de facto indicators provides an important reality check on the BEE. It will provide an indication of where real problems exist in the BEE – is the problem the policy and regulatory framework or the implementation of that framework? Such an assessment can point governments toward more decisive action to improve the BEE. Pg 6.

- *The availability of digital public services and transparency of information for business ups is the second new area.* It should be noted that if BEE seeks to provide an indicator for the business enabling environment across several classes of businesses, there may be a need to consider that small rural entrepreneurs may not benefit substantially from a strong digital public service

environment. Small holders and cottage businesses often have limited connectivity and need access to in person services. As such the availability of digital public

services consideration may not be as relevant in the rural economy as it is in the urban economy, although access to digital services in rural areas is improving. Pg 9.

- *Good regulatory practices for building regulations – This indicator assesses whether the building regulatory framework includes good practices promoting safety mechanisms and green building regulations. It builds on previous research on good practices conducted by the DEC Global Indicators Group and by the Investment Climate Department of the World Bank Group. Some of the good practices will include but not be limited to whether building regulations are clear and publicly accessible and whether regulations provide for safety mechanisms in construction, such as preapprovals of building plans by qualified professionals or mandatory inspections. In addition, this indicator will look at environmental licensing requirements as well as regulatory standards specified in green building energy codes. It seems that one element that is missing from consideration in the developing country context is the availability of land use plans and zoning regulations that allow for clear decision making around land use and building construction. Absent current land use plans and zoning regulations/maps, making clear decisions on property development and building permits may be difficult. An ambiguous regulatory framework around land use also promotes corruption. Thus good regulatory practices on building regulations often relies on updated urban land use plans and zoning regulations. Pg 14.*

- Perhaps there should be some consideration of the credit market for land acquisition in support of business start-up as part of “business services”. That is, if credit for acquisition of land needed for production purposes is not available, the chilling effect on business start-ups (especially in the micro sector) will be significant. Financing of land transactions might be better to consider in this sections of the BEE and separately from other credit products targeted toward business and the regulatory environment requires significantly different regulations (e.g., around foreclosure on property). Pg 16.

- *Secured transactions – The quality of regulations for secured transactions assesses the existence of an integrated legal framework (i.e., rules around the possibility for debtors to grant movable assets as collateral without giving up possession of the asset) and the rules regarding the enforcement of security interests in movable assets. This indicator set component also examines the rights and obligations of all types of creditors and debtors with regards to the use of movable assets as collateral. It has two de jure sub-components, data for which will be collected through expert consultations (for example, financial lawyers and commercial banks) complemented by the reading of the law. The first sub-component measures whether an integrated and functional approach to secured transactions exists following the good practices set by the United Nations Commission on International Trade Law (UNCITRAL) Legislative Guide on Secured Transactions and other internationally accepted standards. It will look at security rights in all types of movable assets, and whether collaterals can be created in both current and future assets. It will also analyze the rules regarding incorporated and non-incorporated entities creating or acquiring collateral in movable assets (i.e., from the perspective of both debtors and creditors). It will also*

*identify the obligations/debts that can be secured by such collateral. The second sub-component focuses on the enforcement of security interests in movable assets. It will assess, upon default of the debtor, which creditor would have priority in obtaining the full or part of the collateral when there are competing claims on that same asset outside insolvency procedures. This section focuses on moveable assets and seems to ignore immovable assets. As such, its not clear where the issues of financing of land acquisition is covered in the BEE. It seems that the BEE is ignoring a significant aspect of starting a business (at least from some businesses) by failing to address the financing of land acquisition. See comment above on credit for land acquisition. Pg 27.*

- Operationalization of collateral registries – Collateral registries are publicly available databases of interests in moveable assets by incorporated and nonincorporated entities. They support the legal framework of security rights in movable assets by facilitating awareness of both their existence and establishing priority based on the time of registration. Functioning collateral registries further enable lenders to assess risks when the borrower intends to secure the credit with collateral assets. The component assesses whether a collateral registry is in operation, whether it is unified geographically, and whether it has an electronic database indexed by debtors' names. The assessment considers if the registry is notice-based – a registry that files only a notice of the existence of a security interest (not the underlying documents) and does not perform a legal review of the transaction; if the registry also publicizes functional equivalents to security interests; and if it has modern features such as those that allow secured creditors (or their representatives) to register, search, amend or cancel security interests online. Furthermore, to ensure access and usage of the collateral registry and the timely publicity of security interests, the component collects information on the fees and costs associated with the registration of security interests. It also records the frequency of the system updates to reflect such registrations as a proxy for the time it takes to register (since the good practice is to have a notice-based registration which implies an instantaneous process). The component may collect data on the level of usage, through the volume of the registration records. These de facto data will be collected through expert consultations (for example, financial lawyers and commercial banks). Again, this section ignores registration of immovable property as it relates to financing of land acquisition. The issue is covered by implication in the sections above on land administration and land registries, but it is not addressed in the context of credit for land acquisition and the regulatory framework around risks of lending for this purpose (e.g., foreclosure, etc.). Pg 29.*



## Alejandro Pareja, IADB

- *“Green, Alan, and Christine Moser. 2013. “Do Property Rights Institutions Matter at the Local Level? Evidence from Madagascar.” The Journal of Development Studies 49 (1): 95-109.”*

Comment: Can evidence from Madagascar be considered evidence everywhere?

- *“Quality of regulations for immovable property lease, property ownership and urban planning”*

Comment: I agree with the content, but my contention is that the rules may be there and nonetheless not always being enforced or complied with. So, the de facto is important here. Weak countries do have the right regulation, but you don't see its effects around.

- *“Data for this de facto indicator can be collected via expert consultations with those involved in real estate transactions, the building permitting process and related environmental clearances. Data collection will be corroborated through administrative data from land registries and municipalities.”*

Comment: As I said before, maybe the de jure information should be gathered via experts. But for the de facto information, real users representing the universe of entrepreneurs should be contacted.

- *“Transparency of information for building and environmental licenses. This indicator assesses whether there is an institutional and legal framework to maintain information on land ownership; whether the information on land transactions, ownership, encumbrances, cadastral information is stored electronically; and the geographical coverage of these data.”*

Comment: Maybe replace by "geolocalized".

- *“Interoperability of services for property transactions – This indicator assesses the exchange of information across property administration institutions, such as land registries and cadasters. Specifically, it assesses whether and how institutional information systems are interlinked to exchange information automatically. For instance, linking or unifying the land registry with the cadastral system has significant advantages. It helps maintain up-to-date records on the legal rights to properties and the spatial characteristics of land plots, thus increasing tenure security and potentially minimizing land disputes. The use of unique identifiers can also ensure data accuracy. Appropriate legislation must be in place to allow such institutional linkage or unification and the issuance of a unique identification number for each property.”*

Comment: Again, the aim should be the measurement of levels of use and not availability.

- *“Availability of online information on immovable property – This indicator assesses the degree of transparency on property ownership and property transactions. Specifically, it*

*measures if the public agencies provide access to information on immovable property transactions. This helps reduce information asymmetry between users and public service providers and increases the efficiency of land markets. Online information availability helps achieve good governance in land administration and has numerous benefits, such as minimizing the possibilities of informal payments.”*

Comment: Excellent.

- *“Availability of online services for building permitting and environmental licensing – This indicator assesses the quality of infrastructure at the permit-issuing agency through the availability of online public services, such as the existence of electronic permitting systems to submit building permit applications, other functionalities such as online payment, online notification/tracking, and online issuance of building and occupancy permits. It also assesses the availability of online services for obtaining building-related environmental licenses.”*

Comment: Agreed that this would be an improvement in the quality of service. But I wonder how big an improvement, since it's something that you do rarely and, on the other hand, complains with this procedure usually refer to the long processing times by the government. When these times are very long, it would help little to have the possibility of on-line filing. To conclude, this could be assessed but the corresponding weight should be proportional to its relevance.

- *“Interoperability of building permitting systems – This indicator assesses the exchange of information across agencies, such as municipalities, cadaster, land registries and utility service providers. Specifically, it will assess whether and how institutional information systems are interlinked to exchange information automatically. Linking all relevant agencies has significant advantages as it eliminates the need to submit the same information to multiple public actors, reducing the time for the firm to obtain all the relevant information from each individual agency. Having an integrated Geographic Information System (GIS) can enable building departments and related agencies to streamline and automate their procedures for planning, zoning, and issuing building permits.”*

Comment: This information should be collected from users, asking them what information that they had presented to agency A had to be presented again to agency B.

- *“Efficiency of key services in getting a business location. This set of indicators measures the time and cost to complete the different steps an entrepreneur must undergo to purchase a property and obtain building-related permits based on a set of assumptions. Data for and would involve professionals who are familiar with property transfers (e.g., lawyers, notaries), building-related permitting processes, and building-related environmental clearances (e.g., architects, engineers). this de facto indicator can be collected through expert consultations and would involve professionals who are familiar with property transfers (e.g., lawyers, notaries), building-related permitting processes, and building-related environmental clearances (e.g., architects, engineers).”*

Comment: See my previous comments on this aspect. In this case, lawyers, notaries, architects, etc. can be considered users. The question would be about representativeness.

- *“(1) Time and cost to purchase a property – These indicators serve as a proxy for assessing the efficiency of regulations and public services for purchasing a property. They will capture the duration and monetary cost that property lawyers, notaries, or registry officials indicate is necessary to complete critical elements of the registration process (due diligence, signature and registration). (2) Time and cost to obtain building-related permits – These indicators serve as a proxy for assessing the efficiency of regulations and public services for obtaining building-related permits. They will measure the ease of compliance to obtain a building and occupancy permit from the preapproval process until the applications are submitted at the local authority office. (3) Time and cost to obtain environment-related permits – These indicators serve as a proxy for assessing the efficiency of regulations and public services for obtaining all building-related environmental permits and clearances for constructions with moderate environmental risk.”*

Comment: These are certainly key permits. I'm not sure if, in addition operating permits should not be considered too. This is a recurrent procedure, since most municipalities require that it be renovated periodically.

Daniel Roberge

Dear Carlos,

I have read the section of the document on Business Location topic. My very positive comments are in the attached file. I am very happy to see that the basis of the previous DB Registering Property are preserved and even improved.

This new/improved indicator about cadastre and property registration is very important because this is an infrastructure of sustainable development for the three pillars of sustainable development (social, environment, economic). And assessing this infrastructure at country level with DB or BEE indicators put countries in competition to improve their respective cadastre/land rights infrastructure. Which globally is very supportive for a consultant like me working with national governments trying to convince them about the importance to invest, to put in place or to improve their land registration systems.

So, I am very happy to see that the DB Registering Property indicator is not dead but is still alive and is revamped covering a wider set of criteria like online services and reliability of infrastructure for property transactions, interoperability of services for property transactions, availability of online information on immovable property.

Do you know when this will be effective?

Best regards,

Daniel Roberge  
Senior land administration consultant  
+1 418 681-2553

- *“Good regulatory practices for land administration – This indicator assesses whether the regulatory framework includes good practices promoting good governance in the land administration system. It is inspired by the Land Governance Assessment Framework (LGAF), which provides principles and policy recommendations on land governance.<sup>28</sup> Some of the good practices will include but not be limited to clear and publicly accessible laws on ownership and leasing, secure land tenure (state or private guarantee), safeguards in place to minimize the risks of land disputes<sup>29</sup> and publicly available service standards to avoid delays and corruption.”*

Comment: Very good. The challenge will be how to get this information.

- *“Quality of public services and transparency of information. This set of indicators intends to measure: (1) availability of online services and reliability of infrastructure for property transactions, (2) interoperability of services for property transactions, (3) availability of online information on immovable property, (4) availability of online services for building permitting and environmental licensing, (5) interoperability of building permitting systems, and (6) transparency of information for building and environmental licenses.”*

Comment: Excellent. This is better than the previous DB indicator on Registering property

- *“Availability of online services and reliability of infrastructure for property transactions – To promote efficiency and confidence in the property market, it is important to have adequate infrastructure in place to register property rights. In addition, a reliable land administration system is important for the security of land tenure and the accuracy of ownership and cadastral information. This indicator assesses whether there is an institutional and legal framework to maintain information on land ownership; whether the information on land transactions, ownership, encumbrances, cadastral information is stored electronically; and the geographical coverage of these data. Lastly, this indicator will also assess public access to online services for property and cadastral transactions. Interoperability of services for property transactions – This indicator assesses the exchange of information across property administration institutions, such as land registries and cadasters. Specifically, it assesses whether and how institutional information systems are interlinked to exchange information automatically. For instance, linking or unifying the land registry with the cadastral system has significant advantages. It helps maintain up-to-date records on the legal rights to properties and the spatial characteristics of land plots, thus increasing tenure security and potentially minimizing land disputes. The use of unique identifiers can also ensure data accuracy. Appropriate legislation must be in place to allow such institutional linkage or unification and the issuance of a unique identification number for each property. Availability of online information on immovable property – This indicator assesses the degree of transparency on property ownership and property transactions. Specifically, it measures if the public agencies provide access to information on immovable property transactions. This helps*

*reduce information asymmetry between users and public service providers and increases the efficiency of land markets. Online information availability helps achieve good governance in land administration and has numerous benefits, such as minimizing the possibilities of informal payments.”*

Comment: Excellent.

- *“Time and cost to purchase a property – These indicators serve as a proxy for assessing the efficiency of regulations and public services for purchasing a property. They will capture the duration and monetary cost that property lawyers, notaries, or registry officials indicate is necessary to complete critical elements of the registration process (due diligence, signature and registration).”*

Comment: Continuity with the previous DB Registering Property indicator.

## Grupo de Trabajo Expertos en Competitividad Subnacional (GTECS) - Red interamericana de Competitividad (RIAC- OEA)

Consultations review from the Working Group on Subnational Competitiveness (GTECS) of the Inter-American Competitiveness Network (RIAC)

*Are the issues included in the BEE project relevant for private sector development and is the overall design adequate? ¿Los temas incluidos en el proyecto BEE son relevantes para el desarrollo del sector privado y el diseño general es adecuado?*

El proyecto Entorno Propicio para los Negocios, o por sus siglas en inglés “BEE”, muestra un diseño adecuado para poder generar información útil en relación al ambiente de negocios en las economías. No obstante, un área de oportunidad en el mismo diseño podría ser relacionar la información recabada entre el marco normativo y los servicios públicos, tal como se puede observar en la Figura 3 de dicho documento, pues no se muestra, al menos en el diseño, la relación que existirá entre estos dos indicadores o componentes.

*Are there any important issues that the BEE project is not considering which should be included within the context of private sector development? ¿Hay algún tema importante que el proyecto BEE no esté considerando y que deba incluirse en el contexto del desarrollo del sector privado?*

- Incluir un indicador para medir el tamaño de la economía informal, ya que por su naturaleza, no se contempla en los indicadores diseñados en el BEE. Además, con dicha medición se podrían considerar estrategias para formalizar la situación del sector que se encuentra en la informalidad.
- Incluir en los indicadores criterios de homologación de las actividades económicas como el SCIAN, para generar criterios de estudios de caso más acordes a la realidad de las principales ciudades a evaluar.

*Does the BEE project strike the right balance between the quality of regulations and the provision of public services for private sector development? ¿El proyecto BEE guarda el balance adecuado entre la calidad de las regulaciones y la provisión de servicios públicos (gestión de trámites y servicios en ventanilla), para el desarrollo del sector privado?*

El diseño del proyecto BEE muestra un adecuado balance entre la calidad del marco normativo y la gestión de trámites y servicios en ventanilla, para lo cual sería conveniente conocer los reactivos (variables específicas) que utilizarán para poder generar la información para cada indicador y, con ello, tener mejores elementos para dar una opinión.

*Does the BEE project get the balance right between de jure and de facto indicators? ¿Consigue el proyecto BEE el equilibrio correcto entre los indicadores de jure (leyes y regulaciones) y de facto (Implementación)?*

Al añadir un indicador o apartado que muestre el nivel de consistencia entre el marco normativo vigente y su aplicación, se tendría una evaluación de este tema específico, al conocer qué tanta diferencia existe entre el marco normativo vigente y la forma en que este último se implementa a través de los trámites y servicios, es decir la forma en que dan certidumbre normativa de los relacionados a las empresas.

*Do you have any feedback regarding the indicators included in each specific topic (please indicate the topic)? ¿Tiene algún comentario sobre los indicadores incluidos en cada tema específico (indique el tema)?*

- Añadir un indicador o apartado que muestre el nivel de consistencia entre el marco normativo vigente y su implementación, a través de la gestión de trámites y servicios en ventanilla, lo cual puede incluirse en la parte relacionada a los indicadores regulatory framework (marco normativo) y public services (gestión de trámites y servicios a las empresas en ventanilla).
- Añadir un indicador o apartado que muestre el número de comentarios de particulares dentro de la consulta pública (participación de los grupos interesados en el diseño de las normas) que realmente tienen un impacto o modificación en la propuesta regulatoria que se publica en el medio de difusión oficial y que surte efectos legales, lo cual puede incluirse en la parte relacionada con el indicador regulatory framework (marco normativo).
- Añadir un espacio para señalar alguna variable específica que resulte relevante por las características del mercado que se está analizando y que no se incluya en el resto de los mercados, por ejemplo, Barreras Regulatorias.

*Do you have any other general feedback? ¿Tienes algún otro comentario general?*

Es una gran oportunidad para poder establecer indicadores que realmente midan el ambiente de negocio en las economías, con ello poder llevar a cabo políticas públicas que puedan mejorar las condiciones en las que funcionan las empresas, crear más y mejores empleos, así como mejorar la calidad de vida de los ciudadanos. - Es importante que se defina la metodología que se utilizará para la medición y agrupación de los indicadores para emitir una opinión sobre si dicha clasificación es mejorable y si ayuda a cumplir los objetivos del proyecto.

Otros comentarios:

1. Se considera importante establecer claramente un caso de estudio estandarizado para facilitar la evaluación de este. En el caso específico de licencias de construcción el no contar con un caso estandarizado, puede incidir en los resultados relacionados a los procedimientos aplicables y tiempos de resolución, pues estos varían según el tipo, magnitud y ubicación del proyecto.

2. Se recomienda que al establecer el caso de estudio se definan cuidadosamente los parámetros a aplicar.

Lo anterior basados en la experiencia obtenida del análisis Doing Business, pues la cantidad de proyectos con las características específicas del caso de estudio era muy baja, por lo que la DCT propuso ampliar los criterios para permitir el análisis de casos similares tales como:

**a. Bodegas y Ofibodegas** i. Construcciones nuevas y ampliaciones

ii. Menores o iguales a 1,500 metros <sup>2</sup>

iii. 1 o 2 niveles

iv. Mantener el criterio de producto terminado • No perecedero

- No tóxico

- No inflamable

**b. Proyectos de uso no residencial (ej. farmacias, supermercados)** i. Construcción nueva o ampliación

ii. Hasta 2 niveles

iii. Clasificación interna exprés

3. En la mayoría de las encuestas Doing Business, la DCT indicó que el tiempo de resolución de expedientes se veía afectado en un porcentaje considerable por el tiempo que el vecino tarda en presentar los requisitos o correcciones solicitadas por parte de la Dirección de Control Territorial, lo cual afectó negativamente en el tiempo que se estimaba en dichas encuestas.

Se recomienda excluir de las estimaciones el tiempo del vecino, pudiendo presentarlo solo como referencia pero no para la estimación final del tiempo de cada dependencia.

4. Se recomienda que las entrevistas que se realicen para recopilar la información y datos se enfoquen en los casos de estudio específicamente. Ya que en la encuesta DB, se tenía la percepción que los entrevistados respondían en relación al trámite que realizaron de otros

proyectos cuyas características eran diferentes al caso de estudio, por lo tanto los requerimientos, tipo de evaluación y tiempos no respondían a los parámetros del caso.



## **Liquidation v reorganisation (affecting indicator (a) and (c), and ‘Motivation’ section)**

At present, the document refers to “liquidation” and insolvency related “reorganisation” processes.

It should be clarified that processes designed to preserve the debtor’s business through a sale to a third party (“business rescue”) are within scope. In the case of a corporate debtor, this process may well end in liquidation (if the business is sold for cash, then the cash would be distributed in accordance with local priority rules, after which the company itself could be dissolved), but the label “liquidation” process may wrongly be thought to be focused on non-viable businesses.

It is important to signal that it is not the assumption of the exercise that cases in which the debtor is financially distressed (unable or expected to be unable to pay all liabilities in full), but not economically distressed (that is, it has a ‘good’ underlying business - one capable of generating revenue that exceeds costs, if the debt burden is removed or reduced), will necessarily be subject to a debt restructuring. Debt restructuring processes are very costly to use (by design they are complex procedures). Where there is a ready market for sale on a going concern basis, the assets can be sold on this basis for cash, with little or no restructuring of liabilities required. It is important to bear in mind the possibility of a sale to a third party as an alternative that may better preserve value for creditors.

These sale processes may have different labels in different jurisdictions, including “receivership sales”, “foreclosure sales”, and “auctions”. They were within the scope of the DB Resolving Insolvency indicator.

### **Indicator (a) - existing components**

- *Commencement*: the text here seems to imply that the assessment will be positive if directors have duties to file, and negative if not. If this is right, I would caution against this approach. Mandatory filing rules can be very costly, because they may require a formal filing even where a resolution of the debtor’s distress could have been achieved without the use of the formal law. It would be better to say that an indicator will be included to measure how creditors’ interests are protected during the period where the company is insolvent, or perhaps likely to become insolvent, but is not yet in a formal insolvency process.

- *Management*: the text here seems to imply that the assessment will be positive if the debtor has the “ability” to discharge environmental liabilities, which I take to mean that there is power for such liabilities to be paid ahead of other liabilities in the insolvency process. It is of course hugely important that such liabilities are minimised and, when they arise, that they are met, but the optimal route to achieving this is open to question. Super priority rules are one possibility, but one can conceive of alternative or complementary strategies that are designed to reduce the incidence of such liabilities in the first place, e.g. by incentivising shareholders and/or managers to do so through the threat of personal liability, requirements for insurance, etc.

- *Scope of liquidation and reorganization*: in designing this indicator, it should not be assumed that it is always desirable for management powers to be vested in an independent insolvency professional; if creditors favour a restructuring, that is usually

most likely to be able to be achieved when managers retain some ability to continue to run the business. However, I agree that the vesting of powers of sale and management in an independent insolvency professional is likely to be essential in the context of achieving a sale to a third party (see first comment above), and emphasise that rules requiring creditors to approve such a sale before it can be executed may be in significant tension with a value-maximising objective. Put simply, I think a sale on a going concern basis is most likely to be achievable where an insolvency practitioner has power to achieve such a sale without prior unsecured creditor approval, subject of course to duties designed to ensure a proper price and due consideration of alternatives to such a sale, and appropriate protection for secured creditors.

- *Creditor participation*: see cautions above regarding the assumption that prior creditor approval is always a virtue, and of complements to super priority for environmental liabilities.

- *Insolvency administrator's expertise*: care must be taken to ensure that this does not become an exercise in confirming the existence of bureaucratically imposed hurdles or 'red tape' which may or may not correlate with high quality service provision.

### **Indicator (a) - what is missing?**

#### *Procedural sources of delay*

Many insolvency processes around the world are said to suffer from long delays. Such delays can be expected to prevent the realisation of the goal of preserving the value of a debtor's estate for the benefit of its creditors and other stakeholders.

One source of such delay would be a wide power to stay the making of a decision on a creditor's petition to commence an insolvency process, on an application by the debtor. Under English law the ability of a debtor who has defaulted in the payment of one or more debts to obtain such a stay is highly limited, but this is not necessarily the case elsewhere. I think greater attention needs to be given to interim relief both on the books (indicator (a)) and in practice (perhaps through indicator (c): see further below).

#### *Treatment of employees*

It would be useful to include something to capture the treatment of employees in a business sale outside of the European Union (where such transfers are regulated by EU law). The question of interest would be whether employees are treated as transferred to the purchaser in a going concern sale (so as to benefit, for example, from rules around employee consultation in proposals for making positions redundant, etc). This is important to understanding the welfare implications of a business sale to a third party compared to a restructuring.

#### *Ability to sell assets free and clear of security interests*

I think this should be included (perhaps within a(4)), because it is essential to the ability of an insolvency practitioner to achieve a quick sale on a going concern basis to third parties.

More generally, the indicators in this section are quite light on the treatment of secured creditors, although their treatment will have very important effects on the supply of credit *ex ante*.

*Controls on the abuse of reorganisation processes: the 'toggle' between a debtor in possession process and a debtor displacing process*

Many jurisdictions report concerns around the 'abuse' of reorganisation processes, perhaps because such procedures tend to need to leave the debtor at least partly in possession to be effective. The critical question to my mind is whether creditors are capable of pushing a debtor out of a reorganisation process and into a sale process where their collective interests are not well served by a reorganisation (which, as explained above, is a costly process). I think it would be instructive to include (perhaps in a.(1), or perhaps elsewhere) a measure of creditors' ability to change the type of proceeding to which a debtor is subject.

**Indicator (b) – what is missing?**

There are some thoughtful indicators here.

In relation to specialised courts / judges, it is worth emphasising that the opportunity to develop expertise is important, but not sufficient. Independent and specialist judges can of course be defeated by workload. I would suggest including one or more measures of court congestion, because otherwise congestion / the problem of overworked judges will only be picked up indirectly through indicator (c) (which will tell us that it takes a long time to resolve a case, and/or that it is very expensive to do so, but not why this is so. The risk is that it will be inferred that the reason is one relating to the law on the books, when in fact the problem may be one of resourcing).

**Indicator (c)**

It is very important that this indicator be included as a complement to the law on the books analysis, and limited institutional analysis, contemplated in (a) and (b)).

I think, however, that more facts will need to be provided to enable the exercise to be a useful one. To estimate the likely duration and cost of a reorganisation process, respondents will need to know how complex the debtor's capital structure is, and where value breaks in that structure (who is 'out of the money', and who is not?); this will be necessary to know if respondents are to estimate the kind of plan that will have to be devised, and to consider who is likely to be opposed to this, and what protections will extend to them. To estimate the cost of a sale process (again, see my comments above regarding the dangers of using only a two-part taxonomy of liquidation v. reorganisation), respondents will need to know whether the debtor has a business worth saving (such that a sale on a piecemeal basis would be value destructive), and whether security has been granted over any of the debtor's assets (which may affect the liquidator's ability to achieve a quick sale, particularly on a going concern basis). The fact that this may turn the exercise into a case study is not, in my view, problematic: when the 'Resolving Insolvency' indicator was structured purely as a case study, it generated highly valuable evidence on duration and cost precisely because respondents were asked to answer the questions with a particular fact pattern in mind.

It is suggested that this indicator will provide an insight into the amount of 'red tape involved' in resolving an insolvency case. Rather than leave this to be inferred from survey data on duration and cost, I would encourage the inclusion of direct questions on this. I suggest including a question asking respondents to estimate how many court appearances are likely to be involved in disposal of the case, and perhaps (following on from my comment above) how likely it is that the proceedings will be stayed before they are disposed of. Again, this will require the respondents to be given more facts (so that they know, for example, that this is the type of case in which creditors' interests can only be harmed by delay). But without such facts, I do not think that indicator (c) will produce meaningful data.

Kristin van Zwieten  
University of Oxford



Prof. STEFANIA PACCHI – Full Professor of commercial and bankruptcy law at the University of Siena - Chair of Excellence at the Carlos III University of Madrid – stefania.pacchi@gmail.com

I read the project and specially I focused on the section relating to corporate insolvency

These comments are based on an assessment in terms of relevance of the project and design adequacy.

Firstly, I believe that to achieve the prefigured objective - assessing the business and investment climate in economies worldwide - it is necessary to also provide a framework on insolvency proceedings. These last rules, in fact, markedly affect the economic and establishment choices. Furthermore, the impact of the quality of the insolvency proceedings on the disposal of non-performing loans and bank loans is great.

Secondly, the insolvency instruments, in the framework of prevention of the crisis in the enterprise, it may be put forth towards the parameters of efficiency and efficacy which indicate the criterion for evaluating the discipline - the satisfaction of creditors exclusively or jointly with the safeguarding of the company - and its suitability to achieve this objective within the limits of the financial availability that each case ensures.

Doubtless, Insolvency legislation from the early 2000s has pursued the efficacy and efficiency of bankruptcy proceedings because these parameters would improve competition between legal systems and markets.

Therefore, I agree in the identification of the three indicators around business insolvency - (1) the quality of regulations for insolvency proceedings (regulatory pillar), (2) the quality of institutional and operational infrastructure for insolvency processes, and (3) the ease to resolve an insolvency judicial proceeding - because they express the fundamental pillars to verify efficacy and efficiency.

#### *a. Quality of regulations for insolvency proceedings*

The six indicators to measure the quality of the legislation identify the nerves of the procedures. With respect to the first indicator (*Commencement of insolvency proceedings*) it might be convenient to analyze the objective presupposition: state of crisis, state of insolvency, danger of insolvency, probability of insolvency. At this moment the legislations are trying to anticipate the request for a procedure in order to try to make it more effective and efficient. Another aspect to be explored is that relating to the creditor's initiative which is still absent in most of the legislations. I

believe, in fact, that its forecast is important because it would allow us to strengthen the possibility of timely access to restructuring.

With respect to the second indicator (*Management of the debtor's assets*) it would be advisable to check the limits and controls on the debtor's activity during the proceedings; any replacement with a trustee etc. It would also be useful to evaluate the behavior of banks with respect to requests for financing by the insolvent company to be able to restructure.

With respect to the third indicator (*Scope of liquidation and reorganization proceedings*), it could be useful to evaluate the possible contents of the restructuring plan. There are legislations that allow extreme flexibility and autonomy in arranging the content, while others strictly fix it by law.

With respect to the fourth indicator (*Creditor participation*) I suggest, in the wake of the provisions of the EU Directive 2019/1023, to evaluate the position of the shareholders in the restructuring and, therefore, to explore the dilemma between absolute or relative priority rule.

With respect to the fifth indicator (*Insolvency administrator's expertise*) it would be interesting to examine the criteria for the appointment. Only requirements of professionalism and experience or must rotation criteria be followed in the appointment?

With respect to the sixth indicator (*Specialized proceedings for MSMEs*), it is probably worth considering the need for an expert to facilitate the procedure and guide the negotiations. Now this figure is now appearing in some legislations (Italy) to facilitate the MSMEs.

#### *b. Quality of institutional and operational infrastructure for insolvency processes*

This is a very important pillar. The issue of the specialization of judges sees conflicting opinions. Specialization was foreseen in the draft of the Italian crisis code but then in the drafting of the legislative text it was not implemented.

#### *c. Ease to resolve an insolvency judicial proceeding*

Emphasis should be placed on the issue of cost containment and the length of proceedings. Too often, high costs eat up a large part of the active mass.

The duration issue deserves to be assessed under two aspects: A) the duration of execution of the plan (how many years?) In the interest of the creditors who await the satisfaction and of the company that needs to be restructured; B) the duration of a liquidation procedure affects the possibility of quickly putting the values recovered from liquidation back on the market. In this way we can have a rapid reallocation of wealth from the insolvent company to new economic initiatives.